**Response to the Call for Inputs by the Working Group on discrimination against women and girls for its upcoming report: “Human Security of Women and Girls in the Context of Poverty and Inequality”**

**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**

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**The Advocates for Human** **Rights** (The Advocates) is a volunteer-based nongovernmental 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. 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.

# **Introduction**

1. This submission, in response to the Working Group’s request for input for its upcoming report “Human Security of Women and Girls in the Context of Poverty and Inequality,”[[1]](#footnote-2) focuses on the lack of access to justice and disproportionate criminalization of women sentenced to death.
2. This submission highlights the harms and particular risks that women experience in the criminal legal system, including when they are charged with death-eligible offenses and when they are sentenced to death. The coauthors draw a connection between the discriminatory use of the death penalty and systemic discrimination against women and girls around the world.
3. Globally, women tend to encounter systemic and intersectional discrimination that makes them vulnerable to harsher punishment in the criminal legal system. According to the Cornell Center on the Death Penalty Worldwide’s groundbreaking report, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, “at least 500 women are currently on death rows around the world ... [and] over 100 women have been executed in the last ten years.”[[2]](#footnote-3)

***Women on death row and the cycle of discrimination and stigmatization***

1. Gender and poverty operate intersectionally, creating uniquely precarious conditions for women sentenced to death specifically, and female defendants more broadly. Women face intersectional discrimination that directly affects how and why they are sentenced to death. According to the Cornell Center, “[y]outh, forced and/or child marriage, mental illness or intellectual disability, migrant worker status, poverty, and race and ethnicity are all factors that increase the risk that a woman will be sentenced to death.”[[3]](#footnote-4)
2. According to Amnesty International,“[i]n many cases, the failure of authorities to act on specific complaints and end discriminatory practices have created a culture of abuse that women on death row have had to endure, meaning that these women continue to be further marginalised as they move through the criminal justice system.”[[4]](#footnote-5) Courts overseeing capital proceedings often fail to protect women’s rights to a fair trial and due process; they also frequently fail to “consider mitigating factors, such as long-term abuse, violence and sexual assault.”[[5]](#footnote-6) Such mitigating factors may nonetheless be relevant. The National Electronic Network on Violence Against Women reports that in the United States,“government surveys of state and federal prisoners estimate that 43% to 57% of women in state and federal prisons have been physically or sexually abused at some time in their lives.”[[6]](#footnote-7)
3. In some countries, however, courts may disregard this context. According to the Cornell Center, in jurisdictions where the death penalty is mandatory, for example, “a woman’s prior history as a survivor of physical or sexual abuse is simply irrelevant, since the death penalty is automatically imposed for death-eligible offenses without consideration of the offender’s background or the circumstances of the crime.”[[7]](#footnote-8) Even when a mandatory death penalty does not apply, courts might not consider relevant mitigating factors.
4. In Egypt, even though men are more likely to be sentenced to death than women, women are more likely to have their death sentences confirmed and carried out.[[8]](#footnote-9) According to Reprieve, between 2011 and September 2018, women were executed at more than double the rate of men. Moreover, the study found, “women had an 82% confirmation rate, while death sentences issued for men were confirmed at just a 59% rate.”[[9]](#footnote-10)
5. Egypt is likely not an isolated case, but the frequent unavailability of gender-disaggregated, gender-specific data, as well as the intersection of the effects of race- and class-based discrimination, impede understanding and create obstacles to addressing gender bias in capital proceedings. For example, for its annual global reports on the death penalty, Amnesty International has reported that it has not been “able to obtain an accurate breakdown by gender for several countries, including those that are believed to extensively resort to the death penalty, such as Iran and Saudi Arabia.”[[10]](#footnote-11)
6. Research suggests that female capital defendants are more likely to receive a death sentence if sentencing authorities perceive that their conduct has transgressed entrenched norms of gender behavior.[[11]](#footnote-12) For example, Iranian attorneys report that “courts trying women capital defendants judge their whole lives, and not just the offense with which they are charged.”[[12]](#footnote-13)
7. Marginalization and economic inequality affect the right to a fair trial for many women, including women charged with capital crimes. Women who are detained are often unable to afford a lawyer and are more likely to be illiterate and unaware of their legal rights than their male counterparts.[[13]](#footnote-14) For example, Penal Reform International reports that many women in Ugandan detention facilities are uneducated, unaware of the law, and have experienced domestic violence and poverty; a survey of women in detention facilities found that 61% have never been to school.[[14]](#footnote-15) In addition, non-literate women are more likely to be manipulated by their male codefendants and are more likely to sign documents attesting to confessions that they do not understand.
8. Moreover, foreign nationals also face heightened vulnerability. In some countries, foreign nationals—particularly foreign migrant workers—are sentenced to death in disproportionate numbers. As the Cornell Center recognizes, “foreign national are particularly vulnerable to unfair capital trials: they are poor, they lack linguistic, cultural, and institutional knowledge of the criminal justice process, and they are often denied access to effective legal representation and translation.”[[15]](#footnote-16)
9. Lack of education among poor women leaves them more vulnerable to discrimination, coercion, and exploitation.[[16]](#footnote-17) According to the Cornell Center’s report, “Gender dynamics and female disempowerment are salient factors associated with women’s involvement in drug smuggling. Many women engage in drug smuggling to counteract their marginalization and improve their socioeconomic status.”[[17]](#footnote-18) Most drug offenses involving women in Iran are small-scale offenses committed by women in poverty, but authorities frequently sentence such women to death for drug trafficking.[[18]](#footnote-19) In drug trafficking cases, women tend to be involved at the lowest level of the drug trade, leaving them with fewer ways to negotiate their sentences (through information exchange, for example) than their male counterparts.
10. As women in a patriarchal society, women charged with capital drug-related offenses have experienced gendered systems of oppression that pushed them into economic insecurity. The Cornell Center report on women sentenced to death for drug offense explains that gender segregation of the labor market is due in part to employer discrimination but also to the over-representation of women in precarious jobs.[[19]](#footnote-20) The Cornell Center report cites studies in Thailand, one of the countries with the highest rate of women sentenced to death, showing the financial impact of early care responsibilities among women who were later incarcerated for drug-related offenses. “Many faced caregiving responsibilities early in life and had to leave school early either to support their parents or their families—often after marrying and having children as teenagers. These caregiving responsibilities severely curtailed their future employment prospects.”[[20]](#footnote-21) The most common pathway to drug-related offending, these researchers found, was “economic familial provisioning.”[[21]](#footnote-22)

***Poor Detention Conditions for Women and Girls***

1. Women commonly experience torture or cruel, inhuman, or degrading treatment or punishment while in detention. According to the Cornell Center,women in detention endure abuse and sexual harassment, inappropriate touching during searches, rape, and sexual coercion.[[22]](#footnote-23) Women sentenced to death tend to remain on death row for prolonged periods, a practice that can amount to torture under international human rights standards.
2. Women often reside in overcrowded detention facilities. For example, the three women on death row in Lebanon are currently housed at Beirut Women’s Prison (Barbar Khazen) and Qobbeh Prison (Tripoli, North Lebanon). In both facilities, women live in overcrowded cells, sharing space with approximately ten people and sometimes with infants.[[23]](#footnote-24)
3. In Malawi, for example, detention facilities for women are not hygienic . According to the Cornell Center, “if a female prisoner needs to urinate or defecate during the night, she must use a bucket because the toilets and showers are located outside the cells, and women cannot leave their cells at night.Alarmingly, the only ventilation for the closed cell space is a small hole at the top of the cell door that leads into the hallway.”[[24]](#footnote-25)
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