**Response to the UN Special Rapporteur on Torture
Call for Inputs on current issues and good practices in prison management**

**Submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status with ECOSOC since 1996**

and

**The World Coalition Against the Death Penalty**

and

**The Cornell Center on the Death Penalty Worldwide**

and

**Kenyan Section of the International Commission of Jurists (ICJ-KENYA)**

and

**Kenya Human Right Center (KHRC)**

and

**World Organisation Against Torture (OMCT)**

**27 November 2023**

**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

**The World Coalition Against the Death Penalty (WCADP),** an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

**The Cornell Center on the Death Penalty Worldwide** is a US-based research, advocacy, and training center focused on capital punishment and international law. It publishes reports and manuals on death penalty issues, provides transparent data on death penalty laws and practices around the world, trains capital lawyers in best practices, and engages in targeted advocacy and litigation. Its staff and faculty advisors have collectively spent more than eight decades representing hundreds of prisoners facing the death penalty. In 2019 it was awarded the World Justice Challenge Award in recognition for its work on behalf of death-sentenced prisoners in Malawi.

 **Kenyan Section of the International Commission of Jurists (ICJ-KENYA)** is a non-governmental, non-profit and a member-based organization. Established in 1959, ICJ Kenya is the only autonomous national section of ICJ based in Geneva, Switzerland. ICJ Kenya is registered as a Society under the Societies Act, Chapter 108, Laws of Kenya. ICJ Kenya mandate is to : develop, strengthen and protect the principles of the rule of law in Kenya, to develop, maintain and protect the independence of the judiciary and the legal profession in Kenya and to protect and promote the enjoyment of human rights in Kenya and Africa. ICJ Kenya is member of the World Coalition Against the Death Penalty.

**Kenya Human Right Commission (KHRC)** was founded in 1992 and registered in Kenya in 1994 as a national non-governmental organisation (NGO). Throughout its existence, the core agenda of the Commission has been campaigning for the entrenchment of a human rights and democratic culture in Kenya. Its founders and staff are among the foremost leaders and activists in struggles for human rights and democratic reforms in Kenya. KHRC works at community level with human rights networks (HURINETS) across Kenya and links community, national and international human rights concerns. KHRC is member of the World Coalition Against the Death Penalty.

**World Organisation Against Torture (OMCT)** is an independent, non-partisan, non-sectarian, Swiss international non-governmental organisation, founded in Geneva in 1985. It is today the leading global civil society network against torture including more than 200 local member organisations operating in over 90 countries around the world. Driven by the needs of its SOS-Torture Network members, the OMCT engages in all areas of anti-torture work, including prevention, accountability and assistance and protection for torture victims and Human Rights Defenders (HRDs).

1. **INTRODUCTION**
2. The Advocates for Human Rights and The World Coalition Against the Death Penalty welcomes this opportunity to inform the Special Rapporteur’s report on current issues and good practices in prison management and in this submission highlights the key challenges and issues that women under sentence of death face in detention.
3. It is difficult to find conclusive information regarding the experiences of women under sentence of death across the globe. Because women make up an estimated 5% of the global death row population, their lived experiences go largely unnoticed.[[1]](#footnote-2) Moreover, because “many existing prison facilities worldwide were designed primarily for male prisoners,”[[2]](#footnote-3) officials and lawmakers overlook the “unique needs and vulnerabilities of women.”[[3]](#footnote-4) Their conditions can be exacerbated further because “women tend to remain on death row for increasingly longer periods in prisons that are not designed for women generally or for long-term women prisoners specifically.”[[4]](#footnote-5)
4. Much of the information that is pertinent to conditions for women under sentence of death applies equally to other women in detention; specific information on death row conditions is rare. Evidence suggests that “death row inmates are usually exposed to the same environment as the general prison population,” if not “worse.”[[5]](#footnote-6)
5. Despite lack of transparent information, States subject women to a variety of cruel, inhuman, and degrading detention practices, “from the sterile, solitary confinement that pervades death row in many states in the United States, to the unsanitary and overcrowded prisons in some parts of the Caribbean and Sub-Saharan Africa.”[[6]](#footnote-7)
6. **GENERAL CONDITIONS OF DETENTION FOR WOMEN UNDER SENTENCE OF DEATH AROUND THE WORLD**
7. Typically, State authorities house women separately from men. Rule 43 of the Bangkok Rules requires that women be in separate prison buildings from men, but in practice, women typically are “held in separate units within male prisons.”[[7]](#footnote-8)

**Overcrowding, Temperature, and Hygiene**

1. Overcrowding is a significant issue for people under sentence of death in the majority of retentionist countries.[[8]](#footnote-9) Moreover, the size of cells and overcrowding overlap with temperature and ventilation issues, all of which have sizeable effects on the mental health, physical health, hygiene, and safety of women in detention.
2. Overcrowding and lack of adequate hygiene are common for women under sentence of death in Sub-Saharan Africa. One defense lawyer who frequently visits clients on death row in Cameroon described cells as “narrow, dilapidated, badly ventilated and totally uncomfortable.”[[9]](#footnote-10) Cameroonian authorities reportedly allow women less than 1 square meter per prisoner, as a 40-square-meter cell can hold 60 women.[[10]](#footnote-11) Similarly, both the Democratic Republic of the Congo and Thailand hold women in such crowded cells that women must take turns sleeping on the bare floor.[[11]](#footnote-12) Malawi exposes women to severe overcrowding, holding up to six women into small, windowless cement cells.[[12]](#footnote-13) The only point of ventilation “is a small hole over the door leading to the hallway.”[[13]](#footnote-14) In both Malawi and the Democratic Republic of the Congo, the toilets are outside the cells, so women must use buckets when their cells are locked at night.[[14]](#footnote-15)
3. Overcrowding, inadequate temperature control, and lack of adequate hygiene are also common for women under sentence of death in Asia. Tihar Jail in India houses women on death row, and the women’s ward holds roughly double its capacity of women.[[15]](#footnote-16) In Sri Lanka, women on death row reportedly live in “tiny cells” with paper-thin beds where “temperatures in unventilated rooms reach dangerously high levels.”[[16]](#footnote-17) Women on death row in Malaysia must use in-cell toilets that are in full view of guards, meaning there is no privacy.[[17]](#footnote-18)
4. Women under sentence of death in the Middle East and North Africa (MENA) region also experience overcrowding and lack of adequate hygiene. Reports have documented excessive crowding in regions of Yemen under Houthi control, where numerous women face death sentences.[[18]](#footnote-19) Rawya Rageh, journalist for Amnesty International, noted that “detainees are crammed into filthy, overcrowded cells, and are systematically extorted for money.”[[19]](#footnote-20) Women imprisoned in Lebanon use toothpaste to clean their cells because of a prohibition on using household cleaners.[[20]](#footnote-21)

**Access to Health-Related Necessities and Food and Water**

***Access to Menstrual Products***

1. Women under sentence of death lack adequate access to menstrual products and other gender-specific hygiene. The Bangkok Rules require “ready access” to hygiene items and menstrual products, as well as the ability to wash or dispose of blood-stained articles hygienically, but also notes that the failure to do so amounts to degrading treatment.[[21]](#footnote-22)
2. No menstrual products are provided to incarcerated women in Indonesia, Nigeria, and Sri Lanka.[[22]](#footnote-23) There has been some access to menstrual products in Pakistan, Lebanon, and Malaysia, but this access has been on the whole insufficient.[[23]](#footnote-24) Women incarcerated in Zambia have to wash their provided menstrual cloths, but the prison does not supply soap.[[24]](#footnote-25) There are reports that some prisons will withhold sanitary napkins as a punitive measure.[[25]](#footnote-26)

***Access to Health Care***

1. In many cases, health care offered to women under sentence of death ranges from extremely poor to life-threatening. Alice Nungu, a woman who was on death row in Malawi, was HIV positive but received no medical treatment despite experiencing pneumonia and malaria.[[26]](#footnote-27) Authorities eventually released her after a re-trial, but she died a few weeks later from AIDS.[[27]](#footnote-28)
2. Doctors at prison clinics in Indonesia and Malaysia provide only paracetamol to women and no other medications.[[28]](#footnote-29)
3. It is a customary practice in Cameroon, the Democratic Republic of Congo, and Pakistan for prison authorities to refuse women access to medical services outside prison, and allegedly they will only relent when an individual is in a life-threatening situation.[[29]](#footnote-30)

***Access to Food & Water***

1. Women on death row in Cameroon do not have guaranteed access to clean water, as there are few taps, and many of them are broken or provide unclean water.[[30]](#footnote-31) Their diet consists solely of rice, maize, and peanuts, with no meat, fruits, or vegetables.[[31]](#footnote-32)
2. Nigeria offers women under sentence of death “little to no running water.”[[32]](#footnote-33) Women under sentence of death in Lebanon receive 2 liters of water daily and store it in barrels for all water needs.[[33]](#footnote-34)
3. In the Democratic Republic of Congo, women under sentence of death eat beans and maize.[[34]](#footnote-35) People under sentence of death in Yemen must pay for food.[[35]](#footnote-36) In Indonesia, women “pool funds to purchase bottled water so that they do not have to drink unclear water.”[[36]](#footnote-37) They also roughly have a food budget of US$1.20 per day, meaning women in detention often do not receive adequate caloric intake.[[37]](#footnote-38)

**Solitary Confinement & Restraint Practices**

1. Solitary confinement is the norm in Malaysia, where women under sentence of death are in solitary confinement for up to 23 hours a day.[[38]](#footnote-39) Time outside of the cell is limited to walking in their dormitories.[[39]](#footnote-40) Women may be sent to “dark rooms,” as a punitive measure, where they sit in total darkness with “little food.”[[40]](#footnote-41) A report from The Malaysian Human Rights Commission detailed observing a woman under sentence of death who “repeatedly hit her head against the cell door.”[[41]](#footnote-42)
2. The use of solitary confinement for people under sentence of death is a standard practice in several states in the United States of America.[[42]](#footnote-43) In at least three U.S. states, there is only one woman under sentence of death and she lives in solitary confinement.[[43]](#footnote-44) One example is Christa Pike, who has spent at least 25 of her 26 years under sentence of death in Tennessee in solitary confinement.[[44]](#footnote-45) She is confined in a cell approximately 2.5 x 3 meters and prison officials exclude her from group activities.[[45]](#footnote-46)
3. Cameroon reportedly uses solitary confinement as a punitive measure.[[46]](#footnote-47) The only under sentence of death in Malawi lives in solitary confinement.[[47]](#footnote-48)
4. Some countries, like Sudan and Cameroon, place women under sentence of death in shackles.[[48]](#footnote-49) Chinese authorities keep all women under sentence of death in shackles at all times.[[49]](#footnote-50)

**Women on Death Row with Minor Children**

1. The practice of allowing babies or young children to live with their incarcerated mothers varies significantly by country, with differences in maximum age, conditions for children, and added protections for mothers. A 2014 report calculated that 40 retentionist countries permitted a child to be housed with their mother under sentence of death.[[50]](#footnote-51) International standards like the Bangkok Rules require that the “environment provided for such children’s upbringing shall be as close as possible to that of a child outside prison.”[[51]](#footnote-52)
2. Eleos Justice and the Cornell Center on the Death Penalty Worldwide reported that as of March 2023, children were living with mothers under sentence of death in Cameroon, the Democratic Republic of Congo, Nigeria, and India.[[52]](#footnote-53) A woman in the Democratic Republic of Congo reported being detained in a single cell with three other women and a baby.[[53]](#footnote-54) Another woman under sentence of death in Nigeria reported that although her baby resided in her cell with her, the cell was crowded, and prison officials gave her no additional food to feed the child.[[54]](#footnote-55)
3. In Sudan, a woman under sentence of death was “shackled to heavy chains in prison while eight months pregnant and caring for a young child, and during childbirth.”[[55]](#footnote-56)

**Gender-Based Violence on Death Row**

1. In Sri Lanka, prison authorities detain women under sentence of death in units staffed by men, exposing them to “ongoing risks of gender-based violence . . . abusive searches, physical and psychological violence, and rapes.”[[56]](#footnote-57) The Bangkok Rules stipulate that women should be searched only by female staff members.[[57]](#footnote-58) Women incarcerated in Tanzania allegedly face coercion into transactional sex for food or protection.[[58]](#footnote-59) In the United States, a Florida prison subjected women under sentence of death to years of sexual abuse and rape by prison staff as a “regular event,” often requiring sex for necessities like toilet paper.[[59]](#footnote-60) A woman who reported the abuse would end up in solitary confinement or face other punishment.[[60]](#footnote-61)
2. Violence perpetrated by inmates on inmates is also a significant issue, and the risk of such violence is exacerbated when prisons house women in close proximity to men. Organizations report that women are not fully segregated from men, leaving them vulnerable to sexual assault, in “Bangladesh, Cameroon, Democratic Republic of Congo, Equatorial Guinea, Gambia, and Iraq.”[[61]](#footnote-62)
3. **RECOMMENDATIONS**
4. The Advocates for Human Rights and The World Coalition suggests that the Special Rapporteur on Torture take the following steps regarding women under sentence of death:
* Conduct a full study into conditions of detention for women under sentence of death, specifically seeking more information on overcrowding, hygiene practices, access to necessities, health care, and gender-based violence.
* Call for transparency regarding detention conditions for women under sentence of death, a largely forgotten and invisible population worldwide.
* Remind States to implement legislation and policies in accordance with the Bangkok Rules to protect the vulnerable population of women in detention.
* Raise awareness about failures to meet minimum standards for providing menstrual products to women under sentence of death and call on all States to ensure free access to such products for all persons in detention.
* Preserve women’s privacy and ensure that this sensitive population does not experience dehumanizing conditions relating to hygiene, such as lack of private toilets and toilets that are locked during nighttime hours.
* Condemn the practice of subjecting women under sentence of death to solitary confinement, both as a punitive measure and as a general condition of confinement, in violation of the Nelson Mandela Rules.
* Apply extra scrutiny to situations of women under sentence of death who have minor children housed with them, ensuring adequate hygiene, food, and space.
* Condemn gender-based violence perpetrated against women under sentence of death by prison staff and male prisoners and call on States to conduct prompt and independent investigations and to hold perpetrators accountable.
* Prevent future gender-based violence by ensuring that male prison staff are not authorized to conduct searches of women and establish safeguards to prevent the establishment of abusive transactional relationships between women in detention and prison staff that rely on power dynamics and control. Ensure that men in detention have no access to women’s prison facilities.
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5. Cornell Center on the Death Penalty Worldwide, “Death Row Conditions,” accessed Nov. 6, 2023, https://deathpenaltyworldwide.org/publication/death-row-conditions/?version=html. [↑](#footnote-ref-6)
6. Cornell Center on the Death Penalty Worldwide, “Death Row Conditions,” accessed Nov. 6, 2023, https://deathpenaltyworldwide.org/publication/death-row-conditions/?version=html. [↑](#footnote-ref-7)
7. Delphine Lourtau. “Women Facing the Death Penalty,” in *Silently Silenced: State-Sanctioned Killing of Women* (Eleos Justice, Monash University, and Cornell Center on the Death Penalty Worldwide 2023), 27. [↑](#footnote-ref-8)
8. Countries with reported issues of overcrowding include “Bangladesh, Ghana, Guatemala, Jamaica, Lebanon, Morocco, Nigeria, South Sudan, Tanzania, Trinidad and Tobago, Tunisia, Uganda, United States of America, and Zambia.” Cornell Center on the Death Penalty Worldwide, “Death Row Conditions,” accessed Nov. 6, 2023, https://deathpenaltyworldwide.org/publication/death-row-conditions/?version=html. [↑](#footnote-ref-9)
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18. Rawya Rageh, On Death Row, a Yemeni Mother Runs the Gauntlet of Houthi Justice, Newsweek, Apr. 13, 2018, https://www.newsweek.com/death-row-yemeni-mother-runs-gauntlet-houthi-justice-opinion-885059. [↑](#footnote-ref-19)
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