



Judged for More Than Her Crime

A Global Overview of Women Facing the Death Penalty

September 2018

THE CORNELL CENTER ON THE DEATH PENALTY WORLDWIDE
A Report of the Alice Project



Cornell Law School

COVER PHOTOGRAPH: Sleeping conditions for women in a provincial prison in Thailand in 2015. Overcrowding means that women on death row mix with the general population, and women take turns sleeping. Photo credit Kulapa Vajanasara, Women Prison Reform and Relevant Justice Systems, a research project by the Thai Association of Population and Social Researchers at Mahidol University.

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Norwegian Ministry
of Foreign Affairs



THE CORNELL CENTER ON THE DEATH PENALTY

WORLDWIDE aims to bridge critical gaps in research and advocacy around the death penalty. The Center provides comprehensive, transparent data on the death penalty laws and practices of all countries and territories that retain the death penalty. It publishes reports and manuals on issues of practical relevance to defense lawyers, governments, courts, and organizations grappling with questions relating to the application of the death penalty, particularly in the global south. It also engages in targeted litigation and advocacy focusing on the implementation of fair trial standards and the rights of those who come into conflict with the law, including juveniles, women, and individuals with intellectual disabilities and mental illnesses. Finally, it provides training through the Makwanyane Institute to a cadre of competitively chosen Fellows, who undergo intensive capital defense training with the intent to return home and share their knowledge with other capital defenders around the globe. More information is available at **www.deathpenaltyworldwide.org**.

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IN INDIA: Project 39A in National Law University, Delhi undertakes research on various aspects of the criminal justice system in India and also provides *pro bono* legal representation to under-trial prisoners and those on death row. It is formally a part of NLU Delhi and draws inspiration from Article 39-A in the Constitution of India on equal justice and equal opportunity. Project 39A currently undertakes research on forensics, torture, legal aid, forensic psychiatry, sentencing and the death penalty. NLU Delhi started its engagement with the death penalty through the Death Penalty Research Project and the Centre on the Death Penalty between 2013-18, which has subsequently transitioned into Project 39A for a broader engagement with the criminal justice system in India.

IN INDONESIA: LBH Masyarakat is a not-for-profit non-governmental organization, based in Jakarta, that provides free legal services for the poor and victims of human rights abuses, including people facing the death penalty or execution; undertakes community legal empowerment for

marginalized groups; and advocates for law reform and human rights protection through campaigns, strategic litigation, policy advocacy, research and analysis.

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IN PAKISTAN: Justice Project Pakistan is a legal action non-profit organization based in Lahore, Pakistan. It provides direct pro bono legal and investigative services to the most vulnerable Pakistani prisoners facing the harshest punishments, particularly those facing the death penalty, the mentally ill, victims of police torture, and detainees in the War on Terror. JPP's vision is to employ strategic litigation to set legal precedents that reform the criminal justice system in Pakistan. It litigates and advocates innovatively, pursuing cases on behalf of individuals that hold the potential to set precedents that allow those in similar conditions to better enforce their legal and human rights. Its strategic litigation is coupled with a fierce public and policy advocacy campaign to educate and inform public and policy-makers to reform the criminal justice system in Pakistan.

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The authors' views do not necessarily reflect the views of either the Norwegian government or the individuals interviewed over the course of the project.

Foreword

There is no place for the death penalty in our societies. It trivializes justice and redress. It legitimizes and legalizes revenge. It does not deter crime. It is cruel, inhuman and degrading in its implementation. It is unfair, unjust and discriminatory. It is arbitrary. Replete with biases, it disproportionately affects the poorest and most vulnerable. The death penalty has no place in our societies.

The welcome trend globally towards absolute abolition is strong: 142 countries have now abolished the death penalty in law or in practice. In 2017, four additional countries abolished the death penalty or took steps towards doing so. The evidence available, credible research, and testimonies of those who have been on death row or fought for those on death row have all played key roles in the success of the global movement to eradicate death penalty.

With this publication, a major gap in our understanding of the multiple harms and wrongs of death penalty has been addressed.

As the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, I am committed to adopting a gender perspective to my mandate, by identifying and exposing the many ways in which gender interacts with violations of the right to life and revealing systemic discrimination that must be remedied for all people to enjoy equal rights.

Until now women facing the death penalty have remained largely invisible both in law and in the broader field. This report is the first to examine when and how women receive death sentences, and what happens to them once they reach death row. I cannot emphasize enough the importance of this kind of analysis in our campaigns against the death penalty and systemic gender-based discrimination.

This report tells the stories of women sentenced to death by courts that failed to consider their history as survivors of gender-based violence and other forms of gender-based oppression. As I have long advocated, when essential facts of a capital defendant's case, including domestic violence, have been ignored, the imposition of the death penalty is always arbitrary and unlawful. So is the death penalty imposed as a result of proceedings in violation of the principle of non-discrimination and fair trial. The report shows that most women on death row come from backgrounds of severe socio-economic deprivation and many are illiterate, which has a devastating impact on their ability to participate in their own defense and to obtain effective legal representation.

Criminal justice processes, largely designed by and for men, frequently are not only blind to the causes and consequences of gender-based violence, they may actively reinforce gender-based discrimination. Thus the report

reveals that courts judge women not just for their alleged offenses, but also for what are perceived to be their moral failings as women: as “disloyal” wives, “uncaring” mothers, “ungrateful” daughters. Nowhere are transgressions of the social norms of gender behavior punished more severely than in a capital trial.

For all of these reasons, this long-overdue report is a most welcome asset. It urges policy-makers, activists, scholars, and lawyers to engage with the issue of gender discrimination in application of capital punishment. It demands that they incorporate an awareness of gender bias into every aspect of their work, combat gender stereotypes and overcome the binary view of women as either victims or offenders. A human rights approach to capital punishment cannot be complete without a gender component, and what this report offers is the first body of evidence to demonstrate it and thus to campaign effectively and inclusively against death penalty.

This report also marks the launch of the Alice Project at the Cornell Center on the Death Penalty Worldwide. By telling the long-neglected stories of women on death row, the Alice Project will shed light on how gender-based discrimination plays out in countries that apply the death penalty. It represents a first attempt to devote resources and attention to the experiences of women on death row, to develop human rights strategies around the application of capital punishment to women, and to invite international law to look to its own biases. I hope that this Project's call will be heard loudly, clearly and globally.

AGNÈS CALLAMARD

U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions

Executive Summary

We estimate that at least 500 women are currently on death rows around the world. While exact figures are impossible to obtain, we further estimate that over 100 women have been executed in the last ten years—and potentially hundreds more. The number of women facing execution is not dramatically different from the number of juveniles currently on death row, but the latter have received a great deal more attention from international human rights bodies, national courts, scholars, and advocates.

This report aims to shed light on this much-neglected population. Few researchers have sought to obtain information about the crimes for which women have been sentenced to death, the circumstances of their lives before their convictions, and the conditions under which they are detained on death row. As a result, there is little empirical data about women on death row, which impedes advocates from understanding patterns in capital sentencing and the operation of gender bias in the criminal legal system. To the extent that scholars have focused on women on death row, they have concluded that they are beneficiaries of gender bias that operates in their favor. While it is undeniable that women are protected from execution under certain circumstances (particularly mothers of infants and young children) and that women sometimes benefit from more lenient sentencing, those that *are* sentenced to death are subjected to multiple forms of gender bias.

Most women have been sentenced to death for the crime of murder, often in relation to the killing of family members in a context of gender-based violence. Others have been sentenced to death for drug offenses, terrorism, adultery, witchcraft, and blasphemy, among other offenses. Although they represent a tiny minority of all prisoners sentenced to death, their cases are emblematic of systemic failings in the application of capital punishment.

Women in conflict with the law are particularly vulnerable to abuse and other rights violations, either at the police station, during trial, or while incarcerated. Women are more likely than men to be illiterate, which affects their ability to understand and participate in their own defense. For example, of the 12 women on India's death row in 2015, six have never attended school. Illiteracy also increases their vulnerability to coercion,

heightening the risk of false confessions. In certain countries, particularly in the Gulf states, most death-sentenced women are foreign migrant workers who are subject to discriminatory treatment.

Mental illness and intellectual disability are common among women facing the death penalty. In Pakistan, Kanizan Bibi has been on death row since 1989, when she was only 16-years-old. Diagnosed with paranoid schizophrenia, she cannot care for herself in the most basic ways and has lost all awareness of her surroundings. Although she is now confined in a psychiatric hospital, she remains under sentence of death.

Many women enter prison as long-term survivors of gender-based violence and harsh socio-economic deprivation. We have documented several cases of women convicted of crimes committed while they were minors, often in the context of child marriage. These factors receive little attention from lawyers and courts. In many death penalty jurisdictions, gender-based violence is not considered at sentencing. Few lawyers present such evidence, and even where they do, the courts often discount it. In mandatory death penalty jurisdictions, 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.

Our research also indicates that women who are seen as violating entrenched norms of gender behavior are more likely to receive the death penalty. In several cases documented in this report, women facing the death penalty have been cast as the “femme fatale,” the “child murderer,” or the “witch.” The case of Brenda Andrew in the United States is illustrative. In her capital trial, the prosecution aired details of her sexual history under the guise of establishing her motive to kill her husband. The jury was allowed to hear about Brenda's alleged extra-marital affairs from years before the murder, as well as details about outfits she wore. The trial court also permitted the prosecutor to show the underwear found in the suitcase in her possession after she fled to Mexico, because it showed that she was not behaving as “a grieving widow, but as a free fugitive living large on a Mexico beach.” As one Justice of the Court of Criminal Appeals of Oklahoma noted, Brenda was put on trial not only for the murder of her husband but for being “a bad wife, a bad mother, and a bad woman.”

Death row conditions around the world are harsh and at times life-threatening for both men and women. In China, for example, all death row inmates, including women, are shackled at all times by their hands and feet. Women face certain deprivations, however, that do not affect the male population to the same extent. Some death sentenced women must also care for infants or young children who are incarcerated alongside them. Meriam Ibrahim, sentenced to death in Sudan for apostasy in 2014, was shackled to heavy chains in prison while eight months pregnant and caring for a young child. In Thailand and Myanmar, inmates have reportedly given birth alone in prison. In many countries, it is challenging or impossible for women to access sanitary pads or other menstruation products. In Zambia, for example, women must make do with rags that they struggle to clean without soap.

The social stigma associated with women who are convicted and imprisoned, paired in some cases with restrictive family and child visitation rules, means that many female death row inmates around the world suffer an enduring lack of family contact, contributing to the high levels of depression suffered by women prisoners. Women on death row may also be denied access to occupational training and educational programs. For instance, the general female prison population in Thailand has access to work programs, but death row inmates do not. One woman in Ghana explained, after being denied educational opportunities while on death row: “I don’t do anything. I sweep and I wait.”

Our country profiles aim to provide a snapshot of women facing the death penalty in several major regions of the world. The stories of women on death row provide anecdotal evidence of the particular forms of oppression and inhumane treatment documented in this report. It is our hope that this initial publication, the first of its kind, will inspire the international community to pay greater attention to the troubling plight of women on death row worldwide.

I. Introduction: Women on Death Row, Invisible Subjects of Gender Discrimination

When we began this research, we were surprised by the dearth of information available about female death row populations around the world. Although a number of scholars have examined the causes, conditions, and consequences of women's incarceration more broadly, few have focused specifically on women who have been condemned to death.¹ As a result, there is little empirical data about the crimes for which women have been sentenced to death, the circumstances of their lives before their convictions, and the conditions under which they are detained on death row. This lack of research interest, we believe, is in part attributable to the relatively small numbers of women on death row. We were nonetheless convinced, based on our own preliminary research, that the cases of women condemned to death would reveal significant patterns of arbitrariness and discrimination in the application of the death penalty. Our research has implications beyond the small population of women facing death row. The factors we identify as affecting why and how women are sentenced to death are relevant to all women in conflict with the law. We hope that this report illuminates how gender and poverty operate intersectionally to create uniquely precarious conditions for women facing capital sentences specifically, and female defendants more broadly.

Faced with the absence of comparative research on this topic, we spent three years assembling case studies and reviewing anecdotal information from human rights reports. We interviewed dozens of lawyers, activists, and researchers who had first-hand knowledge of cases involving women who had been condemned to death. Based on our research, we can confirm that gender-based discrimination is pervasive in all capital punishment systems that we studied.

We define gender-based discrimination as the unequal or unfair treatment of an individual on the basis of gender. Gender-based discrimination affects all aspects of social life, and our research has confirmed that capital trials aggravate pre-existing gender-based inequality. At the same time, it has revealed that gender-based discrimination in capital trials is a complex issue because there is often more than one form of bias at play, and

these biases may work both to the benefit and the detriment of female capital defendants. The root of these contradictions is the tendency of actors in the criminal justice system to see women as victims and survivors rather than as perpetrators of crime. The stereotype of women as peaceful caregivers has benefitted many women who have received reduced sentences as a result. At the same time, women who are seen as violating entrenched norms of gender behavior may be sentenced more harshly. Women tend to receive lesser sentences than men when perceived as victims that conform with their assigned roles in society—the “caring mother,” the “naïve girl,” or the “hysterical woman.” In contrast, women tend to receive harsher sentences when perceived as deviating from those roles—the “femme fatale,” the “child murderer,” or the “witch.”²

Women tend to receive lesser sentences than men when perceived as victims that conform with their assigned roles in society—the “caring mother,” the “naïve girl,” or the “hysterical woman.” In contrast, women tend to receive harsher sentences when perceived as deviating from those roles—the “femme fatale,” the “child murderer,” or the “witch.”

Domestic legal prohibitions on executing women reflect this victim/offender binary. This is particularly true of countries that have outlawed the execution of all women on the basis of their gender alone. Currently, three countries that retain the death penalty in their legislation prohibit its application to all women, regardless of family status, age, or offense: Belarus, Tajikistan, and Zimbabwe. Discerning the rationale for the exclusion of women in these three countries is a matter of some conjecture, as there was little, if any, public debate surrounding the introduction of these prohibitions. When Belarus's new criminal code of 1999, the first since independence, excluded all women from the death penalty, there was “no real debate” on the issue. The provision seems above all to have codified an existing practice: only three women are known to have been executed in Belarus since 1953.³

In Tajikistan and Zimbabwe, domestic law originally prohibited the execution only of pregnant women (an exclusion required by international law). The extension of

the ban to all women was a strategy for incrementally reducing the use of capital punishment, rather than the result of a gendered analysis. In Zimbabwe, the 2013 constitution banned the execution of women because the drafters did not think that full abolition was politically tenable. Excluding women was an achievable objective because few women are executed and executing women makes the public uncomfortable. It was also a potential Trojan horse for abolition in light of the constitution's equality provisions. Indeed, a constitutional challenge to the death penalty on equality grounds is currently underway.⁴ In Tajikistan, as in Mongolia, which excluded women from execution until it abolished the death penalty in 2015, the exemption for women "did not entail any kind of discrimination on the grounds of sex; it existed because...it was considered...a significant step towards its complete abolition."⁵

Other legal prohibitions on executing women emphasize the social importance of their roles as mothers. Pregnant women are universally excluded from the use of the death penalty, although in some countries they may be executed after giving birth.⁶ Altogether, at least fifty countries have adopted legislation prohibiting the execution of mothers with young children or are party to at least one international treaty that prohibits the practice.⁷ Article 4(2)(g) of the Protocol on the Rights of Women to the African Charter on Human and Peoples' Rights provides that nursing mothers may not be executed, but refrains from specifying an age at which a child is presumed to be weaned. The Arab Charter on Human Rights prohibits the imposition of the death penalty on a nursing mother within two years from the date on which she gave birth. These provisions fail to protect new mothers who cannot or choose not to nurse their babies.

Limitations on executing pregnant women, or women with young children, embody important human rights norms, including the fundamental principle of prioritizing the best interests of the child, and the authors of this report fully support them. Nevertheless, it is worth reflecting on the fact that these norms also signal that the quality for which women deserve clemency is their connection to motherhood. Such reasoning leaves women who do not conform to this role—women who have no children, and especially women whose offenses result in harm to children—with default narratives of deviance and place them at a heightened disadvantage in capital trials.

Women who are eligible for the death penalty under domestic and international law face gender bias at multiple levels. Our research has revealed a number of cases of women whose capital trials were permeated with candidly sexist language. In India, for instance, a woman accused with her lover of killing her husband was characterized by the court as the "kind of woman" who brings "shame" upon her family, village, and society and who represents a threat to women and men alike. Referring to the woman's extramarital affair, the court commented that "a lady of such character deserves no leniency."⁸ A Pakistani court, in refusing a woman's bail application in a drug smuggling case, observed: "Had the accused been concerned about her suckling baby, she would not have resorted to indulge in such activity which had afflicted the whole society and especially the younger generation."⁹ In a case involving a woman convicted of killing several members of her family, the Supreme Court of India stated that as a daughter, she had violated her gender role as "the caregiver" for her parents.¹⁰ The Court further observed, "[the daughter] is a caregiver and a supporter, a gentle hand and a responsible voice, an embodiment of cherished values of our society and in whom a parent places blind faith and trust."¹¹ In all of these cases, courts chose to arrange the evidence before them in the shape of familiar narratives about women, rather than grapple with the complexities of a human being who happened to be a woman.

In India, for instance, a woman accused with her lover of killing her husband was characterized by the court as the "kind of woman" who brings "shame" upon her family, village, and society and who represents a threat to women and men alike.

In other cases, the evidence of gender bias is more subtle, but nonetheless unmistakable. One lawyer in Iran noted that courts trying women capital defendants judge their whole lives, and not just the offense with which they are charged (particularly in cases where the defendant is accused of killing her spouse).¹²

At the investigation stage, police officers' gender biases and stereotypical assumptions about femininity influence their behavior and decision-making regarding female offenders. For instance, Pakistani police officers

reflexively target wives as the prime suspects in their husbands' murders if no other suspect is immediately apparent.¹³ Our research has also revealed the tendency to arrest women along with their husbands or other male figures in their lives. In India, at least nine out of 12 women on death row were charged with one male co-defendant and at least 6 of these men were their intimate partners.¹⁴ In a minority of death row cases in India a woman was the sole accused.¹⁵ Moreover, in one instance, the female death row prisoner reported that her trial lawyer would only meet with her husband regarding their case, and then her husband would explain to her the case details.¹⁶ Seven out of nine cases of women on death row in Indonesia also involved male co-defendants, usually an intimate partner.¹⁷ Little attention has been devoted to the question of whether some of these women may face a capital sentence because of their association with their male co-defendants, potentially jeopardizing their presumption of innocence and entitlement to an individualized judicial process.

Biased treatment by law enforcement exacerbates the pre-existing vulnerabilities of many female offenders, especially those from rural areas. Lack of education prevents many women from being able to read and interpret legal documents, or to be fully engaged in their own defense.¹⁸ Additionally, women frequently lack money or property of their own, which impedes their ability to retain qualified legal counsel. Lack of economic resources also makes it practically impossible for many women to compensate the victim's family in legal systems where financial restitution can lead to a reduction in their sentence.¹⁹

At sentencing, gender bias exists not simply when gendered stereotypes are mobilized to establish culpability, but also when gender is simply ignored in the courtroom. Women defendants suffer from harsher sentences when there is no recognition of how gender and patriarchy affected their criminal conduct. Fundamental concepts in criminal law, such as intent and volition, often take for granted the actor's agency in determining their conduct. But survivors of domestic violence, for example, do not enjoy such agency. Trauma and the threat of violence influence the defendant's ability to escape the peril in which they find themselves.

One of the most striking instances of gender bias at sentencing affects female defendants who are survivors of domestic abuse. In mandatory death penalty jurisdictions,

such as Tanzania, gender-based violence is only relevant where the defendant can proffer a self-defense claim. The legal doctrine of self-defense, however, is limited to lethal force deemed "reasonable" and "necessary" to protect life or limb from imminent threat.²⁰ A woman who kills her batterer while he is asleep, for example, even after a lifetime of domestic violence, would not necessarily be able to invoke this doctrine.²¹

One of the most striking instances of gender bias at sentencing affects female defendants who are survivors of domestic abuse.

Even in countries where judges exercise discretion in applying the death penalty, courts do not consistently take note of abuse, gender-based violence, and trauma when making decisions about the appropriate sentence. As an initial matter, lawyers in most countries lack the resources and training to document and explain gender-based violence to the court.²² But even where advocates are able to gather such evidence to present to the court at sentencing, courts may disregard it.²³

In capital trials, it is often men who tell the stories of women facing the death penalty. In most retentionist countries, women are poorly represented in the ranks of police officers, lawyers, and judges. The absence of women making key decisions over the course of criminal prosecutions may be another contributing factor for the justice system's failure to take into account women's experiences. The legal system is imbued with patriarchal norms, and our research indicates that this inherent bias has contributed to the wrongful convictions and death sentences of women throughout the world.

II. Methodology

This project relied heavily upon partnerships with country experts, including practicing capital defense lawyers as well as activists, academics, and organizations working on issues related to the death penalty, women's rights, and women's imprisonment. These partners draw their knowledge from their work with a wide range of stakeholders in the criminal justice system, including defense lawyers, civil society, prison administrators, and prisoners under sentence of death.

The researchers conducted extensive desk research on the myriad issues facing women on death row around the world, including by collecting general and country-specific reports, journal articles, statistical data, reports to international human rights bodies, case files, country-specific legislation and jurisprudence, and newspaper reports.

Further, researchers conducted interviews with country experts from Cameroon, China, India, Iran, Japan, Jordan, Malawi, Mauritania, Morocco, Nigeria, Pakistan, Thailand, United Arab Emirates, Uganda, Zambia, and Zimbabwe.

The Center partnered with experts/organizations in Indonesia, India, Jordan, and Pakistan, who conducted in-depth country investigations and produced detailed reports based on their research.

Where possible, this report drew upon information specific to women on death row. Where such information was not available, the report relies on information about women prisoners and defendants more broadly. As a last resort, the report refers to the experiences and conditions of death row prisoners, who are mostly male. We have indicated in the text that follows when we rely on information regarding defendants or prisoners who are not women on death row.

III. Women Facing the Death Penalty around the World: An Understudied Population

Gender discrimination in capital criminal proceedings is an understudied phenomenon, in part because there are relatively few women on death row. Although exact figures are difficult to find and, in some countries, impossible to obtain, our research suggests that women represent less than 5% of the world's death row population and less than 5% of the world's executions. Nonetheless, we estimate that at least 500 women are currently on death rows around the world.

A. SENTENCES

In **Asia**, where most of the world's executions are carried out, women make up a small fraction of those on death row. For instance, women represent 5.7% of death row prisoners in Japan (eight women),²⁴ and 2.3% in Taiwan (one woman).²⁵ Estimates of the percentage of women on death row in China range from 1% to 5%. Given the size of China's death row population, these figures represent dozens, if not hundreds of women.²⁶ Women make up 3% of all death row prisoners in India (12 women),²⁷ and 2.5% in Bangladesh (37 women).²⁸ As of 2017, there were 33 women on death row in Pakistan²⁹ out of around 5,000 prisoners for whom data is available,³⁰ or roughly 0.6%. There were nine women on death row in Indonesia whose sentences had been finalized as of September 2017, or about 6% of all death row prisoners with finalized sentences.³¹ By contrast, women make up 18% of the death row population in Thailand (94 women).³²

The proportion of death-sentenced women is even smaller in largely *de facto* abolitionist **Africa**. Female inmates represent approximately 15% of the death row in Malawi (four women),³³ 4% in Uganda (11 women),³⁴ 2.2% in Nigeria (32 women),³⁵ 3.1% in Ghana (five women),³⁶ 1.8% in Mauritania (one woman),³⁷ and 1% in Zambia (two women).³⁸ In 2016, Kenyan President Uhuru Kenyatta commuted the sentences of all prisoners on death row—2,655 men and 92 women—into life sentences.³⁹ Since then, more people have been sentenced to death in Kenya but it is unclear how many of these are women.⁴⁰

The proportion of women on death row is more variable in the **Middle East**, the region with the world's highest per capita execution rate. As of August 2014, there were 25 women on death row in Iraq out of 1,724 death-sentenced prisoners, or about 1.4%.⁴¹ In recent years, however, the death sentence has been applied to women in Iraq with alarming frequency for alleged ties to the so-called "Islamic State" or ISIS.⁴² Currently, 560 women are awaiting trial in detention on charges of aiding or being members of ISIS.⁴³

In the United Arab Emirates, as of June 2018 there were nine women under sentence of death out of around 200 death row inmates.⁴⁴ All but one were foreign nationals,⁴⁵ and most of these (if not all) were migrant workers.⁴⁶ In Jordan, there are 16 women on death row out of 120 death row inmates (13%).⁴⁷ The number of death-sentenced women in Saudi Arabia is unknown. Nevertheless, Saudi Arabia has executed at least nine women out of the hundreds of prisoners it has put to death since 2015.⁴⁸ Iranian human rights lawyers estimate that there are dozens of women on death row in Iran and in 2017, at least ten women were executed.⁴⁹

In the **Americas**, the only state that has carried out executions in the past few years is the United States, where there were 54 women on death row as of October 2017, representing 1.93% of the total death row population.⁵⁰ Since 1973, 181 women have been sentenced to death in the United States, which constitutes about 2% of all death sentences there.⁵¹ There are very few women on death row in the Caribbean.

B. EXECUTIONS

Women are also executed in significantly smaller numbers than men. Some retentionist death penalty states have executed few or no women in their history. India, for instance, has not executed a woman in recent times.⁵² Thailand has executed three women since 1942.⁵³

The countries that execute the greatest number of women are the world's two leading executioners: China, which in recent years has executed an estimated 20 to 100 women a year (1% to 5% of its total executions), and Iran, which has executed at least 38 women in the past three years (1.8% of its executions, on average).⁵⁴ The next three states with the highest number of executions have executed less than five women a year in the last few years. Iraq executed 17 women between 2004 and 2014, around

2.5% of its total executions.⁵⁵ Saudi Arabia has executed less than five women a year in the past five years, representing around 2.2% of its executions. In the United States, 16 women have been executed since the death penalty was reinstated by the Supreme Court in 1976. This represents about 1% of its total number of executions. The United States executed two women in 2014 and one in 2015.⁵⁶

Women have also been executed in recent years in Egypt,⁵⁷ Kuwait,⁵⁸ Jordan,⁵⁹ North Korea,⁶⁰ Afghanistan,⁶¹ Indonesia,⁶² Gambia,⁶³ and Somalia.⁶⁴

IV. Crimes for Which Women Are Sentenced to Death

Although women are sentenced to death and executed at lower rates than men overall, they are sentenced to death at higher rates for certain categories of crimes, such as sorcery and adultery.⁶⁵ In addition, the facts of the crimes for which women are condemned to death reveal patterns linked to gender.

A. WOMEN ON DEATH ROW FOR MURDER

Available data indicates that most women on death row have been sentenced to death for the crime of murder. Many of these crimes involve murders of close family members in a context of gender-based violence. In China, which executes the most women in the world, one expert estimated that a significant number, possibly up to half, of the women sentenced to death for murder had killed family members.⁶⁶ Yemen's Interior Ministry reported that of the 50 women arrested for killing their husbands in 2012, most of them had been motivated by domestic violence and gender inequality.⁶⁷ While we do not know how many of these women were eventually sentenced to death, murder in Yemen carries the mandatory death penalty unless the victim's family pardons the offender.

We found reports of women sentenced to death for killing their abusers in Taiwan, Uganda, Morocco, Jordan, Malawi, Nigeria, and China.

Of the 16 women who were on death row in India as of September 2017, six were sentenced to death for the murder of their immediate or extended family.⁶⁸ In two cases, the women's families had opposed romantic relationships with men they judged unsuitable.⁶⁹ A third woman was sentenced to death for killing her husband; her lover, who was also charged in the crime, received a life sentence.⁷⁰

In Iran, information gathered from the Iran Human Rights Documentation Center indicates that most women on death row were sentenced to death for the murder of their abusive husbands.⁷¹ In many cases, these women were married at a young age, without the right to divorce their assailants.⁷² We found reports of women sentenced to death for killing their abusers in Taiwan,⁷³ Uganda,⁷⁴

Morocco,⁷⁵ Jordan,⁷⁶ Malawi,⁷⁷ Nigeria,⁷⁸ and China.⁷⁹ The phenomenon is both widespread and under-investigated, and merits more in-depth research.

There are striking similarities among women sentenced to death for killing abusive family members. Most cases involve long-term abuse and the absence of effective outside help. Economic dependence, fear of losing child custody, widespread societal tolerance of violence against women, and the difficulty and stigma involved in obtaining a divorce exacerbate the effects of marital abuse. Several death-sentenced women in this category, particularly in Iran and Nigeria, had been forcibly married at a young age. In Sudan, for example, 19-year-old Noura Hussein was reportedly sentenced to death for murdering her husband after he raped her. Noura's family compelled her to marry at 15, but she refused and escaped for three years. Her father forced her to return and complete the wedding ceremony in April 2017. Noura's husband raped her after she refused to have sex with him. The following day, Noura stabbed and killed her husband as he tried to rape her again.⁸⁰

Women facing capital prosecution arising out of domestic abuse suffer from gender discrimination on multiple levels. To begin with, evidence of abuse is difficult to gather. Most domestic violence occurs without any adult witnesses, and female defendants may be reluctant to speak out due to stigma, shame, and lack of trust in police and judicial proceedings. Even if evidence of domestic violence is presented to the court, women face substantial barriers in convincing a court that they acted in self-defense. In many countries, to meet the legal definition of "self-defense," a defendant must show that she reasonably perceived an imminent risk of bodily harm or death, or that she acted to repel an ongoing attack. This definition fails to recognize the dynamics of domestic abuse, which is often perpetrated continually over a long period of time. A woman who has been repeatedly abused may reasonably perceive danger to her life that may not be immediate but is nonetheless ever-present.⁸¹ Courts, however, are generally disinclined to believe that a woman would remain in a long-term relationship if she believed herself to be in serious danger. They may also conclude that the defendant overreacted to a situation that did not create an imminent risk of harm or death. In the United States, "stand your ground" laws,⁸² which provide immunity and defense to criminal prosecution, have been rejected by some courts when survivors of domestic

violence have invoked them to justify their use of force when defending themselves from long-time abusers.⁸³

As the Office of the U.N. High Commissioner for Human Rights has observed, it is “extremely rare” for domestic abuse to be treated as a mitigating factor during sentencing, although it is known to produce serious physical harm, mental trauma, depression, and psychological distress.⁸⁴ In countries with a mandatory death penalty, there is simply no mechanism that would allow the courts to consider such evidence. Thus, in the case of Alice Nungu, who killed her husband after he came home drunk and began to beat her, the Malawi High Court was unable to take into account her history as a victim of domestic violence.⁸⁵ Even in those countries with discretionary capital sentencing, courts may ignore or discount the significance of gender-based violence and its consequences. Sometimes, courts within a same country have divergent approaches to domestic violence, leading to the arbitrary application of death sentences.⁸⁶

Li Yan killed her husband with the butt of a rifle that he had brandished during a fight. Throughout their marriage, he beat and kicked her, put out cigarettes on her face, and locked her in their home during the day and out overnight.

Nevertheless, there are signs that some jurisdictions are beginning to consider domestic violence in capital trials. In 2014, a court in Belize applied the so-called “battered women’s syndrome” doctrine for the first time in the Caribbean, declining to apply the death penalty to Lavern Longworth after finding that she killed her husband after years of physical and sexual abuse.⁸⁷ In June 2014, China’s Supreme Court overturned the death sentence of Li Yan, whose high-profile case had elicited widespread public calls for leniency. Li Yan killed her husband with the butt of a rifle that he had brandished during a fight. Throughout their marriage, he beat and kicked her, put out cigarettes on her face, and locked her in their home during the day and out overnight.⁸⁸ China’s Supreme Court and Procuratorate (the state’s prosecutorial body) have recommended that courts no longer seek the death penalty for defendants who kill abusive spouses. Similarly, in August 2017, Indonesia’s Supreme Court enacted new Guidelines on Sentencing Women who are in Conflict with the Law (PERMA 3/2017) to ensure that women’s

rights are upheld during hearings, as well as to identify discrimination and bias against women.⁸⁹

B. WOMEN ON DEATH ROW FOR DRUG OFFENSES

After murder, drug-related offenses are the most common crimes that lead to death sentences for women—particularly in the Middle East and Asia. For example, the overwhelming majority of women on death row in Thailand were convicted of drug-related offenses.⁹⁰ In Iran, drug trafficking is the crime for which women are most frequently sentenced to death, after murder.⁹¹ At least 43 women were hanged for drug crimes in Iran from 2001 to 2017.⁹² For instance, Hourieh Sabahi, Leila Hayati, and Roghieh Khalaji, single mothers from economically deprived backgrounds who had no criminal histories, were executed in 2001. Their lawyer argued that their death sentences were illegal under Iranian law because of the small quantity of narcotics involved.⁹³

Gender inequality also permeates prosecutions of women for capital drug offenses. Gender dynamics and female disempowerment are salient factors associated with women’s involvement in drug smuggling.⁹⁴ Many women engage in drug smuggling to counteract their marginalization and improve their socioeconomic status.⁹⁵ In Iran, for example, most drug offenses involving women are small-scale offenses committed by women from economically deprived backgrounds.⁹⁶ Drug traffickers employ women as low-level drug mules because they are less likely to be caught than men and do not have the resources to buy and traffic drugs for their own profit, exposing them to exploitation by drug trafficking rings.⁹⁷ Researchers have concluded that some women smuggle drugs to please or help someone, usually a male figure, in their lives.⁹⁸ Other studies have found that women who were victims of child and/or domestic abuse may engage in drug smuggling to increase their self-esteem.⁹⁹

Many women engage in drug smuggling to counteract their marginalization and improve their socioeconomic status.

Female migrant workers are easy targets for drug trafficking rings because they are typically poor and uneducated, but hold passports.¹⁰⁰ For example, Mary Jane Veloso, a Filipina mother of two boys and former domestic worker in Dubai, was sentenced to death by firing squad in Indonesia for drug smuggling, which

carries a mandatory death sentence. Mary Jane and her legal team have consistently claimed that she had escaped from Dubai after an attempted rape and that she was a victim of human trafficking duped into smuggling heroin into Indonesia.¹⁰¹ Tran Thi Bich Hahn, a Vietnamese national, was executed by firing squad in Indonesia in 2015 for drug smuggling. She claimed that she was duped by a drug cartel to transport a suitcase from Malaysia—containing 2.4 pounds of methamphetamine—into Indonesia.¹⁰²

C. WOMEN ON DEATH ROW FOR OFFENSES AGAINST SEXUAL MORALITY

One other category of capital offense deserves particular attention. In some Shariah jurisdictions, offenses against sexual morality, or *zina*, appear gender-neutral on their face, but in practice are applied in a discriminatory manner against women. *Zina*—illicit sexual relations outside of marriage—is a capital offense for a married person. Under Shariah principles, a *zina* conviction implies a consensual sexual relationship and requires a very high standard of proof: the testimony of four eyewitnesses or a confession.¹⁰³ It follows that *zina* convictions should be exceedingly rare. Pregnancy may constitute *prima facie* evidence of illicit sexual relations, but according to accepted Shariah rules, pregnancy is not determinative because it may have resulted from rape.¹⁰⁴ Some modern Islamic criminal systems, however, fail to apply these Shariah principles. In Iran, married rape victims are at risk of execution for adultery because of practices which defy these rules. These practices reverse the high evidentiary burden, requiring that pregnant women suspected of adultery prove, by four eyewitness accounts, that their pregnancy resulted from rape—an extraordinarily difficult burden to meet.¹⁰⁵

The risk of being prosecuted for *zina* creates a strong disincentive for women to report rape or sexual assault. In July 2013, a Norwegian woman on a business trip to Dubai reported a rape to the police, only to be sentenced to 16 months' imprisonment for sex outside of marriage and alcohol consumption.¹⁰⁶ Following intense diplomatic pressure, she was eventually pardoned and released.¹⁰⁷ Similarly, women who have reported rape in Pakistan have been charged with adultery.¹⁰⁸ Zafran Bibi, for instance, was convicted of adultery and sentenced to death by stoning after she declared that she was raped by her brother-in-law. The judge considered her pregnancy proof of adultery since Zafran's husband was in jail at the time.

No charges were brought against the brother-in-law because medical tests showed no signs of force and no witnesses were available to corroborate Zafran's account.¹⁰⁹

The method of execution prescribed for *zina*—stoning—is almost never applied in practice. Still, it is discriminatory on its face. Shariah law dictates that if the prisoner succeeds in freeing themselves during the stoning, he or she will be pardoned. In preparation for stoning, men are buried to their waist in the ground while women are tied up and buried deeper (theoretically to prevent their breasts from being stoned). Some men, but virtually no women, are able to escape execution. In Sudan, Intisar Sharif Abdallah, whose age was believed to be under 18, was sentenced to death by stoning for adultery. The state failed to provide Intisar with a lawyer or interpreter, even though Arabic is not her first language; moreover, her age was never assessed by the court.¹¹⁰ Intisar was released in July 2012 after the Ombada court in Omdurman dropped all charges against her due to a lack of evidence.¹¹¹ The vast majority of adultery cases and stoning sentences in Sudan have been imposed on women, pointing to the disproportionate and unequal application of this draconian law.¹¹² Even where stoning sentences are eventually modified, women must live with the terror of such a sentence—a punishment which is in itself cruel and inhumane.

Married sex workers and married victims of sex trafficking also face capital punishment under these laws. One Iranian case exemplifies the tragic and absurd consequences of such a system: a woman forced by her abusive husband into prostitution was convicted as an accomplice to murder when one of her male clients killed her husband. She was also sentenced to death by stoning for adultery. The male client, in contrast, was sentenced to a jail term of eight years.¹¹³

D. WOMEN ON DEATH ROW FOR TERRORISM-RELATED OFFENSES

Women also face capital punishment for terrorism-related offenses, especially in Iraq, Pakistan,¹¹⁴ India, and Iran. In recent years, Iraqi courts have sentenced more than 3,000 people to death, including dozens of women,¹¹⁵ many of whom were convicted of crimes relating to membership in ISIS. Iraqi and foreign women are receiving the harshest sentences because they traveled to live under ISIS, married an ISIS member, or received a stipend from ISIS

after the death of their husbands.¹¹⁶ After spending weeks in overcrowded and unsanitary detention centers, women attend an abbreviated trial where their fates are decided. Defense lawyers, when appointed, are unable to communicate with their clients prior to trial, present any evidence in court, summon any witnesses, or use qualified translators. Most trials end with sentences of life in prison or capital punishment.¹¹⁷

In Yemen, 22-year-old Asmaa al-Omeissy was sentenced to death in 2018 on “state security” charges in a rebel-controlled area of Yemen.¹¹⁸ While traveling to her father’s home in the Houthi-controlled region of Sana’a, Asmaa was detained by Huthi rebels.¹¹⁹ While in detention, Asmaa was tortured and accused of terrorism, collusion with foreign powers, and illicit sexual intercourse with her travel companions.¹²⁰ Following a trial that lacked substantive procedural guarantees, she was condemned to death while her father and two travel companions were released.¹²¹ In Iran, Shirin Alamhouli was hanged in 2010 after being convicted of *moharebeh* (enmity with God) for her alleged involvement in the Free Life Party of Kurdistan (PJAK) group. A few days before her impromptu execution, Shirin wrote in a letter: “I was arrested in April 2008 and was taken directly to the headquarters of the Sepah. As soon as we arrived there, and before I was asked any questions, they began beating me. I was there 25 days, of which I was on hunger strike for 22 days. I suffered all types of physical and mental torture.”¹²² India also Fehimda Syed sentenced to death in 2009 for participation in the 2003 Mumbai bombings.¹²³

E. WOMEN ON DEATH ROW FOR WITCHCRAFT

Although men have been sentenced to death for witchcraft, it is typically women who are accused of sorcery-related crimes. The word “witch” is almost exclusively used to refer to a woman. For centuries, women have been persecuted, prosecuted, tortured, and executed for witchcraft, which is perceived as the cause of misfortunes including deaths, illnesses, accidents, loss of livestock, and droughts.¹²⁴ The practice continues today.

In 2006, Fawza Falih was sentenced to death in Saudi Arabia for “bewitching” a man, causing him to become impotent.

According to the United Nations, thousands of women are still hunted, beaten, tortured, and in many cases murdered because of their reputed use of witchcraft.¹²⁵

Nevertheless, death sentences and judicial executions for witchcraft are becoming scarcer and are mainly applied in Saudi Arabia. In 2006, Fawza Falih was sentenced to death in Saudi Arabia for bewitching a man, causing him to become impotent. The judges relied on Fawza’s coerced confession and on the statements of witnesses who claimed to have seen her bewitching the man. In court, she explained that her interrogators beat her during 35 days in detention at the hands of the religious police, and that as an illiterate woman, she did not understand the document she was forced to fingerprint.¹²⁶ Likewise, Amina bint Abdel Halim Nassar was reportedly beheaded in Saudi Arabia for practicing witchcraft in 2011.¹²⁷

F. WOMEN ON DEATH ROW FOR OTHER OFFENSES

In Iran, 17-year-old Leyla Mafi was arrested during a raid on a brothel and sentenced to death for prostitution.

Prostitution, brothel keeping, blasphemy, kidnapping, and armed robbery are other crimes for which women receive capital punishment. In Iran, 17-year-old Leyla Mafi was arrested during a raid on a brothel and sentenced to death for prostitution. Leyla, who was forced into prostitution by her mother when she was eight, was intellectually disabled. Leyla’s death sentence was eventually commuted. Instead, she received 99 lashes and was sent to a rehabilitation center in Tehran in 2006.¹²⁸ In Nigeria, armed robbery is the crime for which women are most frequently sentenced to death, after murder.¹²⁹ In China, women have been sentenced to death for financial crimes and child trafficking.¹³⁰ Women in Sudan and Pakistan have been sentenced to death for apostasy¹³¹ and blasphemy¹³².

In 2010, Aasia Bibi, an illiterate farmer and mother of five, was sentenced to death by hanging for blasphemy in Pakistan. One day while working in the fields, a group of Muslim women refused to drink water from a water bowl arguing that Aasia, who is Christian, had contaminated it.



Aasia Bibi

During the incident, the women accused Aasia of blasphemy, a charge that she denied.¹³³ Aasia has been on death row for eight years and is currently waiting for the Supreme Court to hear her appeal.¹³⁴

V. Women in Vulnerable Situations Facing the Death Penalty

The death penalty is often applied to the most vulnerable and marginalized members of society. The vast majority of death row prisoners are indigent, and many suffer from mental disorders or intellectual disabilities. In some countries, members of racial, ethnic, or religious minorities are especially vulnerable to prosecution for capital crimes.

Women on death row are no exception. But women also face intersecting forms of discrimination based on “gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence,” all of which have “an adverse impact on the ability of women to gain access to justice on an equal basis with men.”¹³⁵ Youth, 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. Many women on death row fall into several of these categories, compounding their vulnerability.

A. JUVENILES AND SURVIVORS OF FORCED MARRIAGE

One of the most widely accepted tenets of international law prohibits the imposition of death sentences on children under the age of 18 at the time of the offense.¹³⁶ Nevertheless, some countries continue to execute juveniles, in part because of the legal system’s failure to verify an offender’s age at the time of the offense.¹³⁷

While a minority of women on death row are juvenile offenders, their cases merit close scrutiny because of their vulnerability and because the patterns their cases reveal are emblematic of the challenges faced by many women on death row.

Virtually all cases of death-sentenced minors that we found involve gender-based violence, child marriage, and/or sexual abuse. Trial courts around the world largely fail to take into account gender-based violence as a mitigating factor to reduce sentences, even in the context of child marriage.¹³⁸ This omission erases the role of domestic violence in cases of female minors who kill their abusers, a significant concern given the prevalence of

domestic abuse worldwide in marriages involving girls.¹³⁹ Similarly, courts rarely consider the mental health effects of child marriage, such as post-traumatic stress disorder, depression, and other mental or emotional disorders.¹⁴⁰ While youthfulness exacerbates these effects, adult women in abusive relationships should also benefit from the protection of laws recognizing the relevance of domestic abuse and child marriage to capital sentencing.

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Four cases from four different countries illustrate the universality of these concerns across cultures and legal systems. The recent case of Maimuna Abdulmumini in Nigeria is emblematic. Maimuna was married at the age of 13. Five months into her marriage, her husband burned to death in alleged arson attack while he slept. Maimuna was arrested and charged with murder. She languished in prison for six years while her trial dragged on. In 2012, a Nigerian court convicted Maimuna of culpable homicide and sentenced her to death. Lawyers acting *pro bono* challenged her death sentence before a regional court, the ECOWAS Community Court of Justice, arguing that imposing a death sentence on a juvenile violated international law and the African Charter on the Rights and Welfare of the Child. The ECOWAS court ruled that Nigeria had violated its international human rights obligations, ordered a stay of execution, and awarded Maimuna damages.¹⁴¹ Maimuna was released from prison in 2016.¹⁴²

The case of Zarbibi,¹⁴³ sentenced to death in Iran, raises similar concerns. Zarbibi was 15 years old when she was forced to marry a 27-year-old man. In a diary she wrote from her prison cell, she described how her husband abused her physically and sexually, separated her from her family, and forced her to leave school. At the age of 16, while four months pregnant, she killed her husband with a kitchen knife.¹⁴⁴ The court sentenced her to death, and she gave birth to her daughter while imprisoned on death row. Under Shariah law, the family of the victim may pardon the perpetrator of a serious crime. Zarbibi's late husband's family pardoned her on the condition that she marry his brother.¹⁴⁵ She agreed and was released from death row. According to her lawyer, however, her freedom remains highly restricted.¹⁴⁶

In Tanzania, Mary Raziki,¹⁴⁷ who was forced to marry at age 16, was sentenced to death for the murder of her co-wife. Mary suffered severe domestic violence at the hands of her husband, including physical, psychological, and economic abuse. According to Mary's older sister, Mary's house resembled a cow shed. Mary's husband stole crops from Mary's *shamba* (farm) to take them to his new home, forcing Mary to work several jobs, and sometimes beg for money to feed their children.¹⁴⁸ Mary sought protection from village authorities and from her family, but they did nothing to prevent the violence, protect Mary and her children, or hold her abusive husband accountable. Mary stated that she did not intend to cause the death of her husband's second wife; she set fire to their home believing it was empty. Because of Tanzania's mandatory death penalty scheme, however, the trial judge was unable to consider her lack of malice or the abuse she suffered, and sentenced her to death. Mary has been on death row for more than 15 years.¹⁴⁹

In Indonesia, although juveniles are by law excluded from capital punishment, some courts have treated girls under the age of 18 as criminally responsible adults by virtue of their married status, even when they act under compulsion from their adult husbands. One woman currently on death row was a minor but married at the time of her offense. Susi¹⁵⁰ was convicted of killing a child when she was 17 years old under the orders of her older, abusive husband. Her husband had previously and without her knowledge killed six boys and one man. The court acknowledged in its findings of fact that Susi was not aware of her husband's homicidal acts. Importantly, the court further acknowledged that she repeatedly resisted her husband's orders to kill a child and only obeyed after he threatened her life. Despite these findings, Susi and her husband received the same sentence: a death sentence for premeditated murder. The maximum punishment for a juvenile offender is normally 10 years' imprisonment but this girl was sentenced to death.¹⁵¹

B. WOMEN WITH MENTAL ILLNESSES AND INTELLECTUAL DISABILITIES

Multiple studies have confirmed that incarcerated women suffer high rates of mental illness. According to a study carried out in the United States from 2011 to 2012, incarcerated women reported significantly higher rates of mental health problems than men in prison.¹⁵² In the United Kingdom, women in prison are five times more likely to have a mental health issue than women in

general. Close to half of incarcerated women in the U.K. report having attempted suicide, which is twice the rate of men in prison (21%).¹⁵³ The World Health Organization found that incarcerated women have high rates of substance abuse and histories of abuse.¹⁵⁴

International law prohibits the execution of individuals with mental illness or intellectual disability.¹⁵⁵ The U.N. Office of the High Commissioner for Human Rights has urged all retentionist states not to impose the death penalty on or execute a person suffering from any mental or intellectual disabilities.¹⁵⁶ While there is widespread agreement on the prohibition, in practice states do not apply it.

The case of Grace Banda¹⁵⁷ is illustrative. Grace, an intellectually disabled grandmother, was sentenced to death in Malawi in 2003.



Grace Banda. Photo by Sofia Moro.

Dr. George Woods, a neuropsychiatrist, concluded that she suffers from intellectual disability as well as Fetal Alcohol Spectrum Disorder (FASD). She attended three

years of primary school but she cannot read or write. As a child her growth was stunted, most likely as a result of FASD and malnutrition. Grace had been married for over 30 years, then left her husband after he started beating her and having relations with other women. During a famine in her village, her grandsons stole maize from a neighbor's field. One of the boys, suffering from malnutrition, died from the beating she inflicted to discipline him. She attempted to revive him to no avail, and later reported the incident to the authorities. After spending 13 years on death row, Grace was granted a sentence rehearing in 2016.¹⁵⁸ Based in part on her intellectual disability, the High Court reduced her sentence to a term of years. Already elderly and in poor health, Grace was released on humanitarian grounds in 2018.

C. MIGRANT WORKERS

In some countries, particularly Gulf nations like the United Arab Emirates and Saudi Arabia, foreign nationals—and in particular, foreign migrant workers—are sentenced to death in disproportionate numbers. This extends to foreign women on death row, many of whom are domestic workers.¹⁵⁹ In the UAE, for example, of the approximately 200 people on death row, only 19 are UAE nationals. There are nine women on death row, and eight are foreign nationals, most of whom are domestic workers.¹⁶⁰

All migrant workers, both male and female, 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.¹⁶¹ In addition, language barriers, illiteracy, and economic vulnerability may leave migrant workers at particular risk of forced and false confessions.¹⁶²

Foreign female domestic workers often face exploitative work situations. A recent report on the abuses perpetrated against female foreign domestic workers in the UAE notes that domestic workers who leave their employers or make complaints against them will sometimes be charged with capital crimes.¹⁶³ Media reports indicate that domestic workers have sometimes been charged with witchcraft, but more frequently have been charged with *zina* (extramarital sexual relations under Islamic law). In two reported cases, pregnant domestic workers were convicted of *zina*. One, who was unmarried, was sentenced to one

hundred lashes; the other, who was married, was sentenced to death by stoning.¹⁶⁴

In Saudi Arabia, as in the UAE, many women on death row are also migrant workers that do not speak Arabic.

In Saudi Arabia, as in the UAE, many women on death row are also migrant workers that do not speak Arabic.¹⁶⁵ Several foreign women serving as domestic workers have been charged with killing their employers or their employers' children. For instance, Rizana Nafeek, a Sri Lankan domestic worker, was executed in 2013 for killing an infant in her care. According to Human Rights Watch, she was only 17 at the time of the crime, and had no legal representation during her interrogation or at her first trial.¹⁶⁶ In 2015, at least four of the 158 executed individuals in Saudi Arabia were women: all were non-nationals, including two Indonesians, one Myanmar national, and one woman from Syria.¹⁶⁷ Their status as foreigners, in tandem with unequal status of women in Saudi society, subjected them to compounded bias in the criminal justice system.

D. POOR WOMEN

In 2017, the U.N. Office of the High Commissioner of Human Rights called the death penalty a “class-based form of discrimination in most countries, thus making it the equivalent of an arbitrary killing.”¹⁶⁸

People living in poverty are disproportionately arrested, incarcerated, and sentenced to death in countries around the world. In general, their communities are more heavily policed, they lack access to quality legal representation, and cannot afford to appeal their cases in court. They typically cannot afford bail and therefore comprise the vast majority of the pre-trial prison population, which, in turn, hinders their ability to obtain counsel to mount an effective defense.

Many women in the criminal justice system, and the vast majority of those on death row, are from poor and marginalized communities. Most women who are detained are unable to afford a lawyer, and are more likely to be illiterate and unaware of their legal rights.¹⁶⁹ Illiteracy and lack of education among poor women leave them more vulnerable to discrimination, coercion, and exploitation. The United Nations has documented reports of illiterate

and poor women signing confessions, which they neither wrote, nor understood.¹⁷⁰

Many women in the criminal justice system, and the vast majority of those on death row, are from poor and marginalized communities.

The National Law University Delhi found that at least 74.1% of death row prisoners in India, including all 12 women on death row in 2015, were “economically vulnerable” based on their landholding and occupation.¹⁷¹ Of those 12, six had never attended school at all, and only two had advanced beyond secondary school.¹⁷² The National Law University Delhi determined that nine of the women on death row were unemployed,¹⁷³ and seven out of 12 were married before turning 18 years of age.¹⁷⁴ Interviews with lawyers and nonprofit organizations in Nigeria,¹⁷⁵ Jordan,¹⁷⁶ Morocco,¹⁷⁷ Pakistan, Uganda,¹⁷⁸ and Thailand,¹⁷⁹ indicate that the vast majority of women on death row in those countries are similarly indigent and illiterate.

E. RACIAL AND ETHNIC MINORITIES

In the United States, numerous studies have concluded that racial discrimination leads to disproportionate sentencing in capital cases, particularly in inter-racial crimes involving black defendants and white victims.¹⁸⁰ One of the factors that leads to racial bias in sentencing is the exclusion of black persons from juries. In 2005, the United States Supreme Court found that prosecutors in Dallas, Texas, had systematically excluded black people from serving on juries.¹⁸¹ The Court observed that prosecutors that draw “racial lines in picking juries establish ‘state-sponsored group stereotypes rooted in, and reflective of, historical prejudice.’”¹⁸²

The case of Kimberly McCarthy in Texas illustrates the dangers of such discriminatory practices. Kimberly was a black woman sentenced to death in Texas for the murder of her white neighbor in 1997. In 2002, Kimberly successfully appealed her conviction, but was convicted and sentenced to death again at a re-trial later that same year. At her retrial, the jury consisted of 11 white persons and only one black person. In the jury selection process, the prosecutor dismissed three of the four prospective jurors who were black, leaving just one black person on the jury. Kimberly’s lawyer failed to object to the

prosecution's exclusion of black persons from the jury, and her first appellate lawyer failed to raise it on appeal. Although Kimberly finally received a lawyer in 2013 who challenged the prosecution's racial discrimination in a *habeas corpus* appeal, the court dismissed the appeal on the grounds that it had not been raised in a timely manner. Kimberly McCarthy was executed by lethal injection on June 26, 2013.¹⁸³

VI. Prison Conditions for Women under Sentence of Death

A. INTERNATIONAL LEGAL PROTECTIONS FOR WOMEN IN DETENTION

Several international and regional treaties, as well as internationally recognized standards and norms, safeguard the human rights of women pre-trial, during trial, and while incarcerated.¹⁸⁴ The foundational conventions protecting the human rights of capital defendants and death-sentenced prisoners are the International Covenant on Civil and Political Rights ("ICCPR") and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"). The ICCPR provides that "[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."¹⁸⁵

National criminal justice systems and prisons, and to some extent international law itself, are largely designed by men and for men and often overlook women's specific needs and vulnerabilities.

Nevertheless, as this report underlines, national criminal justice systems and prisons, and to some extent international law itself, are largely designed by men and for men and often overlook women's specific needs and vulnerabilities.¹⁸⁶ In the specific context of the death penalty, international and regional instruments focus on women's roles as mothers and caregivers, excluding women from execution when they fill these roles. There is a universal prohibition on the execution of pregnant women, enshrined in four international and regional human rights conventions: the ICCPR,¹⁸⁷ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa,¹⁸⁸ African Charter on the Rights and Welfare of the Child,¹⁸⁹ and Arab Charter on Human Rights.¹⁹⁰ Depending on the country, pregnant women who receive a death sentence either benefit from a commutation to a term of imprisonment or receive a stay of execution until after the birth of the child.¹⁹¹ The African regional instruments further prohibit the execution of mothers of infants and young children,¹⁹² while the Arab Charter prohibits the execution of any

“nursing mother within two years from the date of her delivery.”¹⁹³

The ICCPR is one of the mostly widely ratified human rights treaties in the world, and 69 of the 84 countries and territories that retain the death penalty are parties to the treaty.¹⁹⁴ The vast majority of African Union member states are parties to the African instruments,¹⁹⁵ and 13 of the 16 members of the Arab League that retain the death penalty are parties to the Arab Charter.¹⁹⁶

Until recently, international protections for prisoners—and states’ corresponding obligations—did not take into account the unique forms of discrimination and stigma experienced by women prisoners.¹⁹⁷ In 2010, however, the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Sanctions for Women Offenders (“Bangkok Rules”) comprehensively supplemented existing safeguards¹⁹⁸ for prisoners with gender-specific measures.¹⁹⁹

International and regional instruments focus on women’s roles as mothers and caregivers, excluding women from execution when they fill these roles.

The Bangkok Rules apply a gender lens to an extensive range of issues, providing gender-sensitive guidance on prison admission,²⁰⁰ security and search procedures,²⁰¹ disciplinary procedures,²⁰² institutional personnel training,²⁰³ and prisoner supervision.²⁰⁴ The Rules also cover women prisoners’ access to general and female-specific physical and mental health care,²⁰⁵ training opportunities,²⁰⁶ and rehabilitation.²⁰⁷ Recognizing the detrimental impact of isolation on women, the Rules stress the importance of women’s communication with family and friends, and especially contact with their children.²⁰⁸ The Rules also identify considerations for especially vulnerable categories of women: women under arrest or awaiting trial,²⁰⁹ juvenile female prisoners,²¹⁰ foreign nationals,²¹¹ minorities and indigenous women,²¹² pregnant women,²¹³ breastfeeding mothers,²¹⁴ and mothers in prison with a child.²¹⁵

The 2015 revisions to the United Nations Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”) further recognize women’s unique needs. The Mandela Rules have provisions on separated housing,²¹⁶ supervision by female prison staff,²¹⁷ hygiene,²¹⁸ and

banning restraints during labor and childbirth.²¹⁹ The Mandela Rules also prohibit visiting restrictions as a way to discipline prisoners, particularly women prisoners.²²⁰

While most international safeguards focus on conditions of imprisonment, international norms further require states to address the root causes of women’s incarceration, which include poverty—caused by discrimination in society, education, and employment—drug and alcohol addiction, and myriad forms of gender-based violence.²²¹ The prevalence of physical and sexual violence as a cause of women’s incarceration is well documented. States have an obligation under international law to prevent and respond to gender-based violence that contributes to women’s incarceration and—under the Bangkok Rules—to take into account gender-based violence in sentencing.²²²

Additionally, states must identify and respond to structural causes of violence against women, which include intersecting forms of discrimination against women.²²³ The Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”) prohibits such discrimination, and the CEDAW Committee has found that placing women in detention facilities that subject them to gender-based violence constitutes a violation of their human rights.²²⁴ Referencing the Bangkok Rules and Standard Minimum Rules, the CEDAW Committee has correspondingly found that detention facilities that fail to accommodate women’s specific needs and vulnerabilities violate CEDAW’s anti-discrimination provisions.²²⁵ Violence against women in detention—including abuse and sexual harassment, inappropriate touching during searches, rape and sexual coercion—can also rise to the level of torture or cruel, inhuman or degrading treatment or punishment, in contravention of the ICCPR and CAT.²²⁶

That women’s needs in prison were ignored for so long under international law is attributable to gender discrimination and stereotypes of women in the criminal justice system: “popular as a victim, forgotten as a defendant.”²²⁷ This ignorance is even more pernicious in the case of women on death row, who remain largely invisible as a specific category of rights bearers under international law. The importance of implementing human rights safeguards for women under sentence of death takes on even greater importance during an era of *de facto* moratoria, as women tend to remain on death row for increasingly longer periods.

B. PRISON CONDITIONS FOR WOMEN IN PRISON AND ON DEATH ROW

Despite attempts by the United Nations to set minimum international standards for the treatment of prisoners, detention conditions in most death penalty states are woefully inadequate and in some cases life-threatening. As noted above, it was not until 2010 that the U.N. General Assembly adopted the Bangkok Rules, which address the special needs of women prisoners. Women on death row are not specifically mentioned under the Bangkok Rules, however, and they face uniquely harsh conditions that merit additional research. Information on conditions of confinement for death row prisoners is scarce, particularly as regards women prisoners.

Overcrowding and Living Conditions

Prison overcrowding is a global crisis in both women's and men's detention facilities, leading to dangerously unhygienic conditions. Overcrowding affects female death row prisoners as well, particularly where they are confined together with other convicted prisoners. In Thailand, for example, where female death row inmates are held with the general population, women take turns sleeping on the bare floor.²²⁸ The women spend about 14 hours per day in extremely crowded cells.²²⁹ In India's Tihar Jail, which may be South Asia's largest prison, the women's ward—which includes women on death row—accommodates twice as many inmates than its official capacity.²³⁰

In Thailand, where female death row inmates are held with the general population, women take turns sleeping on the bare floor.

Living conditions on death row are poor for death-sentenced women who are detained with the general female prison population. In Sri Lanka, female inmates receive paper-thin beds to sleep on, and the temperatures in the unventilated rooms reach dangerously high levels.²³¹ If a female prisoner in Malawi needs to urinate or defecate during the night, she must use a bucket, since the toilets and showers are located outside the cells and the inmates must stay in their cells at night.²³² Access to clean or hot water, as well as to heating, is limited in many countries. In Indonesia, water is restricted even during the dry seasons, when prisons can become extremely hot and humid.²³³ Water in Zambia is also

restricted and toilets do not flush, causing severe hygiene problems.²³⁴

In some countries, women on death row are held in shackles. In China, all death row inmates, including women, are shackled at all times by their hands and feet.²³⁵ Meriam Ibrahim, sentenced to death in Sudan for apostasy²³⁶ in 2014, was shackled to heavy chains in prison while eight months pregnant and caring for a young child.²³⁷ Cameroon also shackles its death row inmates, or otherwise restricts their movement in prison.²³⁸

In most death penalty states, female prisoners do not receive enough food, whether or not they are on death row. Aside from poor nutritional content, food served at women's prisons is often not adequate in calories. The total budget for food in Indonesia is equal to US\$1.20 per inmate per day.²³⁹ In practice, it means that no accommodations can be made for inmates with dietary restrictions, such as one diabetic prisoner.²⁴⁰ In India, regulations provide that men and women receive the same amount of calories per day, but in practice, women receive much less food than men. Moreover, food of a higher caloric value is available for men who undertake "heavy" work, but women are not allowed to do such work and cannot therefore access higher quality food.²⁴¹

Separation from Men and Other Categories of Prisoners

In conformity with international norms, men and women prisoners are detained in different prisons or in separate sections of prisons in most countries in the world.²⁴² There are, however, exceptions.

Whether death-sentenced women are held separately from other female prisoners varies. In China, where death row inmates are shackled at all times, minors are in the same cells as adults, and minors reportedly often help death row inmates eat.²⁴³ Some countries, such as Zambia and Jordan, separate death row inmates from other women only during sleeping hours.²⁴⁴ Others, such as Malawi, Pakistan and Tanzania, keep all women together at all times. In Uganda, condemned women wear separate uniforms,²⁴⁵ whereas in India, at least two female death row inmates are housed in each cell where they are forced to spend most of their days and nights.²⁴⁶

In China, where death row inmates are shackled at all times, minors are in the same cells as adults, and minors reportedly often help death row inmates eat.

Women on death row are also sometimes subjected to solitary confinement, either for disciplinary reasons or as a long-term arrangement. Such practices violate international human rights law. We found reports of solitary confinement for women on death row in China,²⁴⁷ Indonesia,²⁴⁸ Jordan,²⁴⁹ India,²⁵⁰ and the United States.²⁵¹

Access to Medical Care

Medical care for female death row prisoners is universally inadequate and well below international standards. While health care for male prisoners is also substandard, women prisoners have particular health needs that are often ignored.

With respect to general medical care, women on death row, like all incarcerated women, sometimes face more obstacles accessing quality treatment than men. In India, men's facilities include inpatient treatment, mental and physical healthcare facilities, prescription dispensaries, and a recovery room, whereas women's facilities consist of only a small clinic. Without adequate healthcare in prison, "women have to be escorted to the hospital in a special ambulance and with prison guards" even for minor forms of treatment. This "makes them reliant on the prison officials for accessing basic healthcare, and is likely to act as a potential barrier to healthcare."²⁵² In Indonesia, health clinics in women's prisons are basic and are not always staffed with doctors, unlike infirmaries in men's prisons. Women must endure secure transport to hospitals for even minor treatment.²⁵³ A study conducted in the United States revealed that women prisoners were systematically subjected to mistreatment and denied access to medical and other services normally available to their male counterparts.²⁵⁴ In Sierra Leone, one of the three women on death row suffers from mental illness, but has never received psychiatric treatment.²⁵⁵

Medical care for female death row prisoners is universally inadequate and well below international standards.

Access to women's health services is even more problematic. In Japan, female prisoners rarely receive obstetric care.²⁵⁶ In Thailand and Myanmar, inmates have reportedly given birth alone in prison.²⁵⁷ Women in some other countries fare better: in Jordan, a gynecologist reportedly visits the women's prisons regularly.²⁵⁸ In Pakistan, women receive gynecological exams.²⁵⁹ Prisons in Malawi²⁶⁰ and Nigeria²⁶¹ take pregnant inmates to a nearby hospital for delivery and antenatal care.

In many countries, it is challenging or impossible for women to access sanitary pads or other menstruation products. In Indonesia, female prisoners must buy pads from the prison commissary store, but these are of poor quality and often lead to discomfort or complications.²⁶² Jordanian prisoners are given a monthly allowance of 20 Jordanian dinars (equivalent to about US\$28), and use this money to buy sanitary pads and other hygiene products for themselves. This amount is reportedly insufficient for all the supplies the inmates must purchase.²⁶³ In other countries, women must make do with alternatives such as newspapers, tissues and pieces of blankets or prison uniforms.²⁶⁴ Similarly, female inmates in Zambia use and wash pieces of cloth, often with inadequate or no detergent,²⁶⁵ since the prison does not supply soap.²⁶⁶

In many countries, it is challenging or impossible for women to access sanitary pads or other menstruation products.

Violence

International standards require that women prisoners remain under the authority of female prison staff and that prisons must take precautions in protecting female inmates from gender-based violence. According to the Mandela Rules, regular prison staff in women's prisons must be female,²⁶⁷ but male professionals, such as doctors, may enter women's prisons under the supervision of a female officer.²⁶⁸

Even when these rules are respected, female prisoners are exposed to a risk of violence. Research on this issue is clouded by incomplete or erroneous information, arising from challenges in reporting violence, as well as institutional indifference or negligence. The data we have gathered shows tremendous variation between prisons, some of which appear to be free of violence, while others are characterized by systemic abuse. In China, women

prisoners (like their male counterparts) suffer at the hands of “cell trustees” who control their cellmates through abusive means, sometimes leading to deaths.²⁶⁹

In the countries where male guards are allowed to work in female prisons, relationships—consensual or forced—may form between male guards and female inmates. There are reportedly “transactional relationships” between some male guards and female inmates in Tanzania, whereby inmates receive protection and food in exchange for sex.²⁷⁰ In some cases, the violation of women’s bodies is a weapon in the state’s arsenal of repression. Investigations into female political prisoners in Iran in the 1980s revealed cases in which young women endured state-sanctioned rape prior to their executions.²⁷¹

Restrictions on Contact with Family

In many death penalty countries, women are the primary caregivers of children and elderly family members. As such, restrictions on visitation can be devastating for women prisoners as well as their dependent family members. Moreover, the social stigma associated with women who are convicted and imprisoned, paired in some cases with restrictive family and child visitation rules, means that many female death row inmates around the world suffer an enduring lack of family contact, contributing to the high levels of depression suffered by women prisoners.

Physical restrictions placed upon visits vary. Some prisons are geographically isolated or located far from the prisoner’s community, making it expensive and arduous for families to visit.²⁷² Others, such as prisons in Nigeria or in the United States, maintain strict visitation policies, such as specific days and times that visitors are allowed, increasing the difficulty of planning visits.²⁷³ Many countries we studied allow contact visits; that is, visits where inmates can physically touch their family members and are not separated by a barrier such as glass, bars, or other partition. There are exceptions, however: some U.S. states deny condemned women all contact visits.²⁷⁴

In some countries, the visitation rights of death row inmates are even more limited than those of the general prison population. Nigeria’s prison guards stand watch over visitations between families and death row inmates; it is unclear whether this practice is true for legal visits as well.²⁷⁵ Similarly, in Japan, guards take notes on conversations between death row inmates and their family

members.²⁷⁶ In those countries that do allow visitation, restricting or withholding visitation is sometimes used by the guards to punish death row inmates.²⁷⁷

Many death penalty countries allow female prisoners to bring their young children to prison to live with them, but only infrequently are children detained on death row. In India, a female death row prisoner currently sentenced to death gave birth in prison and her son stayed with her until he reached age seven, at which point prison regulations mandated that he leave. As the inmate had no family willing to raise him, he was placed with a foster family and suffers greatly from the separation and adjustment to life outside prison.²⁷⁸

Work, Education, and Religion

Many women’s prisons around the world implement work and education programs that offer inmates stability, routine, and a sense of accomplishment, although the programs often involve gender-stereotyped activities.²⁷⁹ Women under sentence of death in Indonesia may take part in cooking and cleaning courses,²⁸⁰ and in Malawi they may participate in weaving, gardening, and chores.²⁸¹ In other states, however, these programs are restricted to those who may eventually be released. For instance, the general female prison population in Thailand has access to work programs, but death row inmates do not. Death row inmates who cannot work are more susceptible to depression as they have less to take part in and form fewer meaningful relationships with other female inmates.²⁸² As one woman in Ghana explained, after being denied educational opportunities while on death row: “I don’t do anything. I sweep and I wait.”²⁸³

As one woman in Ghana explained, after being denied educational opportunities while on death row: “I don’t do anything. I sweep and I wait.”

Nevertheless, in nearly every country studied, women in prison have found ways to keep themselves busy despite lack of resources and restrictive environments. Luzira Prison in Uganda offers a remarkable case study. Death row inmates who were confined for years awaiting appeals fought for the same educational opportunities as their male counterparts. After some persuasion, the prison director launched activities for women inmates, including those under sentence of death.²⁸⁴

Prisoners took part in arts and crafts, sports, school, singing, and even a breakdancing club.²⁸⁵ Inmates reportedly felt more empowered and walked the halls with limited security.²⁸⁶

VII. Country Case Studies

The countries profiled in the following section span many geographic regions and legal systems. Importantly, they represent diverse cultural, religious, and political contexts, and differing levels of resources. Many similar themes emerge across all regions, including women prisoners' experiences of poverty, trauma and gender-based violence, gender stereotyping at trial, lack of access to quality legal representation, and inhumane prison conditions.

We wish to emphasize that these countries are not unique. The countries were chosen not because their legal systems are uniquely flawed or because they treat women in conflict with the law better or worse than other countries. Instead, these profiles collate the rich primary research gathered by our expert in-country partners. As the research was driven by our partners' investigations, some topics emerge with varying depth and prominence. This should not be understood to mean that the outlined issues are the most unique or most central concerns in that country, or that these issues do not occur in other countries profiled or not included in the report. Many other countries would benefit from similar study. Accurate data on the demographics and issues of women on death row is essential to augment our understanding of the problems of women facing the death penalty around the world.

India

Twelve women were on death row in India as of June 2018,²⁸⁷ about 3% of the total death row population.²⁸⁸ India carries out few executions, but there are hundreds of prisoners under sentence of death. In the last ten years, the country has executed three individuals, all of them for terrorism-related offenses.²⁸⁹ Female executions have not been recorded for many years. The last man was executed in July 2015, when Yakub Memon was hanged for financing the 1993 Mumbai bombings.²⁹⁰ As of August 2018, there were 406 prisoners on death row.²⁹¹ In 2017, courts handed down 107 new capital sentences,²⁹² but only 4.9% of death sentences issued by trial courts receive final confirmation by the highest court,²⁹³ which restricts the application of capital punishment to the "rarest of rare" cases.²⁹⁴ A wide range of offenses are punishable by death, including murder, kidnapping with murder, armed robbery with murder, sexual offences, and terror offenses.

In practice, however, the majority of death sentences are imposed for murder.²⁹⁵ In recent years, India has expanded the scope of the death penalty by adopting new capital laws for hijacking resulting in death²⁹⁶ and aggravated rape.²⁹⁷

One troubling aspect of the crimes for which women are sentenced to death in India is their relationship with restrictive marriage customs.

Four of the 12 women on death row were convicted of murdering a member of their immediate or extended family.²⁹⁸ One woman was sentenced to death for terrorism,²⁹⁹ two for child kidnapping and murder,³⁰⁰ and two for sacrificial killings.³⁰¹ All but two of the women on death row acted with at least one co-conspirator.³⁰² Eight of the 12 women were charged with multiple murders.³⁰³ One troubling aspect of the crimes for which women are sentenced to death in India is their relationship with restrictive marriage customs. Although officially banned, the caste system³⁰⁴ and its attendant marriage rules formed the background of at least three of the killings for which women received a death sentence.³⁰⁵

India is one of the rare death penalty countries where courts have in some cases recognized “sustained provocation” as a defense to murder, upholding women’s right to self-defense when they murder an abusive relative.³⁰⁶ For instance, in *Champa Rani Mondal v. State of West Bengal*, the Supreme Court acquitted a woman who had killed her brother-in-law when he tried to rape her.³⁰⁷ The High Court of Delhi acquitted a woman who had killed a man who attempted to molest her daughter.³⁰⁸ Nevertheless, India does not have formal sentencing guidelines for battered women. Thus, women’s histories of abuse are considered on a case-by-case basis and are subject to the judge’s discretion.³⁰⁹

The Prisons Act of 1894 states that death row prisoners must be kept apart from other prisoners,³¹⁰ but only when all appeals are exhausted and their sentences are confirmed.³¹¹ Men and women are held separately in Indian prisons. As of November 2017, several women on death row in India were living with the general population of female prisoners.³¹² The conditions in the women’s wards appear notably different from the men’s. Male wards are generally larger and greener as compared to the

“muted,” “contained,” and “restrictive” female facilities.³¹³ In some prisons, a single room serves as the female ward.³¹⁴ Women’s prison cells are unsanitary, sometimes swarming with rats.³¹⁵ Infrastructure in female prisons is poorer. While some men’s wards have hospitals, including operating rooms, women’s wards have, at best, small clinics.³¹⁶ Without adequate healthcare facilities in prison, women have to be assessed and transported to the hospital by prison guards.³¹⁷ In addition, female prisoners do not have access to libraries or to sports. Thus, unlike their male counterparts, female prisoners must rely upon prison wardens to retrieve books, and have fewer options for physical exercise.³¹⁸

Gendered assumptions underlie the operation of female prison wards, which also house death-sentenced women. While male wards offer physical labor and work options, including factory work to earn money, women are restricted to embroidery and tailoring.³¹⁹ Death row prisoners, regardless of gender, are not allowed to work.³²⁰ In practice, however, the ability to work while on death row varies across prisons.³²¹ While two female death row prisoners have reportedly been allowed to do prison work—such as cleaning and gardening—others have limited options.³²² Moreover, the 2016 Model Prison Manual imposes numerous daily restrictions on women to force them to conform with traditional expectations concerning their appearance.³²³ All female prisoners are obligated to wear a *saree*, traditional Indian attire for women. Finally, although men and women theoretically receive the same amount of food, in practice women receive less.³²⁴

CASE STUDY: TRISHA

Their marriage was forbidden. Twenty-four-year-old Trisha³²⁵ had earned two master’s degrees and Kamal was a twenty-six-year-old uneducated carpenter. Trisha and Kamal not only belonged to different socioeconomic classes but also to different castes. They knew that creating a life together was impossible.

When Trisha’s family found out about the young lovers’ secret affair, they opposed it. Months later, when several members of Trisha’s family were found dead in their home, Trisha and Kamal were arrested for the killing. Two prosecution witnesses, including the father of Trisha’s deceased sister-in-law and Trisha’s cousin, testified at trial that Trisha was beaten by her father, who

opposed her marriage with Kamal. Trisha's father had also confiscated her mobile phone and disconnected the house phone to prevent their relationship.³²⁶

During a medical examination conducted at arrest, Trisha learned that she was eight weeks pregnant with Kamal's child. Their son, Jai, was born in prison while Trisha awaited trial. In 2010, Trisha and Kamal were convicted of murder and sentenced to death by hanging. Trisha has always asserted her innocence. At trial, despite their opposing defenses, Trisha and Kamal were represented by the same state-appointed lawyer. This conflict of interest jeopardized the fairness of their trial. Amplifying these fair trial concerns, the defendants shared a lawyer on appeal all the way to the Supreme Court of India, which confirmed their death sentences in 2015. The Supreme Court commented on the fact that Trisha, a daughter, who is traditionally supposed to "bear the burden of being the caregiver[s] for her parents, even more than a son,"³²⁷ had instead killed seven members of her family. The Court stated, "[the daughter] is a caregiver and a supporter, a gentle hand and a responsible voice, an embodiment of cherished values of our society and in whom a parent places blind faith and trust."³²⁸

Trisha's son spent his first six years of life in prison with his mother. Jai grew up in an overcrowded, dirty cell with no access to healthy food, clean water, health services, or any schooling. Trisha taught her child herself, as best as she could. She also tutored other prisoners. After Jai turned seven, prison authorities took him away from his mother and placed him into foster care. Today, Jai continues to bear the marks of the deprivation of his early years. He shows signs of trauma and has struggled to catch up in school. After surrendering her child, Trisha fell into a deep depression.

Prison authorities filed a one-page mercy petition on behalf of Trisha, without informing her lawyers. Trisha was unable to consult with her lawyers and was not provided with legal assistance before filing the petition. Mercy was denied.

Indonesia

Women represent a small fraction of death row prisoners in Indonesia. As of September 2017, there were nine women on death row whose sentences had been finalized,³²⁹ amounting to roughly 6% of all death row prisoners with finalized sentences. Many of their cases are characterized by coercive relationships with men, often intimate partners, who are sometimes, but not always, prosecuted.³³⁰ Most of these women were convicted together with male co-defendants.³³¹

Indonesia is one of a small number of states worldwide that continues to hand down death sentences and carry out executions. It was one of only 23 states that executed in 2016.³³² Although no executions were recorded in 2017, Indonesian courts handed down at least 47 new death sentences.³³³ A wide range of crimes are death-eligible in Indonesia, including murder,³³⁴ robbery,³³⁵ drug-related offenses,³³⁶ economic crimes,³³⁷ and terrorism-related offenses;³³⁸ nevertheless, most death sentences are imposed for murder and drug offenses.³³⁹ From 2008 to 2013, the country observed an unofficial moratorium on executions, which ended on March 14, 2013, with the execution of a Malawian national convicted of drug trafficking.³⁴⁰ Since 2013, Indonesia has executed 23 people by firing squad, two of whom were women.³⁴¹ The election of President Joko "Jokowi" Widodo seems to have spurred the upsurge of executions after he repeatedly called for a harsh crackdown on drug dealers and other offenders.³⁴² Most recently, in July 2016, Indonesia executed four people, all of whom were convicted of drug-related offenses, and three of whom were African nationals.³⁴³ By the end of 2017, at least 262 people were on death row in Indonesia.³⁴⁴

Six of nine women on death row in Indonesia were convicted of non-violent drug trafficking offenses.³⁴⁵ Three of the six were drug mules who were tricked or coerced into smuggling drugs and two more were arrested with their husbands and denied any involvement in their partners' drug dealing.³⁴⁶ The remaining three women on death row were sentenced for murder. One of them, who was 17 years old at the time of the offense, was sentenced to death despite testifying that she acted under death threats from her husband. Though Indonesian law generally prohibits the imposition of capital punishment on juveniles, the court treated her as an adult because she was married.³⁴⁷ She stated clearly during criminal proceeding that she repeatedly rejected her husband's

order to murder a child.³⁴⁸ In general, the Indonesian criminal justice system fails to take into consideration gender violence and other mitigating evidence to effectively deal with issues of relative culpability, duress, and intent.

Six of nine women on death row in Indonesia were convicted of non-violent drug trafficking offenses.³⁴⁹

Women under sentence of death are held together with other female prisoners and suffer from the acute overcrowding in women's prisons. In Medan Women's Prison, for instance, 30 inmates live together in a single five-by-six meter cell. In the dry season, cells are overheated and humid, and the plumbing often breaks down, exacerbating the consequences of inadequate hygiene. There is only one toilet per cell. Women who break prison rules, such as the ban on smoking or phones, are punished with solitary confinement. Death-sentenced women reportedly receive the same treatment as other female inmates. The prisoners sometimes have access to a common room with a television, and they can participate in religious activities or vocational courses (such as cooking or painting), which are offered by outside charities. Each prison has a health clinic, but facilities are basic, and they are not always staffed. One woman on death row suffers from diabetes; she reports that the prison refuses to provide her with appropriate food for her condition, and she lacks the means to buy her own food. Most of the prisoners do not receive any mental health services.³⁵⁰

CASE STUDY: ERIKA

Erika³⁵¹ was sentenced to death for killing her eight-year-old daughter. Her male co-accused, Susilo,³⁵² was a friend of her brother-in-law. The court found that the Erika and Susilo had been having an adulterous affair, and that Susilo had raped Erika's young daughter twice in the days preceding the crime. According to the judgment, Erika and Susilo, angered by the child's refusal to bring them water from a well, conspired to kill the girl.

After meeting with Erika in the prison where she is detained today, LBH Masyarakat, an Indonesian non-governmental organization providing legal services to death-sentenced prisoners, uncovered facts that point to a

very different series of events. As a mother to six children, Erika worked hard to provide for her family by farming and fishing. After her husband found a job in a neighboring province, she was left to support her children largely on her own. One day, after her husband's departure, when Erika was alone, Susilo found her in her home and raped her. Some time later, she returned from working in the rice fields to find that Susilo had stabbed her daughter to death.

Because Susilo had entered Erika's home while her husband was at work, media articles seized on the narrative of a cheating mother who allowed her lover to rape her child and ultimately helped him kill her over a minor act of disobedience. During the trial, the alleged affair was a key part of the prosecution's narrative.

Erika never had a chance to present this exculpatory evidence to the court because she was denied proper legal representation. The court did not hear that she was absent from the scene of the crime, nor did it learn that Susilo had previously raped her. The stigma associated with Erika's alleged offense is so strong that in all the years she has spent in prison (since 2006) Erika has not received a single family visit, nor has she received any financial support.³⁵³

Jordan

There were 16 women on death row in Jordan as of June 2018,³⁵⁴ representing around 13% of the approximately 120 death row inmates.³⁵⁵ Jordan halted executions entirely from 2006 to 2013, but then resumed hangings in 2014 in response to rising homicide rates.³⁵⁶ Jordan's recent upsurge in executions has also coincided with increased terrorist activity in the country. Since 2014, Jordan has hanged 28 people, many of them for terrorism offenses.³⁵⁷ One of these was a woman, Sajida Al-Rishawi, who was sentenced to death for her involvement in a terrorist attack in Amman in 2005 and was executed in 2015, in apparent retaliation by the Jordanian state for the burning of a Jordanian pilot by ISIS.³⁵⁸ In March 2017, 15 people were executed on the same day, ten of whom had been convicted of terrorism-related crimes.³⁵⁹ While a number of capital offenses are punishable by death in Jordan including murder, aggravated robbery, terrorism offenses, drug trafficking, treason, and espionage,³⁶⁰ most death row inmates have been convicted of murder and terrorism offenses.³⁶¹

There are striking similarities between the cases of women on death row in Jordan. Almost all of them were convicted of killing family members who in traditional families would be expected to wield considerable authority over them, creating the potential for abuse. All but two of the 16 women on death row received a death sentence for killing their husband or fiancé (nine cases), mother-in-law or stepmother (three cases), or father (two cases).³⁶² While we have incomplete information for most of these cases, we were able to confirm that at least four of these women killed their husband or father following long-term abuse.³⁶³ A recent addition to death row is a domestic worker from Bangladesh, who received a death sentence in October 2017 for killing her employers.³⁶⁴ While we know little about her case, these facts recall the pattern of female migrant domestic workers sentenced to death in other Middle Eastern countries, who suffer from intersecting forms of oppression based on class, foreign nationality, precarious immigration status, and gender.³⁶⁵ All of the women under sentence of death come from poor families, and around half of them received only a primary education.³⁶⁶

Almost all women on death row were convicted of killing family members who in traditional families would be expected to wield considerable authority over them, creating the potential for abuse.

Once arrested, women face discrimination in judicial proceedings. Almost all of the women on death row were convicted of murdering a family member, a crime that under the Jordanian Penal Code can result in a reduced sentence if the offender was “defending the family honor.”³⁶⁷ While the law makes no distinction on the basis of gender, in practice this sentence reduction is only extended to male defendants.³⁶⁸ Additionally, if the defendant committed the offense in a “fit of fury,” the sentence for premeditated murder can be reduced from the death penalty to as little as one year’s imprisonment.³⁶⁹ In practice, however, courts only apply this mitigating factor to men. Advocates on the ground explain that judges are hard pressed to accept the reality that women lose their tempers and are capable of acts of violence that contravene gender norms.³⁷⁰ Moreover, in conservative milieus men control the family’s financial resources and women cannot generally gain independent access to them. Because of the stigma associated with capital offenses,

particularly in cases where the victim is also a member of the family, women’s families often withhold financial assistance. This exacerbates women’s difficulties in obtaining effective legal representation.³⁷¹

Critically for death penalty cases, Jordan’s tribal reconciliation mechanisms operate with gender bias. Prisoners sentenced to death for murder receive a reprieve if the victim’s family grants them forgiveness, generally in exchange for payment. Tribal leadership is more often willing to negotiate, and disposed to mobilize more funds, to secure a pardon for male members sentenced to death.³⁷² In 2014, when Jordan resumed executions, the relatives of many death row defendants pushed their tribes to reconcile with the victims’ families to avoid executions. This led to the commutation of 44 death sentences imposed on men. During the same period, not a single woman benefitted from a family-backed pardon.³⁷³

Despite recent measures aimed at improving conditions of incarceration, prisons in Jordan still face significant challenges due to overcrowding, lack of medical and health care services, and poor sanitary conditions.³⁷⁴ Women prisoners are no exception, although conditions for women, who are detained separately, are generally better than those for men.³⁷⁵ Women under sentence of death sleep in a separate area within women’s prisons, but they mingle with the rest of the female prison population during the day.³⁷⁶ Due to social stigma surrounding their criminal convictions, women on death row rarely receive visits from their families, and these visits are limited to 15–30 minutes.³⁷⁷ This limits their contact with the outside,³⁷⁸ including with their children,³⁷⁹ with devastating consequences for both. Moreover, since executions resumed in 2014, a prison psychologist has found that women on death row manifest increased frustration and depression, and a “lack of attachment to life.”³⁸⁰

CASE STUDY: JANA AND REMAS

Jana and Remas,³⁸¹ a mother and daughter, were convicted and sentenced to death in 2014 for the murder of Omar, Jana’s husband and Remas’s father. The trial court’s verdict cast Jana into the stereotypical role of a jealous wife and manipulative mother, setting aside evidence that the deceased had sexually assaulted his daughter. Ahmad, son and brother to Jana and Remas, was convicted together with the other defendants but was

spared a death sentence in light of his juvenility at the time of the offense.

According to the trial court's judgment, Jana grew resentful of her husband after he took a second wife. The court wrote that "grudge and hatred began to grow in her heart," and seven months after the second wedding, she "used her children" to carry out the murder after convincing them of the necessity of killing their father. Although Jana did not strike any blows, the court found her complicit in the killing and sentenced her to death together with her daughter Remas. In adopting this narrative of marital strife and revenge, the court relied primarily on a written statement from the elderly mother of the deceased, Jana's mother-in-law, who lived in the same building as her son. This key witness did not appear at trial and the defense never had an opportunity to cross-examine her or to challenge her recollection of events.

Meanwhile, the court discounted statements from all three defendants that the deceased had sexually assaulted his daughter Remas. Two other witnesses testified that Jana had confided in them about the sexual assaults prior to the offense. Nevertheless, the court concluded that the defendants had fabricated this allegation in order to protect themselves from the consequences of their crime. The court also appears to have rejected the police's forensic analysis of the alleged murder weapons, which did not match the prosecution's theory.

In the absence of any material evidence, the court's acceptance of the jealous wife motive over the abusive father testimony draws upon stock narratives about how women and men relate to each other in marriage, how much influence mothers wield over their children, and the unreliability of claims of sexual assault. Given that almost all death-sentenced women in Jordan were convicted of killing intimate partners or their family members, the gendered and hierarchical nature of these assumptions is cause for concern.

Malawi

Until fairly recently, there were four women condemned to death in Malawi, comprising approximately 15% of all death row prisoners.³⁸² No persons have been executed since 1994,³⁸³ making it a *de facto* abolitionist state. Nevertheless, Malawi courts continue to issue death sentences.³⁸⁴ At present, there are 15 persons on death

row, with the most recent death sentence issued in 2016.³⁸⁵

All women on death row had experienced multiple forms of gender-based oppression and some form of mental illness or trauma.

All women previously on death row were sentenced to death for the murder of family members: two for the murder of their husbands, one for the murder of her two children, and one for the murder of her grandchild.³⁸⁶ These four women had each experienced multiple forms of gender-based oppression and some form of mental illness or trauma. They were victims of domestic violence and emotional abuse by their partners or close family members. Further, they were indigent, meaning that they were unable to afford private counsel to represent them at trial. Three of the four women had never attended school and one had only attended primary school. Two of them were illiterate.³⁸⁷

Women in conflict with the law face particular challenges obtaining access to justice and adequate legal representation.³⁸⁸ Because many are illiterate, they are unable to understand or respond to legal filings without assistance.³⁸⁹ Women in Malawi are less likely to receive primary or secondary education than men as a result of harmful stereotypes. Whereas boys are encouraged to complete their education before marriage, girls are sometimes coerced into child marriage as a solution to poverty.³⁹⁰ Poverty, which affects women more often than men, further exacerbates women's ability to receive a fair trial: women must secure one of the country's handful of legal aid attorneys to prepare their defense.³⁹¹

Malawi's recent experience with capital resentencing hearings highlighted the critical role played by defense lawyers in helping courts understand the gendered experiences of female capital defendants. Over a decade ago, in May 2007, the High Court found the mandatory death penalty unconstitutional,³⁹² granting judges the discretion to apply the death penalty in the case of murder only after consideration of "the manner in which the murder was committed, the means used to commit the offence, the personal circumstance of the victim, the personal circumstances of the accused and what might have motivated the commission of the crime."³⁹³ The Penal Code was updated to reflect this change in 2011.³⁹⁴ All four women who had been sentenced to death received

individualized sentencing hearings, in which for the first time lawyers presented to the court evidence of their indigence, history of abuse, mental illness, rehabilitation, and other mitigating factors. None of the women were resentenced to death or to life in prison.³⁹⁵

In the women's section of Zomba prison, where death row inmates are housed, there is little privacy. Small, windowless cement cells host two to six women at a time, along with their young children up to four years of age.³⁹⁶ The only ventilation for the closed space is a small hole at the top of the cell door, leading into the hallway. The women sleep with thin mattresses on the floor in the evenings, typically covering the entire floor space. There is a system of electric lights, but frequent power outages prevent regular use. Toilets and showers are located outside the cells; and though the facilities have cement walls, there is no roof, leaving the prisoners exposed to the elements.³⁹⁷ As women are not permitted to leave their cells from 5 p.m. to 5 a.m., they must share a bucket to relieve themselves during these hours.

Because of overcrowding, women on death row are housed with the general prison population. In general, they receive the same treatment as the other women, with the sole exception of their ineligibility for work release programs. Visits from advocates and family members, attending religious services, and daily socialization among prisoners are all permitted. Physical and mental healthcare is available, but is of low quality. For more complicated cases, women are taken to hospitals or facilities outside of the prison if possible.³⁹⁸

CASE STUDY: ALICE NUNGU

Alice Nungu, a 60-year-old mother of three, was condemned to death for the killing of her husband Donald Phiri in 2003. Alice was a survivor of brutal and systematic domestic violence. Throughout their marriage, Phiri would come home drunk every evening and beat her in front of their children. Though Alice brought the attacks to the attention of community leaders, they did nothing to assist, and the abuse continued. Her husband also infected her with HIV.³⁹⁹

One evening, Phiri returned home heavily intoxicated, knocked the bedroom door off its hinges and started to hit Alice as she slept next to her mother. Once she woke, he continued to scream and strike her—and grabbed an axe.

Fearing for herself and her mother, Alice wrenched the axe away from him and struck him on the head.⁴⁰⁰ He later died of his injuries.

Alice reported the incident to the local police and explained the events that had led to her husband's death. They charged her with murder. Her lawyer never visited her in prison. In November 2003, she was sentenced to death. Her attorney failed to argue that she had acted in self-defense, which should have absolved her of any culpability.⁴⁰¹ Moreover, her lawyer never presented evidence that her husband had savagely abused her for years preceding the attack. She never had a chance to appeal her sentence, as the state failed to assign her an appellate lawyer. Instead, she remained imprisoned for the next 12 years. Her health slowly worsened without appropriate treatment for her HIV infection. While in prison, she contracted malaria and pneumonia. By 2010, she was emaciated and weak.⁴⁰²

In April 2015, the High Court of Malawi ordered Alice's immediate release after lawyers assisted by the Cornell Center on the Death Penalty Worldwide presented evidence of her ill health and history of gender-based violence. Alice died within weeks of her release, with her mother by her side.

Pakistan

There are currently 33 women on death row in Pakistan, representing less than 1% of all death row inmates.⁴⁰³ In 2014, Pakistan lifted its seven-year moratorium on executions in response to a militant attack that left 132 schoolchildren dead in Peshawar.⁴⁰⁴ Since then, Pakistan has executed 494 people; approximately 5,000 death-sentenced prisoners await execution.⁴⁰⁵ Although there are over 20 crimes for which the death penalty can be imposed, including non-lethal crimes such as blasphemy, kidnapping, and drug offenses,⁴⁰⁶ women most commonly receive the death penalty for murder, terrorism, and drug trafficking.⁴⁰⁷ Women who are members of religious minorities have also been the target of blasphemy prosecutions.⁴⁰⁸

Female inmates on death row are often from lower socioeconomic classes, unable to pay for private representation, and mostly illiterate, hindering their ability to advocate on their own behalf.⁴⁰⁹ While capital defendants are entitled to counsel, the quality of representation can be poor

because legal aid lawyers lack training and shoulder heavy workloads. Advocates believe that greater public investment in indigent public defense services would likely decrease the number of women on death row.⁴¹⁰ Death sentences imposed on women are often reduced on appeal,⁴¹¹ but women can wait years before their appeals are finalized and decided because of a significant backlog in the courts.⁴¹² The ages of the 33 women on death row range from 18 to 45. They are detained throughout 12 different prisons in Pakistan.⁴¹³

Female inmates on death row are often from lower socio-economic classes, unable to pay for private representation, and mostly illiterate, hindering their ability to advocate on their own behalf.

Gender bias affects the treatment of women facing capital punishment in various ways. When police investigate the killings of married men, they often consider wives prime suspects even in the absence of reliable evidence.⁴¹⁴ Once in police custody, women are vulnerable to mistreatment, including physical, sexual, and psychological torture.⁴¹⁵ Justice Project Pakistan currently represents a woman who was brutally tortured and then coerced in police custody to provide a false confession, which formed the basis for her conviction. She now faces execution.⁴¹⁶ Furthermore, despite the prevalence of domestic violence, courts do not consider the realities of intimate partner violence in mitigating the culpability of female defendants who are survivors of domestic abuse.⁴¹⁷

Women's status as caregivers may be considered by courts receiving bail applications. Justice Project Pakistan has documented at least two cases in which the High Courts released a capital defendant on bail on the grounds that she was a mother with young children.⁴¹⁸

Once in prison, women in death row are housed with the general female inmate population. Conditions of incarceration for women are, in some respects, better than in men's prisons. Experts attribute this difference not to government action, but rather to women's housing units being less crowded and often benefiting from support and oversight from non-governmental organizations. Female inmates have access to filtered water and better food than men. Up to four inmates share a cell and toilet, affording little privacy.⁴¹⁹ Women have access to medical care on

site, or may be transported offsite to a hospital if necessary.⁴²⁰ Gynecological assessments are now mandatory.⁴²¹ Mental health care, however, is deficient. Incarcerated women are neither screened upon intake, nor provided with treatment during the course of their incarceration. In one case, an inmate was only able to get psychiatric treatment after an external organization intervened.⁴²²

Like all women prisoners, death-sentenced mothers may bring their young children into the prison with them. In the past, at least one woman gave birth and raised her infant on death row.⁴²³ Children receive medical care inside but no educational opportunities. Children may not remain with their mothers after they turn seven, at which time imprisoned mothers lose their children to family outside or foster care.⁴²⁴ Most women on death row report receiving regular family visits.⁴²⁵

CASE STUDY: KANIZAN BIBI

Kanizan Bibi has been on death row since 1989, when she was only 16-years-old. She has spent the last decade in a psychiatric hospital. In recent years, her health has deteriorated so significantly that her family no longer recognizes her. She cannot care for herself in the most basic ways. She has lost all awareness of her surroundings. Her family and hospital staff confirm that she has not spoken a word since her admission.⁴²⁶ Although she is formally diagnosed with paranoid schizophrenia,⁴²⁷ she manifests signs of mental disorder that go far beyond this single diagnosis.

Kanizan comes from a poor family of tenant farmers. She started working in her early teenage years as a nanny in wealthier households. In 1991, Kanizan was convicted and sentenced to death for killing her pregnant employer and her young children. But Kanizan maintains her innocence. At the time of her arrest, she was working for the family as a nanny.⁴²⁸ Her co-defendant, Khan Muhammad, was the husband and father to the victims. He was also convicted and sentenced to death, and was executed in 2003. The press reported that Kanizan and Muhammad were lovers who together conspired to kill the family,⁴²⁹ but this account is disputed by Kanizan and her family.

After she was arrested, Kanizan spent 11 grueling days in police custody.⁴³⁰ Villagers reported hearing cries and screams while she was being questioned in the police

station.⁴³¹ She was suspended from a fan by a rope and beaten. Police let mice loose in her pants. She was repeatedly electrocuted.⁴³² She was hospitalized for her injuries, only to be discharged to prison.⁴³³ Kanizan was unable to hire private counsel to defend her against the murder charges.

The central piece of evidence against Kanizan was her confession. Her statement was challenged in court as the product of torture, but to no avail. Since her incarceration, she has also been evaluated by medical examiners who have found her twice unfit to be executed, as recently as 2015. Yet she remains incarcerated; her conviction and her sentence still stand. Indeed, her plea for clemency was also rejected by the President of Pakistan. Kanizan's case starkly illustrates how poverty, gender bias, state-sponsored torture, and mental illness interact in shaping the realities of women on death row.

United States of America

As of October 1, 2017, 54 women were on death row in the United States, accounting for just under 2% of the approximately 2,800 prisoners on death row across the United States.⁴³⁴ In 2017, the United States was ranked as the eighth-highest global executioner with 23 executions, trailing China and six Middle Eastern countries.⁴³⁵ It was the only country to carry out executions in the Americas.⁴³⁶ Since the reinstatement of the death penalty in the U.S. in 1976, 35 states have carried out at least one execution for a total of close to 1,500 executions.⁴³⁷ Of this number, 16 have been female death row inmates—amounting to roughly 1% of all executions.⁴³⁸ Six of the 16 women were executed in Texas from 1998–2014.⁴³⁹ All three of Oklahoma's executions of women took place during 2001.⁴⁴⁰ Georgia carried out the most recent execution of a woman on September 30, 2015, when Kelly Gissendaner was put to death by lethal injection.⁴⁴¹

California, a state that has not executed a man since January 2006 and has never executed a woman, has the largest overall death row and the largest female death row in the U.S. Out of roughly 700 death row inmates in California,⁴⁴² 22 are women.⁴⁴³ Texas has the second-largest female death row, with six inmates.⁴⁴⁴ Taken together, southern states—including Texas, Alabama, and Florida—house the majority of women on death row.⁴⁴⁵ Ten states have only one woman on death row.⁴⁴⁶ Although women represent a small fraction of all inmates

in the United States, women's prison populations have been the fastest-growing sector of the incarcerated population since 1978.⁴⁴⁷

Most of the women executed in the U.S. had a history of sexual, physical, and/or child abuse.⁴⁴⁸ All 16 women came from a poor background and lacked access to adequate legal representation.⁴⁴⁹ Executions of women have been confined to a small number of southern states that tend to have the highest execution rates overall. Since 1976, only the southern states of North Carolina, Texas, Florida, Arkansas, Oklahoma, Alabama, Virginia, and Georgia have executed women.⁴⁵⁰

In most death penalty cases, the prosecution and the press underscored that the female offender had stepped outside of gender expectations.

All of the women executed in the U.S. were convicted of murder, primarily of one or more persons close to the defendant.⁴⁵¹ Nine out of 16 cases involved the murder of an intimate partner; three cases involved the murder of a child; and three cases the murder of a stranger, one of whom was a police officer.⁴⁵² Nearly all of the victims were male.⁴⁵³ According to Mary Atwell, an expert on women on death row in the U.S., women who kill male victims tend to be perceived as a greater threat to the social order because they were able to exert power over a man.⁴⁵⁴ In most cases, the prosecution and the press underscored that the female offender had stepped outside of gender expectations.⁴⁵⁵ For instance, one woman executed for killing her husband was seen as an unfaithful wife who wanted to collect his husband's life insurance.⁴⁵⁶ Another woman, executed for murdering her husband and son, was given the nickname of "black widow" by her prosecutor.⁴⁵⁷ In three cases, the defense lawyers were seeking book deals. In fact, one lawyer, who later confessed that he had no experience on capital defense, provided his services in exchange for the profits of a book about his client.⁴⁵⁸ These lawyers' eagerness to capitalize on their clients' plight casts doubt on the sincerity of their motives, while highlighting the notoriety of women who transgress gender norms.

Twelve of the 16 women executed in the United States since 1976 were Caucasian, while four were African-American.⁴⁵⁹ Three of these four were convicted of killing

African-American victims. The remaining African-American woman and all 12 white women were convicted of killing white victims.⁴⁶⁰ This closely parallels the data on race in capital sentencing overall, which shows that the victim's race plays a decisive role in whether or not the death penalty is imposed in homicide cases. Although most homicide victims are African-American, their killers are less likely to be sentenced to death than those who kill Caucasians.⁴⁶¹ Whereas most men on death row are African-American or Latino, most death-sentenced women are Caucasian.⁴⁶² The average age for both women and men is just below 30 years old at the time of the offense for which they are sentenced to death.⁴⁶³ The average age of women currently on death row is just above 48 years old.⁴⁶⁴

The little information that exists about conditions of confinement for women on death row highlights a dehumanizing penitentiary culture that harms all incarcerated women. In states where only a single woman faces a death penalty, a 2004 study suggests these inmates are housed in solitary confinement.⁴⁶⁵ In states like Texas and California, where the populations are larger, women on death row are housed in units. In Texas, the prison housing female death row inmates, Mountain View Unit, has one of the highest rates of sexual abuse⁴⁶⁶ and suicide.⁴⁶⁷ Women on death row in Texas are not permitted contact visits with anyone.⁴⁶⁸ In California, the Central California Women's Facility has been criticized for systematically failing to provide adequate medical care.⁴⁶⁹ In Florida, death-sentenced women are held at the Lowell Correctional Institution, where many female inmates have testified to inhumane and demeaning treatment including verbal abuse and physical humiliation. Troubling complaints filed between 2011 and 2015 indicate that male prison guards forced many female inmates to perform sexual acts in exchange for basic necessities such as soap and sanitary pads. Those who refused to comply were harassed and sometimes punished with solitary confinement or the withdrawal of family visitation rights.⁴⁷⁰

CASE STUDY: BRENDA ANDREW

Brenda Andrew, born December 16, 1963, is a Caucasian woman sentenced to death in Oklahoma. Until her arrest, she lived in Oklahoma City, where she taught bible study and cared for her two children, Parker and Tricity, who were fathered by her estranged husband Robert Andrew. In 2004, she and James Pavatt were convicted of the 2001 killing of her husband Robert. At the time of his death, Brenda and her husband were separated, and she was romantically involved with Pavatt. Her case exemplifies how prosecutors deploy, and courts sanction, the use of evidence imbued with gender bias against women.



Brenda Andrew

Throughout Brenda's trial, the prosecution sought to portray her as sexually promiscuous by airing details of her sexual history under the guise of establishing her motive to kill her husband. But the evidence proffered strayed beyond this limited justification. The jury was allowed to hear about Brenda's alleged extra-marital affairs from years before the murder, as well as details about outfits she wore, which were characterized by male witnesses as too tight, too revealing, or otherwise sexually provocative.⁴⁷¹ The trial court also permitted the prosecutor to show the underwear found in the suitcase in her possession after fleeing to Mexico after the homicide, because it showed that she was not behaving as "a grieving widow, but as a free fugitive living large on a Mexico beach."⁴⁷² As one Justice of the Court of Criminal Appeals of Oklahoma noted, Brenda was put on trial not only for the murder of her husband but for being "a bad wife, a bad mother, and a bad woman."⁴⁷³ Her appeal, now pending in the Tenth Circuit, argues that her "trial was rendered fundamentally unfair by the admission of irrelevant and salacious facts about [her] sexual appetites and her past adulterous affairs."⁴⁷⁴ In essence, the appellate court must address whether the commentary

about her sexuality conflated legal questions of guilt and innocence with notions of chastity and promiscuity, which had the effect of maligning her before the jury, precisely because she was a woman who transgressed social conventions.

Brenda's case underscores the important role courts and civil society can play by monitoring how testimony about defendants' sexual behaviors and other kinds of gendered testimony are used in criminal proceedings, as well as the unique prejudice suffered by female defendants, particularly in the eyes of socially conservative and religious juries.

Recommendations

Below are key recommendations for stakeholders to address issues affecting women in prison generally and women on death row specifically.

RECOMMENDATIONS FOR GOVERNMENT LEGISLATORS AND POLICY-MAKERS

- In accordance with international law, eliminate the death penalty for non-violent offenses, particularly for drug offenses and blasphemy, and “crimes of morality” such as adultery or lesbianism.
- Codify gender-specific defenses and mitigation, encompassing women’s experiences of trauma, poverty, child marriage, and gender-based violence.
- Guarantee access to consular assistance for foreign women charged with death-eligible offenses, as required by the Vienna Convention on Consular Relations. This is particularly important in the case of migrant/domestic workers.
- Require that the judiciary be trained on gender-based discrimination, domestic violence, and tactics of coercive control that lead to women committing death-eligible offenses.
- Acknowledge the compounding forms of violence suffered by girls and women—including gender based-violence and early and forced marriage—and implement policies and legislative reforms that prevent the application of the death penalty when these women act against their abusers.
- Ensure that women have access to free and effective legal counsel specialized in capital representation.
- In capital proceedings, make available resources so that defendants can obtain the testimony of experts who are trained on the manifestation and effects of mental illness and intellectual disability in women, including female-specific illnesses that can lead to women’s offending, such as Postpartum Psychosis.
- Address gender-based inequality in legal systems that allow for the payment of restitution to victims’ families. Provide financial resources in cases involving indigent women so that they can participate on an equal basis in restitution practices that may result in forgiveness from victims’ families.

RECOMMENDATIONS FOR GOVERNMENT LEADERS AND PARDON BOARDS

- Commute the sentences of women convicted and sentenced to death for killing close family members who perpetrated gender-based violence against them.
- Commute the sentences of women convicted and sentenced to death for drug trafficking and other offenses that do not involve the loss of human life. Ensure that women accused of low-level drug trafficking benefit from plea deals similar to those leading trafficking operations, who sometimes receive lesser sentences based on their greater knowledge of the operation and usefulness to the prosecution.

RECOMMENDATIONS FOR JUDICIARY

- Create and/or access training on gender-based violence and its links with women’s offending.
- Take into account women’s experiences of trauma and gender-based violence at conviction and sentencing.

RECOMMENDATIONS FOR ATTORNEYS

- Consider and pursue general and gender-specific mitigation for clients and raise discrimination against clients on the basis of their gender as appropriate.
- Consider cultural and gender differences when interviewing clients, especially when eliciting information about potential sexual/gender-based violence.
- Seek professional training and the assistance of qualified experts on the manifestations of mental illness and intellectual disability for women, and seek medical and mental health evaluations of your client, where appropriate.

- Raise countries' international law obligations relating to the treatment of women and children in court submissions, particularly under the ICCPR, CEDAW, and CRC, where appropriate.
- If representing a foreign national, ensure the national is aware of their right to contact their embassy or consulate, and if she so requests, notify the consulate/embassy of her detention. If appropriate, raise the lack of consular assistance in violation of the Vienna Convention on Consular Relations at trial and on appeal.

RECOMMENDATIONS FOR PRISON AUTHORITIES

- Informed by the Bangkok Rules and the Mandela Rules, adopt gender-sensitive policies in relation to women's detention, ensuring women's safety and security pre-trial, during admission to prison, and while incarcerated.
- Design prison infrastructure that allows for women's specific needs, including privacy.
- Hire and train female prison staff to supervise women.
- House women as geographically close to their homes as possible and encourage family contact.
- House juvenile females separately from adult women, preferably in youth facilities with appropriate care.
- Allow women on death row to take part in education, skills building, and social activities in the prison.
- Forbid the use of solitary confinement for women on death row or the denial of family visits as punishment.
- Train staff to recognize symptoms of mental illness and depression in women on death row.
- Ensure timely access to general and female-specific healthcare and counselling, and ensure women have access to the same preventative screenings as the general population. Ensure menstruating women have access to sanitary products, soap, and water.
- Forbid extended shackling of women on death row, and prohibit under all circumstances shackling during pregnancy, childbirth, and nursing.
- Ensure women have access to dependent children through visitation. Establish appropriate accommodations for women with infants and small children so that women and children can remain together in a secure setting that minimizes trauma to children.
- Ensure appropriate medical care, education, and family contact for children in prison with their mothers.
- Provide transparent information on the number of women on death row, demarcated by age and the offenses for which they are convicted, to enable research on the demographics of women on death row.
- Allow civil society and academic researchers to access women on death row.

RECOMMENDATIONS FOR CIVIL SOCIETY

- Conduct and publish research on root causes and structural, systemic discrimination against women in society that lead to women's increased likelihood of coming in conflict with the law, particularly in capital cases.
- Monitor government and prison compliance with international human rights standards in relation to women on death row.
- Pressure governments to implement the above recommendations, including by submitting reports on the topic of women in prison and women on death row to U.N. and regional human rights review mechanisms.
- Support family visits to women in prison, including by helping to transport family and children to visit their relatives in prison.

Appendix: International Treaty Obligations of Profiled Countries

Country	Treaty	Date of Ratification, Accession, or Signature (s) ⁴⁷⁵	Vote on U.N. General Assembly's Resolution for a Global Moratorium on the Use of the Death Penalty ⁴⁷⁶
India	ICCPR	April 10, 1979	India has voted systematically against the U.N. General Assembly's moratorium resolutions, demonstrating its attachment to the practice.
	CAT	Oct. 14, 1997 (s)	
	CEDAW	Jul. 9, 1993	
	CRC	Dec. 11, 1992	
Indonesia	ICCPR	Feb. 23, 2006	Indonesia has abstained from the last three U.N. General Assembly moratorium resolutions, after voting against the first three resolutions prior to 2010.
	CAT	Oct. 28, 1998	
	CEDAW	Sep. 13, 1984	
	CRC	Sep. 5, 1990	
Jordan	ICCPR	May 28, 1975	Jordan has abstained from all but one of the U.N. General Assembly's moratorium resolutions. It voted against the first resolution in 2007.
	CAT	Nov. 13, 1991	
	CEDAW	Jul. 1, 1992	
	CRC	May 24, 1991	
Malawi	ICCPR	Dec. 22, 1993	Although Malawi has taken no formal steps to abolish the death penalty, it voted in favor of the U.N. General Assembly's moratorium resolution in 2016. Previously, it had abstained from the vote. This may indicate shifting national sentiment, or at least ambivalence, about the legitimacy of capital punishment.
	CAT	Jun. 11, 1996	
	CEDAW	Mar. 12, 1987	
	CRC	Jan. 2, 1991	
	ACHPR	Nov. 17, 1989	
	Protocol to the ACHPR on the Rights of Women in Africa	May 20, 2005	
Pakistan	ICCPR	Jun. 23, 2010	Pakistan has voted systematically against the U.N. General Assembly's moratorium resolutions, demonstrating its attachment to the practice.
	CAT	Jun. 23, 2010	
	CEDAW	Mar. 12, 1996	
	CRC	Nov. 12, 1990	
USA	ICCPR ⁴⁷⁷	Jun 8, 1992	The United States has voted systematically against the U.N. General Assembly's moratorium resolutions, demonstrating its attachment to the practice.
	CAT	Oct. 21, 1994	
	CEDAW	Jul. 17, 1980 (s)	
	CRC	Feb. 16, 1995 (s)	

The **INTERNATIONAL COVENANT FOR CIVIL AND POLITICAL RIGHTS (ICCPR)**⁴⁷⁸ enshrines in articles 6 and 14 the rights to life and fair trials, respectively, and restricts the imposition of the death penalty to the most “serious crimes.”⁴⁷⁹ Further, Article 6 provides that juveniles cannot be sentenced to death and pregnant women cannot be executed.⁴⁸⁰

The **CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CAT)**⁴⁸¹ stipulates States parties’ obligation to prevent torture and ensure that all acts of torture are criminal offenses under their laws.⁴⁸² States parties are bound to constantly review their interrogation rules and methods to prevent cases of torture.⁴⁸³

The **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)**⁴⁸⁴ establishes States parties’ obligations to end discrimination against women. State parties are obliged “to accord to women equality with men before the law”⁴⁸⁵ and “to establish legal protection of the rights of women on an equal basis with men.”⁴⁸⁶

Pursuant to the **CONVENTION ON THE RIGHTS OF THE CHILD (CRC)**,⁴⁸⁷ States parties are obligated to ensure that no child is subjected to torture, capital punishment, or life in prison without the possibility of release.⁴⁸⁸

The **AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHTS (ACHPR)**,⁴⁸⁹ a regional treaty, provides in article 4 that “no one may be arbitrarily deprived of the right to life.”⁴⁹⁰ The **PROTOCOL TO THE ACHPR ON THE RIGHTS OF WOMEN IN AFRICA**⁴⁹¹ enshrines in article 4 States parties’ obligation “not to carry out death sentences on pregnant or nursing women.”⁴⁹²

Endnotes

INTRODUCTION: WOMEN ON DEATH ROW, INVISIBLE SUBJECTS OF GENDER DISCRIMINATION

1 One notable exception is the scholarship of Victor Streib, who has studied the female death row population in the United States. See Victor L. Streib, *Gendering the Death Penalty: Countering Sex Bias in a Masculine Sanctuary*, *Ohio State Law Journal*, Vol. 63, p. 433 (2002). Professor Streib has likewise lamented the lack of scholarship focusing on this “forgotten” population. Victor L. Streib, *Rare and Inconsistent: The Death Penalty for Women*, *Fordham Urban Law Journal*, Vol. 43, p. 609, 612 (2006).

2 Our findings are consistent with the conclusions of researchers who have examined the criminal justice system’s response to women who kill. Milne and Turton note:

The portrayal of a woman as ‘good’ or ‘bad’ lies in the ability to align her behaviour with gender norms. If her behaviour (including her crime) can be recuperated back into the norms of femininity, then a lenient response may be available. If, however, her transgressions fall outside of the expected norms, then she is more likely to receive harsh punishment for her crimes.

Emma Milne and Jackie Turton, *Understanding Violent Women*, pp. 124–25, *Women and the Criminal Justice System: Failing Victims and Offenders?*, Palgrave MacMillan, 2018.

3 Yuliya Khilashchankova, affiliated with the Belarus-Helsinki Committee, Email to Cornell Center on the Death Penalty Worldwide, Mar. 25, 2015.

4 Takunda Maoza, Zimbabwe: Government to Eliminate the Death Penalty – Mnangagwa, *The Herald* <http://www.herald.co.zw/zim-to-eliminate-death-penalty-mnangagwa/>, Feb. 23, 2016.

5 U.N. Human Rights Committee, 9th Session, Summary Record of the 202nd Meeting, Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: Mongolia, para. 6, U.N. Doc. CCPR/C/SR.202, Mar. 24, 1980.

6 Cornell Center on the Death Penalty Worldwide, *Women*, <http://www.deathpenaltyworldwide.org/women.cfm>, Jan. 25, 2012.

7 Ibid.

8 *State v. Pushpa*, CIS No. SC/134/2013, Jhajjar District Court, Haryana. National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty Worldwide, Nov. 8, 2017.

9 *Mst. Nazo v. The State* (Pakistan), 2013 M L D 1860, Peshawar High Ct., Mar. 1, 2013.

10 Court documents provided by lawyers who have requested she remained anonymous.

11 Ibid.

12 Hossein Raeesi, Interview with the Cornell Center on the Death Penalty Worldwide, Feb. 10, 2015.

13 Haseeb Bhatti, Supreme Court Acquits Three People on Murder Charges in 2009 Case, *Dawn*, <https://www.dawn.com/news/1351899>, Aug. 16, 2017.

14 Vaibhav Ganjapure, Six on death row for ‘human sacrifice’ case move HC, http://timesofindia.indiatimes.com/articleshow/65264395.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst, Aug. 4, 2018. Surender Sharma, HC upholds death sentence to Rohtak girl who killed 7 of her family, *Hindustan Times*, <https://www.hindustantimes.com/punjab/hc-upholds-death-sentence-to-rohtak-girl-who-killed-7-of-her-family/story-pX3SlwDCPABoq3YLuN5EcK.html>, Jul. 18, 2018. *Hindustan Times*, Supreme Court stays couple’s execution in human sacrifice case,

<https://www.hindustantimes.com/india-news/supreme-court-stays-couple-s-execution-in-human-sacrifice-case/story-k8AqSmGMgeMr4i8ozKVzQJ.html>, Aug. 17, 2017. Khojkhbarnews, 11 year son’s eyewitness account leads to death sentence of mother, life term to her paramour,

<http://www.khojkhbarnews.com/?p=51667>, Dec. 6, 2016. *The Hindu*, Death sentence upheld in Mumbai blasts case,

<https://www.thehindu.com/news/national/Death-sentence-upheld-in-Mumbai-blasts-case/article13302108.ece>, Nov. 18, 2016. Uma Vishnu, Shabnam & Saleem: The relationship that claimed seven lives of a family, <https://indianexpress.com/article/india/india-others/sunday-story-shabnam-saleem-the-amroha-murders/>, Jun. 7, 2015. *The Times of India*, Woman, two others get death for triple murder,

http://timesofindia.indiatimes.com/articleshow/27322790.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst, Dec. 13, 2014. Mayura Janwalkar, The sons of a woman on death row,

<https://indianexpress.com/article/india/maharashtra/the-sons-of-a-woman-on-death-row/>, Sept. 1, 2014. We have no information on the case of one of the twelve women on death row.

15 *The Indian Express*, Twenty-year-old woman sentenced to death for killing mother, sister, <https://indianexpress.com/article/india/twenty-year-old-woman-sentenced-to-death-for-killing-mother-sister-5099285/>, Mar. 15, 2018. *The Times of India*, Woman serial killer ‘Cyanide Mallika’ gets death sentence, <https://timesofindia.indiatimes.com/india/Woman-serial-killer-Cyanide-Mallika-gets-death-sentence/articleshow/4311321.cms>, Mar. 24, 2009. We have no information on the case of one of the twelve women on death row.

16 National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty Worldwide, Nov. 8, 2017.

17 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017.

18 United Nations Assistance Mission in Afghanistan, Illiteracy, Poverty Silencing Afghan Women Victims of Violence, <https://unama.unmissions.org/illiteracy-poverty-silencing-afghan-women-victims-violence>, Sep. 14, 2015. Anonymous Source, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul. 19, 2017.

19 Xiaofei Xie, Interview with Cornell Center on the Death Penalty Worldwide, May 8, 2017.

20 Penal Code of Tanzania, sec. 18(c), Sep. 28, 1945, as last amended by Act No. 2 of 2016.

21 Fulgence Massawe, Interview with Cornell Center on the Death Penalty Worldwide, Jun. 2, 2017.

22 Anonymous Source, Interview with Cornell Center on the Death Penalty Worldwide, Jul. 13, 2017. Bwighane Mwenifumbo, Legal Aid counsel, Interview with Cornell Center on the Death Penalty Worldwide, Jun. 10, 2017.

23 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017. See also Penal Reform Intl., Women who kill in response to domestic violence: How do criminal justice systems respond?, https://www.penalreform.org/wp-content/uploads/2016/04/Women_who_kill_in_response_to_domestic_violence_Full_report.pdf, Apr. 2016.

WOMEN FACING THE DEATH PENALTY AROUND THE WORLD: AN UNDERSTUDIED POPULATION

24 Japan Innocence & Death Penalty Information Center, List of Defendants Who Are Under Sentence of Death in Japan, http://www.jiadep.org/Chart-DeathRow_files/page481_1.html, last accessed Jun. 19, 2018.

25 Edward White, A Taiwan Witch Burning, The News Lens, <https://international.thenewslens.com/article/77110>, August 25, 2017. Amnesty Intl., Death Sentences and Executions 2017, p. 18, ACT 50/7955/2018, Apr. 12, 2018.

26 Anonymous Sources, Interview with Cornell Center on the Death Penalty Worldwide.

27 National Law University Delhi Project 39A, Prisoners currently under death sentence, <https://www.project39a.com>, last accessed Aug. 28, 2018. National Law University Delhi Project 39A, Email to Cornell Center on the Death Penalty Worldwide, Jun. 25, 2018.

28 Amnesty Intl., Death Sentences and Executions 2017, p. 20, ACT 50/7955/2018, Apr. 12, 2018.

29 Justice Project Pakistan, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 15, 2018.

30 Justice Project Pakistan, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 27, 2018.

31 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017.

32 Amnesty Intl., Thailand: Country's first execution since 2009 a deplorable move, <https://www.amnesty.org/en/latest/news/2018/06/thailand-countrys-first-execution-since-2009-a-deplorable-move/>, Jun. 19, 2018.

33 All four women were released through a multi-year re-sentencing project arising from the Kafantayeni judgment in 2007. Sandra Babcock, Director of the International Human Rights Clinic at Cornell Law School, Interview with Cornell Center on the Death Penalty Worldwide, Aug. 23, 2018.

34 Amnesty Intl., Death Sentences and Executions 2017, p. 35, ACT 50/7955/2018, Apr. 12, 2018. Foundation for Human Rights Initiative, The unsung heroes of the progressive abolition of the death penalty campaign in Uganda, p. 12, FHRI e-Newsletter, Vol. 14, Issue No. 1, Jan.–Mar. 2016.

35 Angela Uwandu, Head of Office of Avocats Sans Frontières France, Nigeria Office, Email to Cornell Center on the Death Penalty Worldwide, Mar. 19, 2015.

36 Amnesty Intl., Death Sentences and Executions 2017, p. 34, ACT 50/7955/2018, Apr. 12, 2018. Hands Off Cain, Ghana, <http://www.handsoffcain.info/bancadati/africa/ghana-40000331>, last accessed Jun. 19, 2018.

37 El Hacene Mahmoud Mbareck, affiliated with Coalition mauritanienne contre la peine de mort, Email to Cornell Center on the Death Penalty Worldwide, Mar. 18, 2015.

38 Amnesty Intl., Death Sentences and Executions 2017, p. 35, ACT 50/7955/2018, Apr. 12, 2018. Hands Off Cain, Zambia, <http://www.handsoffcain.info/bancadati/africa/zambia-40000003>, last accessed Jun. 19, 2018.

39 Matt Payton, Kenya Commutes Sentences of All Death Row Inmates, The Independent, <https://www.independent.co.uk/news/world/africa/kenya-death-row-inmates-spare-live-commute-sentence-a7378751.html>, Oct. 25, 2016.

40 Amnesty Intl., Death Sentences and Executions 2017, p. 34, ACT 50/7955/2018, Apr. 12, 2018.

41 U.N. Office of the High Commissioner for Human Rights and U.N. Assistance Mission for Iraq Human Rights Office, Report on the Death Penalty in Iraq, p. 21, http://www.ohchr.org/Documents/Countries/IQ/UNAMI_HRO_DP_1Oct2014.pdf, Oct. 2014.

42 Belkis Wille, Unfair ISIS Trial in Iraq Hands Women Harshest Sentences, Human Rights Watch, <https://www.hrw.org/news/2018/02/21/unfair-isis-trial-iraq-hands-women-harshest-sentences>, Feb. 21, 2018.

43 Bethan McKernan, Iraq: 15 Turkish women face death penalty over Isis membership, The Independent, <http://www.independent.co.uk/news/world/middle-east/iraq-turkey-isis-membership-women-death-penalty-islamic-state-a8229416.html>, Feb. 26, 2018.

44 Anonymous Source, Interview with Cornell Center on the Death Penalty Worldwide.

45 Ibid.

46 See Introduction. Human Rights Watch, Domestic Workers, <https://www.hrw.org/topic/womens-rights/domestic-workers>, last accessed May 23, 2018.

47 Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 8, 2017.

48 Amnesty Intl., Death Sentences and Executions in 2017, p. 30, ACT 50/7955/2018, Apr. 12, 2018.

49 Iran Human Rights, Iran: Annual report on the death penalty 2017, <https://iranhr.net/en/articles/3258/>, Mar. 13, 2018.

50 Criminal Justice Project of the NAACP Legal Defense and Educational Fund, Inc., Death Row U.S.A. Fall 2017, p. 1, http://www.naacpldf.org/files/case_issue/DRUSAFall2017_.pdf, Oct. 2017.

51 Death Penalty Information Center, Women and the Death Penalty – Death Sentences Imposed Upon Female Offenders, <http://www.deathpenaltyinfo.org/women-and-death-penalty#State%20Breakdown>, last accessed Jun. 25, 2018.

52 National Law University Delhi Project 39A, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 24, 2018.

53 International Federation for Human Rights (FIDH) and Union for Civil Liberty (UCL), Shadow report on the situation of torture and ill-treatment of prisoners in Thailand, p. 4, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/THA/INT_CAT_NG_O_THA_17054_E.pdf, Apr. 30, 2014.

54 Iran Human Rights, Iran: Annual report on the death penalty 2017, <https://iranhr.net/en/articles/3258/>, Mar. 2018. Iran Human Rights, Annual Report on the Death Penalty in Iran in 2016, p. 3, https://iranhr.net/media/files/Rapport_iran_2016-GB-280317-BD.pdf, Mar. 2017. Iran Human Rights, Annual Report on the Death Penalty in Iran in 2015, p. 3, http://www.ecpm.org/wp-content/uploads/Rapport_iran-2015.pdf, Mar. 2016.

55 U.N. Office of the High Commissioner for Human Rights and U.N. Assistance Mission for Iraq Human Rights Office, Report on the Death Penalty in Iraq, http://www.ohchr.org/Documents/Countries/IQ/UNAMI_HRO_DP_1Oct2014.pdf, Oct. 2014.

56 Death Penalty Information Center, Searchable Execution Database, <https://deathpenaltyinfo.org/views-executions>, last accessed Jun. 20, 2018.

57 Hands Off Cain, Egypt Executes Six, Two of Whom Were Women, <http://www.handsoffcain.info/notizia/egypt-executes-six-two-of-whom-were-women-40305364>, Jun. 4, 2018.

58 Human Rights Watch, Kuwait: First Executions in 4 Years, <https://www.hrw.org/news/2017/01/26/kuwait-first-executions-4-years>, Jan. 26, 2017.

59 Andrew Buncombe, Sajida al-Rishawi: Jordan 'executes female Isis suicide bomber' – hours after pilot Muath al-Kasaesbeh is burned alive, The Independent, <https://www.independent.co.uk/news/world/middle-east/sajida-al-rishawi-jordan-says-it-has-executed-female-militant-sought-by-isis-hours-after-promising-10022091.html>, Feb. 4, 2015.

60 Chris Graham, Meet Hyon Song-wol, North Korea's 'Spice Girl' whose execution was greatly exaggerated, The Telegraph, <https://www.telegraph.co.uk/news/2018/01/21/meet-hyon-song-wol-north-koreas-spice-girl-whose-execution-greatly/>, Jan. 21, 2018.

61 Rod Nordland and Jawad Sukhanyar, Taliban Publicly Execute Two Women in Northern Afghanistan, The New York Times, <https://www.nytimes.com/2016/05/08/world/asia/taliban-publicly-execute-two-women-in-northern-afghanistan.html>, May 7, 2016. Ben Farmer, 22-year-old accused of adultery executed in Afghanistan, The Telegraph, <https://www.telegraph.co.uk/news/worldnews/asia/afghanistan/9384963/22-year-old-accused-of-adultery-executed-in-Afghanistan.html>, Jul. 8, 2012.

62 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017. The Guardian, Six drug convicts executed in Indonesia, including five foreigners, <https://www.theguardian.com/world/2015/jan/18/indonesia-six-drug-convicts-shot-dead-five-foreigners>, Jan. 17, 2015.

63 Amnesty Intl., Executions in the Gambia Giant Leap Backwards, <https://www.amnesty.org/en/press-releases/2012/08/executions-gambia-giant-leap-backwards/>, Aug. 24, 2012.

64 Harriet Agerholm, Woman stoned to death in Somalia because she married 11 men, claims extremist group, The Independent, <https://www.independent.co.uk/news/world/africa/al-shabab-somalia-woman-stoned-death-married-men-a8343901.html>, May 9, 2018.

CRIMES FOR WHICH WOMEN ARE SENTENCED TO DEATH

65 Amnesty Intl., Death Sentences and Executions in 2015, p. 8, ACT 50/3487/2016, Apr. 12, 2018.

66 Anonymous Source, Interview with Cornell Center on the Death Penalty Worldwide, Dec. 2016.

67 Daily News, Nearly 50 wives arrested in 2012 in Yemen for killing husbands: report, <http://www.nydailynews.com/news/world/women-killing-husbands-yemen-tied-domestic-abuse-severe-gender-inequality-report-article-1.1236023>, Jan. 8, 2013.

68 National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty Worldwide, Nov. 8, 2017.

69 Uma Vishnu, Shabnam & Saleem: The relationship that claimed seven lives of a family, The Indian Express, <https://indianexpress.com/article/india/india-others/sunday-story-shabnam-saleem-the-amroha-murders/>, Jun. 7, 2015. The Independent, Killing in the name of love: Seven funerals and a wedding, <https://www.independent.co.uk/news/world/asia/killing-in-the-name-of-love-seven-funerals-and-a-wedding-1792302.html>, Sep. 24, 2009.

70 Khojkbare News, 11 year son's eyewitness account leads to death sentence of mother, life term to her paramour, <http://www.khojkbarenews.com/?p=51667>, Dec. 6, 2016.

71 Maryam Hosseinkhah, The Execution of Women in Iranian Criminal Law: An Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, Iran Human Rights Documentation Center, <http://www.iranhrdc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html>, May 7, 2012.

72 Ibid.

73 Taiwan Alliance to End the Death Penalty, Email to the Cornell Center on the Death Penalty Worldwide, Mar. 18, 2015.

74 Tanya Murshed, affiliated with Evolve, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 18, 2015.

75 Abdellah Mouseddad, affiliated with Association marocaine des droits humains, Email to the Cornell Center on the Death Penalty Worldwide, Mar. 22, 2015.

76 Anonymous Source, Interview with Cornell Center on the Death Penalty Worldwide, Mar. 20, 2015.

77 Reprieve, Alice Nungu – Immediate release in Malawi, <https://reprieve.org.uk/alice-nungu-immediate-release-in-malawi/>, last accessed Jun. 26, 2018.

78 Angela Uwandu, Head of Office of Avocats Sans Frontières France, Nigeria Office, Email to the Cornell Center on the Death Penalty Worldwide, Mar. 19, 2015.

79 Reuters, Chinese Woman Who Killed Her Abusive Husband Given a Death Sentence Reprieve, The Telegraph, <https://www.telegraph.co.uk/news/worldnews/asia/china/11561085/Chinese-woman-who-killed-her-abusive-husband-give-a-death-sentence-reprieve.html>, Apr. 24, 2015.

80 Nima Elbagir and Eliza Mckintosh, Bites and a broken bed: New details in case of Sudan teen who killed rapist husband, CNN, <https://www.m.cnn.com/2018/05/24/africa/noura-hussein-sudan-appeal-intl/index.html?rm=1>, May 24, 2018.

81 Michigan Women's Justice and Clemency Project, Position Statement, <http://umich.edu/~clemency/position.html>, last accessed Jun. 20, 2018.

82 "Stand your ground" laws, which vary from state to state, allow people to use force when they are under threat of being harmed. Several of these laws provide that people are not obligated to retreat from an attacker in any place in which they are lawfully present. National Conference of State Legislatures, Self Defense and "Stand Your Ground," <http://www.ncsl.org/research/civil-and-criminal-justice/self-defense-and-stand-your-ground.aspx>, Jul. 27, 2018.

83 In the United States, in the state of Florida, a woman by the name of Marissa Alexander pleaded guilty to numerous charges, to avoid sixty years in prison, stemming from firing a single warning shot against her longtime abuser. See Amanda Marcotte, Prosecutors Now Seeking a 60-Year Sentence for Marissa Alexander's Alleged Warning Shot, *Slate*, March 4, 2014, http://www.slate.com/blogs/xx_factor/2014/03/04/marissa_alexander_now_faces_up_to_60_years_in_prison_for_her_alleged_warning.html, last accessed August 14, 2018. On an appeal after her first trial, the Florida appeals court reversed Alexander's conviction for erroneous jury instructions, but nonetheless upheld the trial court's decision to deny her immunity from prosecution under Florida's stand your ground law, which entitles individuals to use lethal force without the need to retreat as is traditionally required under the law in order for the defendant to claim self-defense. See *Alexander v. State*, 121 So. 3d 1185, 1191 (Fla. Dist. Ct. App. 2013) ("But the question as to whether Appellant is entitled to immunity from prosecution under the Stand Your Ground law is no longer open for debate because that issue was definitively resolved against Appellant after a full and fair evidentiary hearing in a ruling that has now been affirmed by this court." (Wetherell, J. concurring)). After her conviction was reversed, Ms. Alexander pleaded guilty and avoided further jail time.

84 U.N. Office of the High Commissioner for Human Rights, Death penalty disproportionately affects the poor, U.N. rights experts warn, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22208&LangID=E>, Oct. 10, 2017.

85 Reprieve, Alice Nungu – Immediate release in Malawi, <https://reprieve.org.uk/alice-nungu-immediate-release-in-malawi/>, last accessed Jun. 26, 2018.

86 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017.

87 Death Penalty Project, Reprieve for Battered Woman Who Killed Husband, <http://www.deathpenaltyproject.org/news/1781/abused-belizean-woman-cleared-of-murder>, Jul. 3, 2014.

88 Human Rights Watch, China: Commute Death Sentence in Domestic Violence Case, <https://www.hrw.org/news/2013/01/30/china-commute-death-sentence-domestic-violence-case>, Jan. 30, 2013.

89 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017.

90 Patrick Gallahue and Rick Lines, The Death Penalty for Drug Offences Global Overview 2010, p. 33, International Harm Reduction Association, https://www.hri.global/files/2010/06/16/IHRA_DeathPenaltyReport_Web1.pdf, Apr. 2010.

91 Maryam Hosseinkhah, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in

the New Islamic Penal Code, Iran Human Rights Documentation Center, <http://www.iranhrdc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html>, May 7, 2012.

92 Capital Punishment U.K., Female hangings worldwide 1988 – date, <http://www.capitalpunishmentuk.org/femhanged.html>, last accessed Jun. 21, 2018.

93 Hossein Raeesi, Interview with the Cornell Center on the Death Penalty Worldwide, Feb. 10, 2015.

94 Melvina T. Sumter et al., Mule Tales: An Exploration of Motives among Female Drug Smugglers, The Global Center for School Counseling Outcomes Research, Evaluation, & Development, <https://everypiecmatters.com/jget/volume01-issue01/mule-tales-an-exploration-of-motives-among-female-drug-smugglers.html>, May 31, 2017.

95 Ibid.

96 Maryam Hosseinkhah, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, Iran Human Rights Documentation Center, <http://www.iranhrdc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html>, May 7, 2012.

97 Hossein Raeesi, Interview with the Cornell Center on the Death Penalty Worldwide, Feb. 10, 2015.

98 Melvina T. Sumter et al., Mule Tales: An Exploration of Motives among Female Drug Smugglers, The Global Center for School Counseling Outcomes Research, Evaluation, & Development, <https://everypiecmatters.com/jget/volume01-issue01/mule-tales-an-exploration-of-motives-among-female-drug-smugglers.html>, May 31, 2017.

99 Ibid.

100 Beh Lih Yi, Indonesian drug convict facing death row highlights risks to migrant workers: campaigners, Reuters, <https://www.reuters.com/article/us-indonesia-executions-women-idUSKCN108032>, Jul. 27, 2016.

101 Oliver Holmes, Tragic story of death-row maid caught up in Asia's war on drugs, *The Guardian*, <https://www.theguardian.com/world/2016/sep/17/philippines-president-heroin-deterte-mary-jane-veloso-death-row>, Sep. 17, 2016.

102 Stefy Tenu, Vietnamese Drug Convict Awaiting Execution Expresses One Final Wish, *Jakarta Globe*, <http://jakartaglobe.id/news/vietnamese-drug-convict-awaiting-execution-expresses-one-final-wish/>, Jan. 16, 2015.

103 KARAMAH: Muslim Women Lawyers For Human Rights, Zina, Rape, and Islamic Law: An Islamic Legal Analysis of the Rape Laws in Pakistan, p. 4, <http://karamah.org/wp-content/uploads/2011/10/Zina-Rape-and-Islamic-Law-An-Islamic-Legal-Analysis-of-the-Rape-Laws-in-Pakistan1.pdf>, 2011.

104 Ibid.

105 Hossein Raeesi, Interview with the Cornell Center on the Death Penalty Worldwide, Feb. 10, 2015.

106 BBC News, Dubai sentences Norwegian woman who reported rape, <http://www.bbc.com/news/world-middle-east-23381448>, Jul. 20, 2013.

107 Associated Press, Marte Deborah Dalelv gets pardon in Dubai after getting 16-months in jail for alleged rape, *Daily News*, <http://www.nydailynews.com/news/world/norwegian-woman-pardon-dubai-16-months-jail-alleged-rape-article-1.1405441>, Jul. 22, 2013.

108 U.N.G.A., Pathways to, conditions and consequences of incarceration for women, Report of the Special Rapporteur on violence against women, its causes and consequences, para. 17, U.N. Doc. A/68/340, Aug. 21, 2013.

109 Seth Mydans, Sentenced to Death, Rape Victim is Freed by Pakistani Court, The New York Times, <https://www.nytimes.com/2002/06/08/world/sentenced-to-death-rape-victim-is-freed-by-pakistani-court.html>, Jun. 8, 2002. The Guardian, Zafra Bibi was raped, but a Pakistan judge decided it was adultery - now this young mother will be stoned to death, <https://www.theguardian.com/world/2002/may/12/theobserver>, May 11, 2002.

110 Human Rights Watch, Sudan: Ban Death by Stoning, <https://www.hrw.org/news/2012/05/31/sudan-ban-death-stoning>, May 31, 2012.

111 Amnesty Intl., Sudanese Mother Walks Free: Intisar Sharif Abdallah, <https://www.amnesty.org/en/documents/afr54/029/2012/en/>, Jul. 4, 2012.

112 Human Rights Watch, Sudan: Ban Death by Stoning, <https://www.hrw.org/news/2012/05/31/sudan-ban-death-stoning>, May 31, 2012.

113 U.N.G.A., Pathways to, conditions and consequences of incarceration for women, Report of the Special Rapporteur on violence against women, its causes and consequences, para. 8, U.N. Doc. A/68/340, Aug. 21, 2013.

114 Justice Project Pakistan, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 27, 2018.

115 Fred Abrahams, Rush to Judgement in Iraq Harms Justice, Human Rights Watch, <https://www.hrw.org/news/2018/03/26/rush-judgment-iraq-harms-justice>, Mar. 26, 2018. Belkis Wille, Unfair ISIS Trial in Iraq Hands Women Harsh Sentences, Human Rights Watch, <https://www.hrw.org/news/2018/02/21/unfair-isis-trial-iraq-hands-women-harsh-sentences>, Feb. 21, 2018.

116 Human Rights Watch, Iraq: Change Approach to Foreign Women, Children in ISIS-Linked Trials
Rushed Proceedings, Lack of Due Process, Disproportionate Sentences, <https://www.hrw.org/news/2018/06/21/iraq-change-approach-foreign-women-children-isis-linked-trials>, Jun. 21, 2018.

117 Ibid.

118 Rawya Rageh, Young Yemeni woman on death row suffers the wrath of the Huthis' 'psychological war' on opponents, Amnesty International, <https://www.amnesty.org/en/latest/news/2018/04/young-yemeni-woman-on-death-row-suffers-the-wrath-of-the-huthis-psychological-war-on-opponents/>, Apr. 13, 2018.

119 Ibid.

120 Ibid.

121 Ibid.

122 Muhammad Sahimi, Capital Punishment, Capital Fear, PBS, <https://www.pbs.org/wgbh/pages/frontline/tehranbureau/2010/05/capital-punishment-capital-fear.html>, May 12, 2010.

123 The Times of India, Death for all three accused in 2003 Mumbai blasts case, http://timesofindia.indiatimes.com/articleshow/4862587.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst, Aug. 6, 2009.

124 John Alan Cohan, The problem of witchcraft violence in Africa, Suffolk University Law Review, Vol. 44, no. 4, http://go.galegroup.com/ps/i.do?p=AONE&u=nysl_sc_cornl&id=GALE|A286720008&v=2.1&it=r&sid=summon, 2011. Bob Chaundy, The Burning Times, BBC News Magazine, http://news.bbc.co.uk/2/hi/uk_news/magazine/8334055.stm, Oct. 30, 2009.

125 U.N.G.A., Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, <https://www.right-docs.org/doc/a-hrc-11-2/>, May 2009.

126 Human Rights Watch, Saudi Arabia: Halt Woman's Execution for "Witchcraft", <https://www.hrw.org/news/2008/02/13/saudi-arabia-halt-womans-execution-witchcraft>, Feb. 13, 2008.

127 Mohammed Jamjoom and Saad Abedine, Saudi woman beheaded for "witchcraft and sorcery", CNN, <https://www.cnn.com/2011/12/13/world/meast/saudi-arabia-beheading/>, Dec. 14, 2011. Amnesty Intl., Death Sentences and Executions in 2011, p. 43, ACT 50/001/2012, Mar. 27, 2012.

128 Amnesty Intl., Iran: The Last Executioner of Children, <https://www.amnestyusa.org/reports/iran-the-last-executioner-of-children/>, last accessed Jun. 22, 2018. Amnesty Intl., Iran: Further Information on Fear of Imminent Execution/Fear of Flogging Leyla Mafi, <https://www.amnesty.org/en/documents/mde13/036/2006/en/>, Apr. 19, 2006.

129 Angela Uwandu, Head of Office of Avocats Sans Frontières France, Nigeria Office, Email to Cornell Center on the Death Penalty Worldwide, Mar. 19, 2015.

130 Capital Punishment U.K., Female executions 2000 to date, <http://www.capitalpunishmentuk.org/women.html>, last accessed Jun. 22, 2018.

131 Mark Tran, Sudanese woman spared death sentence for apostasy arrives in Italy, The Guardian, <https://www.theguardian.com/world/2014/jul/24/sudanese-woman-meriam-ibrahim-spared-death-sentence-apostasy-italy>, Jul. 24, 2014.

132 Saroo Ijaz, Facing the Death Penalty for Blasphemy in Pakistan, Human Rights Watch, <https://www.hrw.org/news/2016/10/12/facing-death-penalty-blasphemy-pakistan>, Oct. 12, 2016.

133 Human Rights Watch, Pakistan: Allow Pardon for Blasphemy Victim, <https://www.hrw.org/news/2010/12/02/pakistan-allow-pardon-blasphemy-victim>, Dec. 2, 2010.

134 American Center for Law and Justice, Hope in the Appeal of Christian Mother Asia Bibi, <https://aclj.org/persecuted-church/high-court-offers-sign-of-hope-in-the-appeal-of-christian-mother-asia-bibi-currently-sentenced-to-execution-by-hanging-in-pakistan>, Apr. 24, 2018.

WOMEN IN VULNERABLE SITUATIONS FACING THE DEATH PENALTY

135 U.N. Office of the High Commissioner for Human Rights, Death penalty disproportionately affects the poor, U.N. rights experts warn, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22208&LangID=E>, Oct. 10, 2017.

136 International Cove. on Civil and Political Rights (ICCPR); Conv. on the Rights of the Child (CRC), art. 37(a). The CRC is one of the most widely ratified treaties in the world. Every U.N. member is a state party to this treaty, except the United States.

137 Sandra Babcock, "Deciding Who Lives and Who Dies: Eligibility for Capital Punishment Under National and International Law," p. 5, Unpublished manuscript on file with the Cornell Center on the Death Penalty Worldwide.

138 The failure of courts to exercise sentencing leniency in response to gender-based violence is evident in many countries. See Penal Reform Intl., Women who kill in response to domestic violence: How do criminal justice systems respond, https://www.penalreform.org/wpcontent/uploads/2016/04/Women_who_kill_in_response_to_domestic_violence_Full_report.pdf, Apr. 2016.

- 139 For example, in 2005, a UNICEF study found that in India, 67% of women married before the age of 18 experienced domestic violence. In Zambia, 58% of women married before the age of 18 experience domestic violence. In Kenya, 40.4% of child brides experience domestic violence. UNICEF, *Early Marriage: A Harmful Traditional Practice*, p. 40, https://www.unicef.org/publications/files/Early_Marriage_12.lo.pdf, 2005.
- 140 Nawal M. Nour, *Health Consequences of Child Marriage in Africa*, Centers for Disease Control, https://wwwnc.cdc.gov/eid/article/12/11/06-0510_article, Nov. 2006.
- 141 The ECOWAS Court ruled that it did not have competence to order Nigeria to vacate the death sentence. Instead, it ordered a stay in the execution. *Maimuna Abdulmumini v. Federal Republic of Nigeria, Kastina State Government, and the Nigerian Prisons Service*, Decision secs. 1–2, ECW/CCJ/jud/14/14, Community Ct. of Justice, ECOWAS, Jun. 10, 2014.
- 142 Jude Igbanoi, *Maimuna the Child Bride in Katsina Finally Released from Death Row*, <https://www.pressreader.com/nigeria/thisday/20160913/281981787045628>, Sep. 13, 2016.
- 143 Name changed to safeguard the prisoner's anonymity.
- 144 Although she was a minor when she committed the crime, and Iran is a State party to the Convention on Rights of the Child, article 91 of Iran's Islamic Penal Code provides that the death penalty may apply to minors if they "understand" the crime they committed. Iran Human Rights Documentation Center, English Translation of Books I & II of the New Islamic Penal Code, art. 91, <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html#16>, Apr. 8, 2014.
- 145 Hossein Raeesi, criminal defense lawyer, Interview with the Cornell Center on the Death Penalty Worldwide, Feb. 10, 2015.
- 146 Ibid.
- 147 Name changed to safeguard the prisoner's anonymity.
- 148 Lela Ruabuganda, Interview with Cornell Center on the Death Penalty Worldwide, Nov. 16, 2017.
- 149 Internal memorandum on the case of Mary Raziki, Cornell Center on the Death Penalty Worldwide, Nov. 24, 2017.
- 150 Name changed to safeguard the prisoner's anonymity.
- 151 LBH Masyarakat, *Research Report to the Cornell Center on the Death Penalty Worldwide*, Sep. 25, 2017.
- 152 Jennifer Bronson and Marcus Berzofsky, *Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12*, Bureau of Justice Statistics, U.S. Dept. of Justice, <https://www.bjs.gov/content/pub/pdf/imhprpj1112.pdf>, Jun. 2017.
- 153 Prison Reform Trust, *Bromley Briefings Prison Factfile*, p. 22, <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Autumn%202017%20factfile.pdf>, Autumn 2017.
- 154 World Health Organization Regional Office for Europe, *Health in Prisons: a WHO Guide to the Essentials in Prison Health*, EUR/07/5063925, 2007.
- 155 Center on the Death Penalty Worldwide, *International Legal Issue: Mental Illness*, <http://www.deathpenaltyworldwide.org/mental-illness.cfm>, Dec. 20, 2011,.
- 156 U.N. Office of the High Commissioner for Human Rights, *The Question of the Death Penalty*, para. 7(c), Resolution 2005/59, Apr. 20, 2005.
- 157 Name changed to safeguard the prisoner's anonymity.
- 158 *Maiche v. Republic*, MWHC 559, High Ct. of Malawi, 9 of 2016, Jul. 11, 2016.
- 159 Jack Britton, *Capital Punishment, Human Rights, and Indonesia's Chance for the Moral High Ground*, *The Diplomat*, <https://thediplomat.com/2018/04/capital-punishment-human-rights-and-indonesias-chance-for-the-moral-high-ground/>, Apr. 3, 2018. Human Rights Watch, U.N. experts urge UAE to quash the death sentence against a woman migrant domestic worker, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21462&langID=E>, Mar. 30, 2017.
- 160 Anonymous Source, Interview with the Cornell Center on the Death Penalty Worldwide.
- 161 Ibid. U.S. State Dept., *United Arab Emirates 2015 Human Rights Report*, pp. 4, 7, 8, <https://www.state.gov/documents/organization/253163.pdf>, 2015.
- 162 U.N. Office on Drugs and Crime, *Handbook on Women and Imprisonment*, https://www.unodc.org/documents/justice-and-prison-reform/women_and_imprisonment_-_2nd_edition.pdf, Mar. 2014.
- 163 Human Rights Watch, *"I Already Bought You": Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates*, <https://www.hrw.org/report/2014/10/22/i-already-bought-you/abuse-and-exploitation-female-migrant-domestic-workers-united>, Oct. 22, 2014.
- 164 Ibid. Expat faces death by stoning after admitting in court to cheating on husband, 7 days in Dubai, <https://uk.news.yahoo.com/expat-faces-death-stoning-admitting-201113329.html?guccounter=1>, May 6, 2014.
- 165 Amnesty Intl., *Death Sentences and Executions in 2015*, p. 8, ACT 50/3487/2016, Apr. 6, 2016.
- 166 Human Rights Watch, *Saudi Arabia's Attack on Foreign Domestic Workers*, <https://www.amnestyusa.org/saudi-arabias-attack-on-foreign-domestic-workers/>, last accessed Jun. 29, 2018.
- 167 Amnesty Intl., *Death Sentences and Executions in 2015*, p. 8, ACT 50/3487/2016, Apr. 6, 2016.
- 168 U.N. Office of the High Commissioner for Human Rights, *Death penalty disproportionately affects the poor*, U.N. rights experts warn, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22208&langID=E>, Oct. 10, 2017.
- 169 U.N. Office on Drugs and Crime, *Handbook on Women and Imprisonment*, https://www.unodc.org/documents/justice-and-prison-reform/women_and_imprisonment_-_2nd_edition.pdf, Mar. 2014.
- 170 Tomris Atabay, *Handbook for Prison Managers and Policymakers on Women and Imprisonment*, U. N. Office on Drugs and Crime, p. 8, <https://www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf>, 2008.
- 171 National Law University Delhi Project 39A, *The Death Penalty India Report 2016*, Vol. I, pp. 101, https://issuu.com/p39a/docs/dpir_volume_1, May 6, 2016.
- 172 Ibid at 115.
- 173 Ibid at 115.
- 174 Ibid. at 117.
- 175 Angela Uwandu, Head of Office of Avocats Sans Frontières France, Nigeria Office, Email to DPW, Mar. 19, 2015.
- 176 Anonymous Source, Interview with Cornell Center on the Death Penalty Worldwide, Mar. 20, 2015.

177 Abdellah Mouseddad, affiliated with Association marocaine des droits humains, Email to the Cornell Center on the Death Penalty Worldwide, Mar. 22, 2015.

178 Tanya Murshed, affiliated with Evolve, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 18, 2015.

179 Danthong Breen, affiliated with Union of Civil Liberties, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 23, 2015.

180 *McCleskey v. Kemp*, 481 U.S. 279, U.S. Supreme Ct., Apr. 22, 1987; Death Penalty Information Center, Race and the Death Penalty, <https://deathpenaltyinfo.org/race-and-death-penalty>. Katherine Beckett and Heather Evans, The Role of Race in Washington State Capital Sentencing, 1981-2012, <https://deathpenaltyinfo.org/documents/WashRaceStudy2014OldVersion.pdf>, Jan. 27, 2014.

181 *Miller-El v. Dretke*, 545 U.S. 231, 253 U.S. Supreme Ct., 2005.

182 *Ibid.* at 238.

183 Amnesty Intl., Death Sentences and Executions in 2013, ACT 50/001/2014, Mar. 26, 2014.

PRISON CONDITIONS FOR WOMEN UNDER SENTENCE OF DEATH

184 U.N. Office of the High Commissioner for Human Rights et al., A Practitioner's Toolkit on Women's Access to Justice Programming, Module 4, Women in Conflict with the Law, pp. 10–11, http://www.ohchr.org/Documents/Publications/PractitionerToolkit/WA2J_Module4.pdf, 2018. U.N. Committee on the Elimination of Discrimination against Women, General Recommendation on Women's Access to Justice, U.N. Doc. CEDAW/C/GC/33, Jul. 23, 2015.

185 ICCPR, art. 10, 999 U.N.T.S. 171, Dec. 16, 1966. U.N. Human Rights Committee, General Comment No. 21: Article 10 (Humane Treatment of Persons Deprived of Their Liberty), para. 3, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I), Apr. 10, 1992.

186 Penal Reform Intl. and the Thailand Institute for Justice, Women in Detention: Putting the U.N. Bangkok Rules on women prisoners into practice, p. 12, https://www.penalreform.org/wp-content/uploads/2017/02/PRI_BR_Workbook_WEB_lowres-1.pdf, 2017.

187 ICCPR, art. 6(5), 999 U.N.T.S. 171, Dec. 16, 1966. Cornell Center on the Death Penalty Worldwide, International Legal Issue: Women, <http://www.deathpenaltyworldwide.org/women.cfm>, last accessed May 31, 2018.

188 Prot. to the African Charter on Human and People's Rights on the Rights of Women in Africa, art. 4, OAU Doc. CAB/LEG/66.6, Jul. 11, 2003.

189 African Charter on the Rights and Welfare of the Child, art. 30(e), OAU Doc. CAB/LEG/24.9/49, Jul. 11, 1990.

190 Arab Charter on Human Rights, art. 12, Sep. 15, 1994.

191 Cornell Center on the Death Penalty Worldwide, International Legal Issue: Women, <http://www.deathpenaltyworldwide.org/women.cfm>, Jan. 25, 2012.

192 Prot. to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, art. 4, OAU Doc. CAB/LEG/66.6, Jul. 11, 2003. African Charter on the Rights and Welfare of the Child, art. 30(e), OAU Doc. CAB/LEG/24.9/49, Jul. 11, 1990.

193 Arab Charter on Human Rights, art. 12, Sep. 15, 1994.

194 Cornell Center on the Death Penalty Worldwide, Death Penalty Worldwide Database. China, Comoros, Cuba, Saint Lucia have signed but not ratified. Antigua and Barbuda, Brunei, Malaysia, Myanmar, Oman, Saint Kitts and Nevis, Saudi Arabia, Singapore, South Sudan, Tonga, and the United Arab Emirates have neither signed nor ratified.

195 Only three of the 54 eligible states have not signed or ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and only four of the 54 eligible states have not signed or ratified the African Charter on the Rights and Welfare of the Child. African Union Ratification Table: Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, <http://www.achpr.org/instruments/women-protocol/ratification/>, last accessed May 31, 2018. African Union, Ratification Table: African Charter on the Rights and Welfare of the Child, <http://www.achpr.org/instruments/child/ratification/>, last accessed May 31, 2018.

196 Kuwait, Morocco, and Oman have neither signed nor ratified the Arab Charter. Cornell Center on the Death Penalty Worldwide, Death Penalty Worldwide Database.

197 U.N. Office of the High Commissioner for Human Rights, Women and Detention, pp. 1–2, http://www.ohchr.org/Documents/Issues/Women/WRGS/OnePagars/Women_and_Detention.pdf, Sep. 2014.

198 ICCPR; CAT; United Nations Standard Minimum Rules for the Treatment of Prisoners; Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment; Basic Principles for the Treatment of Prisoners; United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules"); Safeguards Guaranteeing Protection of the Rights of those facing the Death Penalty; United Nations Standard Minimum Rules for Non-custodial Measures ("Tokyo Rules").

199 Bangkok Rule 1 states that policies developed for female prisoners do not constitute discrimination against male prisoners, thus affirming that states must take proactive measures to combat the disparate impact of prison policies on women and girls.

200 *Ibid.* at Rules 2, 6.

201 *Ibid.* at Rules 19–21.

202 *Ibid.* at Rule 22. United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Rule 67.

203 Bangkok Rules, Rules 13, 29, 32–35.

204 *Ibid.* at 29–30.

205 *Ibid.* at Rules 5, 11.

206 *Ibid.* at Rule 60.

207 *Ibid.* at Rules 12, 41.

208 *Ibid.* at Rules 4, 28, 43.

209 *Ibid.* at Rule 56.

210 *Ibid.* at Rules 36–39.

211 *Ibid.* at Rule 53.

212 *Ibid.* at Rule 54.

213 *Ibid.* at Rules 5, 15, 22, 42.

214 *Ibid.* at Rules 23.

215 *Ibid.* at Rules 49–52.

- 216** Ibid. at Rules 11.
- 217** Ibid. at Rules 74, 76, 81.
- 218** Ibid. at Rules 15, 16, 18–21.
- 219** Ibid. at Rule 48.
- 220** Ibid. at Rules 4, 58–60, 68, 70.
- 221** Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century (Vienna Declaration), para. 25, U.N. Doc. A/RES/55/59, Jan. 17, 2001.
- 222** Elizabeth Brundige, Violence against Women as a Cause and Consequence of Custody, https://www.duihua.org/wipconference/brundige_en.pdf, last accessed May 30, 2018. U.N. Committee on the Elimination of Discrimination against Women, General Recommendation No. 19: Violence Against Women, U.N. Doc. A/47/38, 1993, Declaration on the Elimination of Violence Against Women, art. 4(c), U.N. Doc. A/RES/48/104, Dec. 20, 1993. Tenth U.N. Congress on the Prevention of Crime and the Treatment of Offenders, para. 16, U.N. Doc. A/CONF.187/12, Women in the Criminal Justice System, Mar. 2, 2012.
- 223** Elizabeth Brundige, Violence against Women as a Cause and Consequence of Custody, https://www.duihua.org/wipconference/brundige_en.pdf, last accessed May 30, 2018. U.N.G.A., Intensification of efforts to eliminate all forms of violence against women, para. 8(f), U.N. Doc. A/RES/61/143, Dec. 19, 2006.
- 224** Abramova v. Belarus, para. 7.1, CEDAW Committee Communication No. 23/2009, U.N. Doc. CEDAW/C/49/D/23/2009, Sep. 27, 2011.
- 225** Ibid. at para. 7.5.
- 226** ICCPR, art. 7, 999 U.N.T.S. 171, Dec. 16, 1966. CAT, art. 2, 1465 U.N.T.S. 85, Dec. 10, 1984.
- 227** Olivia Rope, Popular as a victim, forgotten as a defendant, Penal Reform Intl. <https://www.penalreform.org/blog/popular-victim-forgotten-defendant/>, Feb. 18, 2013.
- 228** Report cover photo: "Sleeping conditions for women on death row in a provincial prison in Thailand." Photo taken in 2015 by Kulapa Vajanasara, affiliated with Women Prison Reform and Relevant Justice Systems, Thai Association of Population and Social Researchers, Mahidol University.
- 229** Danthong Breen, affiliated with Union of Civil Liberties, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 23, 2015.
- 230** Aman Sharma, More than 400 Prisoners Await the Death Sentence as Justice is Delayed, Daily Mail, <http://www.dailymail.co.uk/indiahome/indianews/article-2112877/More-400-prisoners-await-death-sentence-justice-delayed.html>, Mar. 9, 2012. Neeta Lal, Indian Jails Slammed as Purgatory for the Poor, Inter Press Services, <http://www.ipsnews.net/2016/08/indian-jails-slammed-as-purgatory-for-the-poor/>, Aug. 9, 2016.
- 231** U.N.G.A., 68th Session, Pathways to, conditions and consequences of incarceration for women, U.N. Doc. A/68/340, Aug. 21, 2013.
- 232** Anonymous Source, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul. 19, 2017.
- 233** LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 9, 2017.
- 234** Mandy Manda, affiliated with Law Association of Zambia National Legal Aid Clinic for Women, Interview with the Cornell Center on the Death Penalty Worldwide, Jun. 19, 2017.
- 235** The prison claims this practice is intended to prevent the inmate from committing suicide or hurting others. Nicola Macbean, affiliated with the Rights Practice, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 10, 2015.
- 236** Article 126 of the Sudanese Penal Code, on apostasy, provides that any Muslim who declares publicly that he/she has adopted any religion other than Islam commits the crime of apostasy and is punishable with the death penalty. However, the provision waives the death penalty if the convicted person reconverts to Islam. The Law Library of Congress, Laws Criminalizing Apostasy, <https://www.loc.gov/law/help/apostasy/index.php>, May 2014.
- 237** The Guardian, Meriam Ibrahim on giving birth in jail: 'Something has happened to the baby', <https://www.theguardian.com/world/2014/jul/01/meriam-ibrahim-child-disabled-born-shackled-floor>, Jul. 1, 2014.
- 238** Rose Chia Fonchingong, Stifled Justice in Cameroon: Detained for Six Years without Judgement, p. 27, Langaa RPCIG, 2016.
- 239** LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 9, 2017.
- 240** Ibid.
- 241** National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty Worldwide, Nov. 8, 2017.
- 242** Penal Reform Intl., Women in Prison: Incarcerated in a Man's World, Penal Reform Briefing, Nov. 3, 2008.
- 243** Nicola Macbean, affiliated with the Rights Practice, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 10, 2015.
- 244** Mandy Manda, affiliated with Law Association of Zambia National Legal Aid Clinic for Women, Interview with the Cornell Center on the Death Penalty Worldwide, Jun. 19, 2017. Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 8, 2017.
- 245** Tanya Murshed, affiliated with Evolve, Email to the Cornell Center on the Death Penalty Worldwide, Mar. 28, 2015. Tanya Murshed, affiliated with Evolve, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 18, 2015.
- 246** Vijay Hiermath, criminal defense lawyer, Interview with the Cornell Center on the Death Penalty Worldwide, Jan. 28, 2015.
- 247** Teng Biao, Interview with the Cornell Center on the Death Penalty Worldwide, Jul. 20, 2017.
- 248** LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 9, 2017.
- 249** Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 8, 2017.
- 250** National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty Worldwide, Nov. 8, 2017.
- 251** In the United States, at least three states keep their sole female death row inmate isolated in solitary confinement. Cassandra Abernathy, Research Report to the Cornell Center on the Death Penalty Worldwide, May 2018. Q&A: How are Death Row Inmates Treated Differently from Regular Prisoners?, Tampa Bay Times, <http://www.tampabay.com/news/humaninterest/qampa-how-are-death-row-inmates-treated-differently-from-regular-prisoners/1213865>, Feb. 5, 2012.
- 252** National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty Worldwide, Nov. 8, 2017.

253 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 9, 2017.

254 Penal Reform Intl., Women in Prison: Incarcerated in a Man's World, Penal Reform Briefing, No. 3, 2008.

255 Cheryl Sembie, Interview with the Cornell Center on the Death Penalty Worldwide, Jun. 26, 2018.

256 Maiko Tagusari, affiliated with Center for Prisoners' Rights, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 6, 2015.

257 Danthong Breen, affiliated with Union of Civil Liberties, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 23, 2015. Anonymous Source, Interview with the Cornell Center on the Death Penalty Worldwide, Feb. 2016.

258 Anonymous Source, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 20, 2015.

259 Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul.–Aug. 2017.

260 Anonymous Source, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul. 19, 2017.

261 Pamela Okoroigwe, Noel Brown, Abiodun Odusote, Interview with the Cornell Center on the Death Penalty Worldwide, Jun. 19, 2017.

262 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 9, 2017.

263 Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 8, 2017.

264 Rosemary Barberet, Women, Crime and Criminal Justice: A Global Enquiry, p. 165, Routledge, 2014.

265 Ibid.

266 Stephanie M. Topp et al., Health and healthcare access among Zambia's female prisoners: a health systems analysis, Intl. Journal for Equity in Health, Vol.15: 157, Sept. 26, 2016.

267 U.N. Office on Drugs and Crime, The United Nations Standard Minimum Rules for The Treatment of Prisoners (the Nelson Mandela Rules), Rule 81, U.N. Doc. A/Res/70/175, Dec. 17, 2015.

268 U.N. Office on Drugs and Crime, The United Nations Standard Minimum Rules for The Treatment of Prisoners (the Nelson Mandela Rules), Rule 81, U.N. Doc. A/Res/70/175, Dec. 17, 2015.

269 Nicola Macbean, affiliated with the Rights Practice, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 10, 2015.

270 Johnson John Mbwapo, Legal and Human Rights Centre, Tanzania, Interview with the Cornell Center on the Death Penalty Worldwide, Jun. 14, 2017.

271 Maryam Hosseinkhah, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, Iran Human Rights Documentation Center, <http://www.iranhrdc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html>, May 7, 2012.

272 Shamas Jalil, affiliated with Strengthening Participatory Organization, Interview with Justice Project Pakistan, Jul. 25, 2017, cited in Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul.-Aug. 2017. Anonymous Source, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul. 19, 2017.

273 Cassandra Abernathy, Research Report to the Cornell Center on the Death Penalty Worldwide, May 2018. Pamela Okoroigwe, Noel Brown, Abiodun Odusote, Interview with the Cornell Center on the Death Penalty Worldwide, Jun. 19, 2017.

274 For example, Arizona Dept. of Corrections, Death Row Information and Frequently Asked Questions, <https://corrections.az.gov/public-resources/death-row/death-row-information-and-frequently-asked-questions>, last accessed Jun. 28, 2018.

275 Angela Uwandu, Interview with the Cornell Center on the Death Penalty, Mar. 19, 2015.

276 Maiko Tagusari, affiliated with Center for Prisoners' Rights, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 6, 2015.

277 Anonymous Source, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 20, 2015.

278 National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty Worldwide, Nov. 8, 2017.

279 Bangkok Rule 46 provides that prisons have responsibility to design and implement pre- and post-release reintegration programs, taking into account women's gender-specific needs. U.N. Office on Drugs and Crime, The Bangkok Rules, Rule 46, A/RES/65/229, Mar. 16, 2011.

280 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 9, 2017.

281 Anonymous Source, Interview with the Cornell Center on the Death Penalty Worldwide, Jun. 19, 2017.

282 Danthong Breen, affiliated with Union of Civil Liberties, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 23, 2015.

283 Amnesty Intl., Locked Up and Forgotten: The Need to Abolish the Death Penalty in Ghana, p. 6, ACT 50/6268/2017, Jul. 12, 2017.

284 Megha Mohan, Susan Kigula: The Woman Who Freed Herself and Hundreds from Death Row, BBC News, <https://www.bbc.com/news/stories-43739933>, Apr. 13 2018.

285 Tanya Murshed, affiliated with Evolve, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 18, 2015.

286 Ibid. Tanya Murshed, affiliated with Evolve, Email to the Cornell Center on the Death Penalty Worldwide, Mar. 28, 2015.

Country Case Studies

India

287 National Law University Delhi Project 39A, Email to the Cornell Center on the Death Penalty Worldwide, Jun. 25, 2018.

288 National Law University Delhi Project 39A, Prisoners currently under death sentence, <https://www.project39a.com>, last accessed Aug. 17, 2018.

289 Cornell Center on the Death Penalty Worldwide, India, <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=India>, Mar. 4, 2014.

290 BBC, India executes Mumbai bomb plotter Yakub Memon, <http://www.bbc.com/news/world-asia-india-33713407>, Jul. 30, 2015.

291 National Law University Delhi Project 39A, Prisoners currently under death sentence, <https://www.project39a.com>, last accessed Aug. 17, 2018.

292 National Law University Delhi Project 39A, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 24, 2018.

293 National Law University Delhi Project 39A, Death Penalty India Report 2016, Vol 1, p. 53, https://issuu.com/p39a/docs/dpir_volume_1, May 6, 2016.

294 Bacham Singh v. State of Punjab, para. 224, 1983(1) SCR 145(a), Supreme Ct. of India, May 9, 1980.

295 National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty, Jun. 30, 2018.

296 The Anti-Hijacking Act, 2016, sec. 4, Act No. 30 of 2016, May 13, 2016.

297 Criminal Law (Amendment) Act, 2013, sec. 376E, Act No. 13 of 2013, Apr. 2, 2013. Further, in August 2018, the Parliament of India passed legislation providing for the death penalty for those convicted of raping a child under 12 years of age. The Times of India, Parliament passes bill to provide death to child rape convicts, http://timesofindia.indiatimes.com/articleshow/65296252.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst, Aug. 6, 2018.

298 National Law University Delhi Project 39A, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 24, 2018.

299 The Hindu, Death sentence upheld in Mumbai blasts case, <http://www.thehindu.com/news/national/Death-sentence-upheld-in-Mumbai-blasts-case/article13302108.ece>, Feb. 10, 2012. Aditi Raja, Bombay High Court upholds death penalty for 3 convicts in 2003 twin blasts case, <https://www.indiatoday.in/mail-today/story/bombay-high-court-upholds-death-penalty-for-3-convicts-in-2003-blasts-case-92706-2012-02-11>, Feb. 11, 2012.

300 BBC, India court puts on hold sisters' execution, <https://www.bbc.com/news/world-asia-india-28876186>, Aug. 21, 2014.

301 Hindustan Times, Supreme Court stays couple's execution in human sacrifice case, <https://www.hindustantimes.com/india-news/supreme-court-stays-couple-s-execution-in-human-sacrifice-case/story-k8AqSmGMgeMr4i8ozKVzQJ.html>, Aug. 17, 2017. The Times of India, HC admits plea by six death row convicts, <https://timesofindia.indiatimes.com/city/nagpur/hc-admits-plea-by-six-death-row-convicts/articleshow/61107965.cms>, Oct. 17, 2017.

302 National Law University Delhi Project 39A, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 24, 2018.

303 Ibid.

304 India's caste system divided Hindus into hierarchical groups based on their dharma (duty) and karma (work). Caste dictated most aspects of religious and social life in India for centuries. For instance, upper and lower castes lived in segregated colonies and one could marry only within one's caste. After independence, the Constitution of India banned discrimination on the basis of caste, and the government started affirmative action programs to correct historical injustices and discrimination. In recent years, the influence of caste in social life has declined, especially in cities where castes live together. Nevertheless, caste identities and dynamics remain strong in many areas of the country. BBC, What is India's caste system?, <https://www.bbc.com/news/world-asia-india-35650616>, Jul. 20, 2017.

305 Padmini Sivarajah, Honour killing: TN couple get death sentence, Times of India, <https://timesofindia.indiatimes.com/city/chennai/honour-killing-tn-couple-get-death-sentence/articleshow/56442880.cms>, Jan. 10, 2017. The Independent, Killing in the name of love: Seven funerals and a wedding, <https://www.independent.co.uk/news/world/asia/killing-in-the-name-of-love-seven-funerals-and-a-wedding-1792302.html>, Sept. 24, 2009. Uma Vishnu, Shabnam &

Saleem: The relationship that claimed seven lives of a family, Indian Express, <https://indianexpress.com/article/india/india-others/sunday-story-shabnam-saleem-the-amroha-murders/>, Jun. 7, 2015.

306 Linklaters LLP for Penal Reform Intl., Women who kill in response to domestic violence: How do criminal justice systems respond?, p. 7, Penal Reform Intl., https://www.penalreform.org/wp-content/uploads/2016/04/Women_who_kill_in_response_to_domestic_violence_Full_report.pdf, 2016.

See Anuj Jermi v. State by Inspector of Police, 3 MWL (Cr.) 161, Madras High Ct., Aug. 1, 2012. Rina Garh v. State of Assam, SCC OnLine Gau 424, Guwahati High Ct., Feb. 22, 2013. Madhu Gupta v. State N.C.T. of Delhi, SCC OnLine Del 9228, Delhi High Ct., Jul. 21, 2017.

307 Champa Rani Mondal v. State of West Bengal, (2000) 10 SCC 608, Supreme Ct. of India, Sep. 16, 1998.

308 Madhu Gupta v. State N.C.T. of Delhi, para. 2, CRL.A. 357/2017, Delhi High Ct., Jul. 21, 2017.

309 Linklaters LLP for Penal Reform International, Women who kill in response to domestic violence: How do criminal justice systems respond?, p. 55, Penal Reform International, https://www.penalreform.org/wp-content/uploads/2016/04/Women_who_kill_in_response_to_domestic_violence_Full_report.pdf, 2016.

310 India Prisons Act, sec. 30(2), Act IX of 1894, Jul. 1, 1894.

311 Sunil Batra v. Delhi Administration & Ors, para. 223, 4 SCC 494, Supreme Ct. of India, Aug. 30, 1978.

312 National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty, Nov. 8, 2017.

313 Ibid.

314 Dhruvo Jyoti & Roshni Nair, Tales from former inmates: What life is like in a women's jail in India, Hindustan Times, <https://www.hindustantimes.com/india-news/tales-from-former-inmates-what-life-is-like-in-a-women-s-jail-in-india/story-UBBSj0N5yz2VskZpqgGiLK.html>, Jul. 26, 2018.

315 Ibid.

316 National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty, Nov. 8, 2017.

317 Ibid.

318 Ibid.

319 Ibid.

320 Ibid.

321 National Law University Delhi Project 39A, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 24, 2018.

322 National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty, Nov. 8, 2017.

323 The Model Prison Manual of India was approved in 2016 with the objective to unify rules and regulations governing the administration and management of prisoners in India. Neeraj Santoshi, With new prison manual out, state mulls amendments to its prison rules, Hindustan Times, <https://www.hindustantimes.com/bhopal/with-new-prison-manual-out-state-mulls-amendments-to-its-prison-rules/story-6FVp7IcUVsOT0gWzztBaaP.html>, Nov. 9, 2016.

324 National Law University Delhi Project 39A, Research Report to the Cornell Center on the Death Penalty, Nov. 8, 2017. Dhruvo Jyoti & Roshni Nair, Tales from

former inmates: What life is like in a women's jail in India, Hindustan Times, <https://www.hindustantimes.com/india-news/tales-from-former-inmates-what-life-is-like-in-a-women-s-jail-in-india/story-UBBSj0N5yz2VskZpqqGiLK.html>, Jul. 26, 2018.

325 Name changed to safeguard the prisoner's anonymity.

326 Court documents provided by lawyers who have requested to remain anonymous.

327 Court documents provided by lawyers who have requested to remain anonymous.

328 Court documents provided by lawyers who have requested to remain anonymous.

Indonesia

329 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017.

330 Ibid.

331 Ibid.

332 Amnesty Intl., Death Sentences and Executions in 2016, p. 5, ACT 50/5740/2017, Apr. 11, 2017.

333 Amnesty Intl., Death Sentences and Executions in 2017, p. 9, ACT 50/7955/2018, Apr. 12, 2018.

334 Penal Code of Indonesia, art. 340, 1915, as amended to May 19, 1999.

335 Ibid. at arts. 362, 365.

336 Law on Narcotics of Indonesia, arts. 113, 114, 116, 118, 119, 121, 133, Law No. 35 of 2009, Oct. 12, 2009.

337 Law on the Eradication of Corruption of Indonesia, art. 2(2), Law No. 31 of 1999, as amended by Law No. 20 of 2001.

338 Penal Code of Indonesia, arts. 438-441, 444, 479, 1915, as amended to May 19, 1999.

339 In 2017, 33 out of 47 death sentences were imposed for drug related offenses and 14 for murder. Amnesty Intl., Death Sentences and Executions 2017, p. 21, ACT 50/7955/2018, Apr. 12, 2018.

340 Amnesty Intl., Indonesia: First execution in four years "shocking and regressive", www.amnesty.org/en/latest/news/2013/03/indonesia-first-execution-four-years-shocking-and-regressive/, Mar. 15, 2013.

341 Amnesty Intl., Death Sentences and Executions in 2013, p. 7, ACT/50/001/2014, Mar. 27, 2014. Amnesty Intl., Flawed Justice: Unfair Trials and the Death Penalty in Indonesia, pp. 27-29, ASA 21/2434/2015, Oct. 15, 2015. Amnesty Intl., Death Sentences and Executions in 2016, p. 21, ACT/50/5740/2017, Apr. 11, 2017. Penal Code of Indonesia, art. 11, Law No. 732 of 1915, as amended by Law No. 27 of 1999, May 19, 1999. LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017.

342 Bridie Jabour, Joko Widodo defends death penalty as 'positive' for Indonesia, The Guardian, <https://www.theguardian.com/world/2015/may/10/joko-widodo-defends-death-penalty-as-positive-for-indonesia>, May 5, 2015. Later in 2016, Widodo started talking about rethinking the death penalty in Indonesia and moving towards abolition. Phelim Kine, Indonesia President Jokowi May Rethink Death Penalty Policy, Human Rights Watch, <https://www.hrw.org/news/2016/11/10/indonesia-president-jokowi-may-rethink-death-penalty-policy>, Nov. 10, 2016.

343 Kate Lamb, Indonesia kills four prisoners in first executions in a year, The Guardian, www.theguardian.com/world/2016/jul/28/indonesia-mass-execution-prisoners, Jul. 29, 2016.

344 Amnesty Intl., Death Sentences and Executions in 2017, p. 21, ACT 50/7955/2018, Apr. 12, 2018.

345 Jennifer Fleetwood and Lizzie Seal, Women, Drugs and the Death Penalty: Framing Sandiford, p.373, The Howard Journal of Crime and Justice, Vol. 56 No.3, doi:10.1111/hojo.12215, Sept. 2017.

346 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017.

347 Ibid.

348 Ibid.

349 Jennifer Fleetwood and Lizzie Seal, Women, Drugs and the Death Penalty: Framing Sandiford, p.373, The Howard Journal of Crime and Justice, Vol. 56 No.3, doi:10.1111/hojo.12215, Sept. 2017.

350 Ibid.

351 Name changed to safeguard the prisoner's anonymity.

352 Ibid.

353 LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide, Sep. 25, 2017.

Jordan

354 Iyad Alqaisi, Email to the Cornell Center on the Death Penalty Worldwide, Jun. 27, 2018.

355 Iyad Alqaisi, Email to the Cornell Center on the Death Penalty Worldwide, Oct. 11, 2017, citing figures obtained from Official from Dept. of Correction and Rehabilitation Centers on Oct. 10, 2017.

356 Amnesty Intl., Death Sentences and Executions in 2014, ACT 50/001/2015, Mar. 31, 2015. AFP, Jordan hangs 11 men after eight-year halt to death penalty, The Guardian, www.theguardian.com/world/2014/dec/21/jordan-hangs-11-men-death-penalty, Dec. 21, 2014.

357 Eleven people were executed in 2014, two people were executed in 2015, none in 2016, and 15 are known to have been executed as of Nov. 2017. Amnesty Intl., Death Sentences and Executions in 2014, p. 5, ACT 50/001/2015, Mar. 31, 2015. Amnesty Intl., Death Sentences and Executions in 2015, p. 6, ACT 50/3487/2016, Apr. 6, 2016. Amnesty Intl., Death Sentences and Executions in 2016, p. 30, ACT 50/5740/2017, Apr. 11, 2017. Amnesty Intl., Death Sentences and Executions in 2017, p. 32, ACT 50/7955/2018, Apr. 12, 2018.

358 Amnesty Intl., Killing of Jordanian pilot 'abhorrent' but 'revenge executions' not the answer, <https://www.amnesty.org/en/latest/news/2015/02/killing-jordanian-pilot-abhorrent-revenge-executions-not-answer>, Feb. 4, 2015.

359 Al Jazeera, Jordan Hangs 15 Convicts at Dawn, Most in Years, www.aljazeera.com/news/2017/03/jordan-hangs-15-convicts-dawn-years-170304065547230.html, Mar. 4, 2017.

360 Cornell Center on the Death Penalty Worldwide, Death Penalty Database: Jordan, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Jordan>, Jun. 28, 2013.

361 Amnesty Intl., Death Sentences and Executions in 2014, p. 11, ACT 50/001/2015, Mar. 31, 2015. Amnesty Intl., Death Sentences and Executions in

2015, p. 11, ACT 50/3487/2016, Apr. 6, 2016. Amnesty Intl., Death Sentences and Executions in 2017, p. 32, ACT 50/7955/2018, Apr. 12, 2018.

362 Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 8, 2017.

363 Ibid.

364 Iyad Alqaisi, Email to the Cornell Center on the Death Penalty Worldwide, May 31, 2018.

365 See section V of this report: Women in Vulnerable Situations Facing the Death Penalty.

366 Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 8, 2017.

367 Jordan Penal Code, art. 340, Law No. 16 of 1960, Nov. 5, 1960.

368 Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul. 02, 2018.

369 Jordan Penal Code, arts. 97-98, Law No. 16 of 1960, Nov. 5, 1960.

370 Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 8, 2017.

371 Ibid.

372 Ibid.

373 Ibid.

374 U.N. Committee Against Torture, Concluding Observations on the Third Periodic Report of Jordan, p. 9, CAT/C/JOR/CO/3, Jan. 29, 2016.

375 Jo Baker and Elna Søndergaard, Conditions for Women in Detention in Jordan: Needs, vulnerabilities and good practices, p. 25, DIGNITY Publication Series on Torture and Organised Violence, No. 9, 2015.

376 Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 8, 2017.

377 Ibid.

378 Jo Baker and Elna Søndergaard, Conditions for Women in Detention in Jordan: Needs, vulnerabilities and good practices, p. 32, DIGNITY Publication Series on Torture and Organised Violence, No. 9, 2015.

379 National Centre for Human Rights, The Status of Female Inmates at Reform and Rehabilitation Centers in Jordan, pp. 35-36, <http://jordan.unwomen.org/-/media/field%20office%20jordan/attachments/what-we-do/evaw/status%20of%20female%20inmates.pdf>, Sep. 2014.

380 Iyad Alqaisi, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 8, 2017.

381 All names have been changed for anonymity.

Malawi

382 All four women were released through a multi-year re-sentencing project arising from the Kafantayeni judgment in 2007. Sandra Babcock, Director of the International Human Rights Clinic at Cornell Law School, Interview with Cornell Center on the Death Penalty Worldwide, Aug. 23, 2018.

383 Ibid.

384 Amnesty Intl., Death Sentences and Executions in 2014, p. 65, ACT 50/001/2015, Mar. 31, 2015.

385 Cornell Center on the Death Penalty Worldwide, Justice Denied: A Global Study of Wrongful Death Row Convictions, p. 34,

http://www.deathpenaltyworldwide.org/pdf/innocence_clinic_report_2018_R4_final.pdf, Jan. 2018.

386 Anonymous Source, Research Report to the Cornell Center on the Death Penalty, Jul. 19, 2017.

387 Ibid.

388 Michael Mambo, Muna Meky, Nobuyuki Tanaka & Jamil Salmi, Improving Higher Education in Malawi for Competitiveness in the Global Economy, p. 8, World Bank Group, 2016. Anonymous Source, Research Report to the Cornell Center on the Death Penalty, Jul. 19, 2017.

389 World Bank, Literacy rate adult female (% of females ages 15 and above), <https://data.worldbank.org/indicator/SE.ADT.LITR.FE.ZS?locations=MW&view=chart>, last accessed Apr. 11, 2018.

390 Human Rights Watch, Child Marriage in Malawi, <https://www.hrw.org/report/2014/03/06/five-never-experienced-happiness/child-marriage-malawi>, Mar. 6, 2014.

391 Julinda Begiraj and Lawrence McNamara, International Access to Justice – Legal Aid for the Accused and Redress for Victims of Violence: A Report by the Bingham Centre for the Rule of Law, p. 23, Bingham Centre for the Rule of Law, <https://www.ibanet.org/Document/Default.aspx?DocumentUid=34DF3894-3BC7-484A-9ADE-97BE778321E5>, Oct. 2015. Anonymous Source, Research Report to the Cornell Center on the Death Penalty, Jul. 19, 2017.

392 Kafantayeni and Others v. Attorney General, Constitutional Case No. 12 of 2005, High Ct. of Malawi, 2007.

393 Chimanya v. The Republic, p. 5, MSCA Crim. App. No. 8 of 2006, Supreme Ct. of Appeal at Blantyre, 2009.

394 Malawi Penal Code, secs. 38, 210, Act 22 of 1929, Laws of Malawi Ch. 7:01, as amended through to 2012.

395 Sandra Babcock, Director of the International Human Rights Clinic at Cornell Law School, Interview with Cornell Center on the Death Penalty Worldwide, Aug. 23, 2018.

396 Anonymous Source, Research Report to the Cornell Center on the Death Penalty, Jul. 19, 2017.

397 Annie Chikusa, Prison Guard at Zomba Central Prison, Interview with the Cornell Center on the Death Penalty Worldwide, Jul. 18, 2017.

398 Ibid.

399 Alice Nungu, prisoner at Zomba Prison, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 21, 2010.

400 Tamer Massalha, Memo to the Cornell Center on the Death Penalty Worldwide, Mar. 10, 2014.

401 Reprieve, Immediate release in Malawi, <https://reprieve.org.uk/alice-nungu-immediate-release-in-malawi/>, last accessed Aug. 17, 2018.

402 Alice Nungu, prisoner at Zomba Prison, Interview with the Cornell Center on the Death Penalty Worldwide, Mar. 21, 2010.

Pakistan

403 Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul.–Aug. 2017.

404 BBC News, Pakistan ends death penalty suspension after seven years, <http://www.bbc.com/news/world-asia-31812177>, Mar. 10, 2015. Initially, the

moratorium was only lifted for terrorism cases in November 2015. The moratorium was then lifted for all capital cases in March 2015. Justice Project Pakistan and Allard K. Lowenstein International Human Rights Clinic, A "Most Serious Crime" Pakistan's Unlawful Use of the Death Penalty, https://law.yale.edu/system/files/area/center/schell/2016_09_23_pub_dp_report.pdf, Sep. 2016.

405 Justice Project Pakistan, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 27, 2018.

406 Justice Project Pakistan, Death Row, <http://www.jpp.org.pk/death-row/>, last accessed Aug. 15, 2018.

407 Justice Project Pakistan, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 27, 2018.

408 The most notorious case in Pakistan is the one involving Asia Bibi, who was convicted for blasphemy in 2010. Bibi is a Christian mother and farmworker in Pakistan, and was accused by her Muslim co-worker of making derogatory comments about the Muslim prophet Mohammed. The case received national attention because it exemplifies how the charge has been deployed to intimidate religious minorities. Two politicians, a federal minister and provincial governor, who condemned Bibi's treatment were murdered by right wing fanatics. Bibi's death sentence has been appealed, and she awaits final determination after many delays. Zoya Mateen, It's Been 9 Years Since Asia Bibi Was Arrested On Blasphemy Charges For Sharing Water With Muslim Women, News 18, <https://www.news18.com/news/buzz/its-been-9-years-since-asia-bibi-was-arrested-on-blasphemy-charges-for-sharing-water-with-muslim-women-1783129.html>, Jun. 19, 2018.

409 Justice Project Pakistan, Interview with the Cornell Center on the Death Penalty Worldwide, Aug. 27, 2018.

410 Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul.–Aug. 2017.

411 Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul.–Aug. 2017.

412 Ibid. The prisoner interviewed was sentenced to death in 2011 by the Anti-Terrorism Court, which she immediately appealed. Her case has not yet been heard by the appellate court, the High Court.

413 Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul.–Aug. 2017.

414 Haseeb Bhatti, Supreme Court Acquits Three People on Murder Charges in 2009 Case, Dawn, <https://www.dawn.com/news/1351899>, Aug. 16, 2017.

415 Durdana Najam, Torture rampant in Pakistan jails, police cells: rights experts, News Lens, <http://www.newslens.pk/custodial-torture-used-with-impunity-by-law-enforcers-due-to-legal-gaps/>, Jun. 1, 2016.

416 Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul.–Aug. 2017.

417 Ibid.

418 Ibid. Citing to Mst. Nishat Shaheen, 2005 YLR 1691, Lahore and Sumaira Ashraf vs. The State, 2013 MLD 1197 Lahore.

419 Ibid.

420 Ibid.

421 Ibid.

422 Ibid.

423 Reprieve, Khadija Shah, <https://reprieve.org.uk/case-study/khadija-shah>, last accessed Aug. 21, 2018.

424 Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Jul.–Aug. 2017.

425 Ibid.

426 Sher Muhammad, 'Mr President, Grant Mercy to My daughter Who Was Tortured into a False Murder Confession', Dawn, <https://www.dawn.com/news/1400952>, Apr 21, 2018.

427 Justice Project Pakistan, Interview with the Cornell Center on the Death Penalty Worldwide, Briefing on Kanizan Bibi, Jul. 23, 2015.

428 Sher Muhammad, 'Mr President, Grant Mercy to My daughter Who Was Tortured into a False Murder Confession', Dawn, <https://www.dawn.com/news/1400952>, Apr 21, 2018.

429 Rana Tanveer, Will Kanizan Be the First Woman to be Executed?, The Express Tribune, <https://tribune.com.pk/story/908184/will-kanizan-be-the-first-woman-to-be-executed>, Jun. 23, 2015.

430 Sher Muhammad, 'Mr President, Grant Mercy to My daughter Who Was Tortured into a False Murder Confession', Dawn, <https://www.dawn.com/news/1400952>, Apr 21, 2018.

431 Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 4, 2017.

432 Sher Muhammad, 'Mr President, grant mercy to my daughter who was tortured into a false murder confession', Dawn, <https://www.dawn.com/news/1400952>, Apr. 21, 2018.

433 Justice Project Pakistan, Research Report to the Cornell Center on the Death Penalty Worldwide, Aug. 4, 2017.

United States of America

434 National Association for the Advancement of Colored People, Death Row U.S.A. Fall 2017, http://www.naacpldf.org/files/case_issue/DRUSAFall2017_.pdf, Oct. 1, 2017. The states with women on death row are: Alabama (5); Arizona (3); California (22); Florida (3); Idaho (1); Indiana (1); Kentucky (1); Louisiana (1); Mississippi (1); North Carolina (3); Ohio (1); Oklahoma (1); Oregon (1); Pennsylvania (2); Tennessee (1); Texas (6); and the Federal U.S. Government (1).

435 Amnesty Intl., The Death Penalty in 2017: Facts and Figures, <https://www.amnesty.org/en/latest/news/2018/04/death-penalty-facts-and-figures-2017/>, Apr. 12, 2018.

436 Ibid.

437 National Association for the Advancement of Colored People, Death Row U.S.A. Fall 2017, http://www.naacpldf.org/files/case_issue/DRUSAFall2017_.pdf, Oct. 1, 2017.

438 Death Penalty Information Center, Women and the Death Penalty, <https://deathpenaltyinfo.org/women-and-death-penalty>, last accessed Aug.7, 2018.

439 Ibid.

440 Ibid.

441 Ibid.

442 Ibid.

443 Death Penalty Information Center, Women and the Death Penalty, <https://deathpenaltyinfo.org/women-and-death-penalty>, last accessed Aug.7, 2018.

444 Tex. Dept. of Criminal Justice, Death Row Information, https://www.tdcj.state.tx.us/death_row/dr_women_on_dr.html, last updated on Jul. 14, 2015.

445 Death Penalty Information Center, Women and the Death Penalty, <https://deathpenaltyinfo.org/women-and-death-penalty>, last accessed Aug. 7, 2018.

446 National Association for the Advancement of Colored People, Death Row U.S.A. Fall 2017, http://www.naacpldf.org/files/case_issue/DRUSAFall2017_.pdf, Oct. 1, 2017. The states with a single woman on death row are Idaho, Indiana, Kentucky, Louisiana, Mississippi, Ohio, Oklahoma, Oregon, and Tennessee.

447 Women's state prison populations grew 834% between 1978 and 2015, which represents more than double the growth rate among men (367%). In the past 40 years, women—who typically engage in less serious offenses such as drug possession—have been disproportionately affected by harsher drug enforcement policies and policing strategies. Wendy Sawyer, The Gender Divide: Tracking Women's State Prison Growth, The Prison Policy Initiative, https://www.prisonpolicy.org/reports/women_overtime.html#localjails, Jan. 9, 2018.

448 Death Penalty Information Center, Podcast: Women and the Death Penalty with Professor Mary Atwell, min. 15:00, <https://deathpenaltyinfo.org/podcast/audio/discussions/discussions-e6.mp3>, Mar. 24, 2017.

449 Ibid. at min. 19:00.

450 Death Penalty Information Center, Women and the Death Penalty, <https://deathpenaltyinfo.org/women-and-death-penalty>, last accessed Aug. 14, 2018.

451 Ibid.

452 Ibid.

453 Ibid.

454 Death Penalty Information Center, Podcast: Women and the Death Penalty with Professor Mary Welek Atwell, min. 32:00, <https://deathpenaltyinfo.org/podcast/audio/discussions/discussions-e6.mp3>, Mar. 24, 2017.

455 Ibid. at min. 6:30. Mary Welek Atwell, "Why So Few and Why Theses Few? Gender and Criminology, p. 18, in *Wretched Sisters: Examining Gender and Capital Punishment*, Peter Land Publishing, 2nd Edition, 2014.

456 BBC, Oklahoma woman faces execution, <http://news.bbc.co.uk/2/hi/americas/1306589.stm>, May. 1, 2001.

457 CNN, Florida court denies appeal to killer known as 'black widow', <http://www.cnn.com/US/9803/27/black.widow/index.html>, Mar. 27, 1998.

458 Death Penalty Information Center, Podcast: Women and the Death Penalty with Professor Mary Welek Atwell, min. 21:00, <https://deathpenaltyinfo.org/podcast/audio/discussions/discussions-e6.mp3>, Mar. 24, 2017.

459 Death Penalty Information Center, Women and the Death Penalty, <https://deathpenaltyinfo.org/women-and-death-penalty>, last accessed Aug. 14, 2018.

460 Ibid.

461 Frank R. Baumgartner et al., #BlackLivesDon'tMatter: Race-of-Victim Effects in US Executions, 1976–2013, Politics, Groups, and Identities, Jan. 29, 2015.

462 David V. Baker, Women and Punishment in the United States: An Analytical History, pp. 342–343, McFarland & Co., Inc., 2016.

463 Ibid.

464 Ibid.

465 American Civil Liberties Union, The Forgotten Population: A Look at Death Row in the United States Through the Experiences of Women (2004), <https://www.aclu.org/sites/default/files/FilesPDFs/womenondeathrow.pdf>, last accessed Jun. 24, 2018.

466 Meredith Simons and Robert Gavin, Texas Leads Nation in Prison Sex Abuse, Houston Chronicle, <https://www.chron.com/news/houston-texas/article/Texas-leads-nation-in-prison-sex-abuse-1708170.php>, Apr. 5, 2010.

467 Brandi Grissom, Suicides and Attempts on the Rise in Texas Prisons, Dallas News, <https://www.dallasnews.com/news/texas/2015/11/28/suicides-and-attempts-on-the-rise-in-texas-prisons>, Nov. 28, 2015.

468 University of Texas School of Law Human Rights Clinic, Designed to Break You: Human Rights Violations on Texas' Death Row, p. 16, <https://law.utexas.edu/wp-content/uploads/sites/11/2017/04/2017-HRC-DesignedToBreakYou-Report.pdf>, Apr. 2017.

469 Joe Goldenson et al., Central California Women's Facility (CCWF) Health Care Evaluation, p. 5, Dec. 11, 2013.

470 Julie K. Brown, Bartered sex, corruption and cover-ups behind bars in nation's largest women's prison, The Miami Herald, <https://www.miamiherald.com/news/special-reports/florida-prisons/article49175685.html>, Dec. 13, 2015. See also Julie K. Brown, Meeting on rapes, degradation at notorious Florida's women's prison draws a packed house, The Miami Herald, <https://www.miamiherald.com/news/special-reports/florida-prisons/article216987885.html>, Aug. 19, 2018.

471 Andrew v. State, 164 P.3d 176, 207, 2007, as corrected Jul. 9, 2007, opinion corrected on denial of rehearing, 168 P.3d 1150.

472 Ibid. at 194.

473 Ibid. at 206. "That error, at its most egregious, includes a pattern of introducing evidence that has no purpose other than to hammer home that Brenda Andrew is a bad wife, a bad mother, and a bad woman. The jury was allowed to consider such evidence, with no limiting instruction, in violation of the fundamental rule that a defendant must be convicted, if at all, of the crime charged and not of being a bad woman."

474 Marc Bookman, Sex-Shamed To Death: How Oklahoma Prosecutors Used Sex And Infidelity To Put A Woman On Death Row, In Justice Today, <https://medium.com/in-justice-today/sex-shamed-to-death-5a28cc7cf2fc>, Oct. 10, 2017.

475 States that sign into a treaty without ratification or accession are not bound by the treaty, but are "obliged to refrain from acts that would defeat the object and the purpose of the treaty." Vienna Conv. on the Laws of Treaties, art. 18, 1155 U.N.T.S. 331, May 23, 1969.

476 Since 2007, the United Nations General Assembly has on seven occasions adopted resolutions calling for a global moratorium on the use of the death penalty, with the view towards its eventual abolition. While the resolution is non-binding, States' decisions to vote in favor, against, or abstain from voting offer a measure of their commitment to continue implementing capital punishment. For states that retain the death penalty in their laws, an abstention or against vote may signal their willingness to consider long-term change. For state votes on the U.N.G.A.

Moratorium Resolution, see: U.N.G.A., 71st Session, Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms, paras. 54–71, U.N. Doc. A/71/484/Add.2, Dec. 6, 2016 (2016 Resolution); U.N.G.A., 69th Session, 73rd Plenary Meeting, pp. 17–18, U.N. Doc. A/69/PV.73, Dec. 18, 2014 (2014 Resolution); U.N.G.A., 67th Session, 60th Plenary Meeting, pp. 16–17, U.N. Doc. A/67/PV.60, Dec. 20, 2012 (2012 Resolution); U.N.G.A., 65th Session, 71st Plenary Meeting, pp. 18–19, U.N. Doc. A/65/PV.71, Dec. 21, 2010 (2010 Resolution); U.N.G.A., 63rd Session, 70th Plenary Meeting, pp. 16–17, U.N. Doc. A/63/PV.70, Dec. 18, 2008 (2008 Resolution); U.N.G.A., 62nd Session, 76th Plenary Meeting, pp. 16–17, U.N. Doc. A/62/PV.76, Dec. 18, 2007 (2007 Resolution).

477 When the U.S. signed the ICCPR, it entered a number of reservations, understandings and declarations, which restrict the application of its death penalty provisions. For instance, one of its reservations states “that the United States reserves the right, subject to its Constitutional constraints, to impose capital punishment on any person (other than a pregnant woman) duly convicted under existing or future laws permitting the imposition of capital punishment, including such punishment for crimes committed by persons below eighteen years of age.” Status, Declarations, and Reservations, ICCPR, 999 U.N.T.S. 171, Dec. 16, 1966, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en, last accessed Aug. 13, 2018.

478 For state ratifications, see: ICCPR, 999 U.N.T.S. 171, Dec. 16, 1966, Status, Declarations, and Reservations, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en, last accessed Aug. 23, 2018.

479 ICCPR, arts. 6, 14, 999 U.N.T.S. 171, Dec. 16, 1966.

480 ICCPR, arts. 6, 999 U.N.T.S. 171, Dec. 16, 1966.

481 For state ratifications, see: CAT, 1465 U.N.T.S. 85, Dec. 10, 1984, Status, Declarations, and Reservations, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&clang=_en, last accessed Aug. 23, 2018.

482 CAT, arts. 2, 4, 1465 U.N.T.S. 85, Dec. 10, 1984.

483 CAT, art. 11, 1465 U.N.T.S. 85, Dec. 10, 1984.

484 For state ratifications, see: CEDAW, 1249 U.N.T.S. 13, Dec. 18, 1979, Status, Declarations, and Reservations, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=_en, last accessed Aug. 23, 2018.

485 CEDAW, art. 15, 1249 U.N.T.S. 13, Dec. 18, 1979.

486 CEDAW, art. 2(c), 1249 U.N.T.S. 13, Dec. 18, 1979.

487 For state ratifications, see: CRC, 1577 U.N.T.S. 3, Nov. 20, 1989, Status, Declarations, and Reservations, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en, last accessed Aug. 23, 2018.

488 CRC, art. 37, 1577 U.N.T.S. 3, Nov. 20, 1989.

489 For state ratifications, see: African Commission on Human and Peoples' Rights, <http://www.achpr.org/states/malawi/ratifications>, last accessed Aug. 23, 2018.

490 ACHPR, art. 4, 1520 U.N.T.S. 217, Jun. 27, 1981

491 For state ratifications, see: African Commission on Human and Peoples' Rights, Ratification Table: Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, <http://www.achpr.org/instruments/women-protocol/ratification>, last accessed Aug. 23, 2018.

492 Prot. to the ACHPR on the Rights of Women in Africa, art. 4, <http://www.achpr.org/instruments/women-protocol/>, Jul. 11, 2003.



Photo by Tom Short

THE ALICE PROJECT

In 2003, Alice Nungu was sentenced to death for defending herself and her mother from a vicious attack by her husband. Alice endured daily beatings throughout her marriage, but on this particular evening the violence escalated when Alice's husband advanced toward her and her aged mother with an axe. Terrified, Alice wrenched away the weapon and fatally struck her attacker. The next morning Alice went to the police to confess what she had done. Instead of compassion, she was met with incredulity and hostility. Charged with murder and too poor to afford effective counsel, Alice was sentenced to death by a court that never heard how her husband had savagely abused her for years, or how she had acted in self-defense. She suffered on death row for the next 12 years, fading from HIV, inhumane living conditions, and lack of food.

In 2015, Alice's case was reheard with the assistance of Cornell Center on the Death Penalty Worldwide. After the court finally heard the evidence that should have prevented her death sentence, it ordered her immediate release. Alice returned to her village to much jubilation. Finally free, she was surrounded by the love and support of her tight-knit community. Better still, her mother was there to greet her. Only weeks later, Alice died, with her mother by her side.

The Alice Project honors Alice and the many other women and girls who have suffered under legal systems blind to the discrimination, violence, and trauma that have marked their lives. It combines research, advocacy, and legal representation for women facing the death penalty to illuminate their unique challenges and draw connections between the causes and consequences of the wrongs they suffer. The Project works with partners around the world to shed light on global trends of discrimination against women that eviscerate the fairness of criminal proceedings against them and compound the inhumanity of their conditions of detention. By telling women's individual stories, the Project seeks to challenge biased practices, obtain judicial acknowledgment and redress, and strengthen laws that recognize and prevent future injustice.



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