Maat for Peace’ submission to the Office of the United Nations High Commissioner for Human Rights on the question of the Death Penalty

* **Introduction:**
1. Capital punishment, also known as the death penalty, poses a challenge to the realization of fundamental human rights. 173 Member States have either abolished or suspended the death penalty for a period of up to 10 years. However, it continues to exist in many parts of the world due to its links to cultural and religious traditions, and because these countries consider it a deterrent for serious crimes that threaten and undermine social peace. There is still little awareness of accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights and only 88 Member States had acceded to the Protocol by June 2020. This requires concerted effort of all stakeholders, including NGOs, to raise awareness of the need to accede to the Protocol.
2. In its resolution No. 117/18, the Human Rights Council requested the Secretary-General to continue to submit an annual supplement to the HRC in consultation with Governments, UN bodies, intergovernmental and regional bodies and non-governmental organizations on its five-year report on the death penalty and the implementation of safeguards guaranteeing protection of the rights of those facing the death penalty, with paying particular attention to the imposition of the death penalty on minors, under 18 at the time of the commission of the crime and on pregnant women. The OHCHR has requested updates from non-governmental organizations on developments in the implementation of the death penalty in Member States.
3. In light of the above, **Maat for Peace, Development and Human Rights**, which holds special consultative status with the UN Economic and Social Council, presents this report to highlight the developments relating to the abolition or even restoration of the death penalty since July 2020. Maat for Peace hopes that the updated information will enrich the Secretary-General's report on capital punishment that will be submitted to the Human Rights Council at its fifty-first session in September 2022. Maat’s report focuses on developments relating to the execution of the death penalty, particularly for women and children, as well as good practices by the Member States and civil society organizations aimed at abolishing the death penalty or raising awareness of its seriousness and the need to put an end to it.
* **First: Developments relating to** **the execution of the death penalty:**
1. Nearly 173 States have abolished or suspended the death penalty either in law or in practice for more than 10 years. The last country to abolish the death penalty was Papua New Guinea in January 2022.[[1]](#footnote-1)
2. The General Assembly had adopted a range of resolutions calling on States that still have the death penalty to abolish it, the most recent of which was General Assembly resolution 73/175. These decisions are consistent with general comment No. 36 of the Human Rights Committee, which states that the application of the death penalty is incompatible with the nominal right to life of human rights.[[2]](#footnote-2) Despite the international tendency to abolish or suspend the death penalty for periods of time, some States continue to carry out the death penalty in an accelerated manner and without any guarantees of a fair trial.
	* **Children**
3. Article 37 of the Convention on the Rights of the Child prohibits the execution of children under 18 years. However, some United Nations Member States continue to carry out the death penalty for minor children. For example, from January 2020 to October 2021, Iran executed 480 persons, including 5 minors who were executed for crimes allegedly committed when they were children. More than 80 other children are about to be executed.[[3]](#footnote-3)
4. Iran does not consider the execution of minors who have not reached the legal age a violation of human rights, according to Majid Tafreshi, Assistant Secretary-General of the Iranian Supreme Council for Human Rights of the Judiciary in Iran, which makes the implementation of this punishment a recurring pattern inconsistent with the state's obligation under the Convention on the Rights of the Child. Armed groups in areas of armed conflict have also carried out death sentences on minor children after unfair trials and the absence of any guarantees of a fair and equitable trial in the rule of law.
5. On 18 September 2021, the Houthi Militia Public Prosecutor's Office in the capital Sana'a executed 9 people, including a minor child, shot dead[[4]](#footnote-4) on charges related to the murder of a Houthi military commander, and on other charges of espionage and passing information to the Arab coalition in Yemen. Despite numerous calls by UN experts to the group, the Houthi have not ruled out the death penalty.
6. This particular issue poses challenges regarding the extent to which these groups adhere to international human rights law and international humanitarian law, an issue to which the Secretary-General's report must attach particular importance. In this context, the both Maat and the Special Rapporteur for extrajudicial executions share the same opinion that out-of-State armed groups are obliged to abide by fundamental human rights.[[5]](#footnote-5) That does not mean recognition of its authority. In the past two decades, some 125 Security Council resolutions, more than 65 General Assembly resolutions and more than 50 presidential statements have been issued on the human rights obligations of non-State armed actors.
7. The death sentence executed by the Houthis is also inconsistent with general comment No. 36 of the Human Rights Committee since the death penalty following legal proceedings in violation of domestic laws on the criminal procedure or evidence is generally illegal and arbitrary and represents gross violation of the right to life guaranteed under the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.
	* **Women**
8. Maat for Peace has reviewed reports confirming the existence of about 800 women in UN Member States on death row.[[6]](#footnote-6) In 2020, at least 7 countries had sentenced women to death and at least 16 women had been executed, almost half of them in Iran.[[7]](#footnote-7) Maat for Peace is likely to have much higher figures, as States such as North Korea, China and Vietnam do not disclose death penalty data.[[8]](#footnote-8)
9. In violation of all international norms, including the right to life, in September 2021, the Taliban executed a female police officer. According to her family, the latter was eight months pregnant and worked for the Ghor State Police Department before armed Taliban elements broke into her home and proceeded to execute her without any trial.[[9]](#footnote-9)
10. It is worth noting that the Taliban resumed the execution of the death penalty after they rose to power on August 15, 2021.[[10]](#footnote-10) States that have not abolished the death penalty and are not parties to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, or other treaties providing for the abolition of the death penalty, may apply the death penalty only in a non-arbitrary manner and in the case of the most serious crimes, which the Taliban has not complied with.
11. Contrary to international efforts to abolish the punishment, in early November 2021, Iran's Guardian Council passed the 'Youth Population and Family Protection Act, which punishes women who provide abortion with deterrent penalties, some of which amount to execution on charges of “corruption in the land”.[[11]](#footnote-11) Maat for Peace is concerned that some pregnant women in Iran remain vulnerable to the death penalty.
* **Second: good practices in the context of the abolition of the death penalty:**
1. In the context of good practices to reduce or even abolish the death penalty, some States were encouraged to abolish the death penalty. The State of Virginia in the United States of America abolished the death penalty, to become the 23rd state to follow this path consistent with the resolutions of the United Nations General Assembly and the Human Rights Council. However, some states are still carrying out this sentence and California has executed 699 people in 2021.[[12]](#footnote-12)
2. Papua New Guinea, was the latest to abolish this penalty in January 2022. In December 2021, Kazakhstan abolished the death penalty and replaced it with life imprisonment.[[13]](#footnote-13) In October 2021, Sierra Leone abolished the death penalty as the 23rd state in Africa to abolish the death penalty.[[14]](#footnote-14) In the context of limiting the application of punishment, some States have abolished the death sentence for certain accused.
3. In Egypt, on 4 August 2021, Decree No. 323 of 2021 was issued to commute the death sentence handed down to an Indian citizen. The National Human Rights Strategy launched on September 11, 2021 includes a set of targeted results that limit the progressive application of the death penalty. One of the basic principles underlying the Strategy was to make use of the review of the most serious crimes for which the death penalty was imposed, considering community conditions and specialized studies and in conformity with international and regional human rights treaties ratified by Egypt.
4. Civil society organizations have played a role in raising awareness of the abolition of the death penalty. In the context of this role in Pakistan, some organizations have adopted an educational approach to raise awareness of the death penalty. The Pakistan Justice Project launched the digital campaign “this is Not a Game”, which invites the public to think about this issue through the interactive experience of a woman facing a death sentence for her husband. As part of the campaign, an online game was developed and interactive theatrical performances were held in several cities across Pakistan. The Pakistan Human Rights Commission also organized a theatrical presentation on the right to life and rejected the death penalty on the sidelines of the International Day for the Abolition of Punishment.[[15]](#footnote-15)
* **Recommendations:**
* Member States shall adopt a consultative approach to review the most serious crimes punished by the death penalty while taking into account the societal conditions and specialized studies and in conformity with international and regional human rights treaties;
* Repealing all legislations aiming at carrying out the death penalty on abortion crimes, in particular, those carried out in conformity with difficult economic conditions;
* The Secretary-General should request the Member States to proceed to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at the abolition of the death penalty;
* The need for the Secretary-General in his report to attach particular importance to the application of the death penalty by armed universities and militias and to call upon them to abide by the obligations of international human rights law.
1. Papua New Guinea repeals death penalty 30 years after reintroduction, <https://bit.ly/3q3lHC6> [↑](#footnote-ref-1)
2. CCPR/C/GC/36, Available at the following link: <https://daccess-ods.un.org/tmp/2287761.42001152.html> [↑](#footnote-ref-2)
3. Iran says executing child offenders not a rights violation, France 24, 30 July 2021, <https://bit.ly/3IbIa6r> [↑](#footnote-ref-3)
4. Secretary-General Strongly Condemns Executions in Yemen, Questioning Houthi Movement’s Adherence to Due Process Standards under International Law, UN Secretary-General, <https://www.un.org/press/en/2021/sgsm20914.doc.htm> [↑](#footnote-ref-4)
5. A/HRC/38/44, Para 7, Page 3, <https://bit.ly/3tO7w4Q> [↑](#footnote-ref-5)
6. World Day Against the Death Penalty - Women and the Death Penalty, The Death Penalty Project, 10 October 2021, <https://bit.ly/3IdaHIF> [↑](#footnote-ref-6)
7. ارتفاع حالات الإعدام في إيران بنسبة 10%، إيران انترنشونال، 9 أكتوبر 2021، على الرابط التالي: <https://www.iranintl.com/ar/20211009363383> [↑](#footnote-ref-7)
8. Ibid [↑](#footnote-ref-8)
9. Afghanistan: Taliban accused of killing pregnant police officer, 5 September 2021, <https://www.bbc.com/news/world-asia-58455826> [↑](#footnote-ref-9)
10. طالبان: مسؤول في الحركة يؤكد عودة الإعدامات وتطبيق الحدود في أفغانستان، بي بي سي عربي، 24 سبتمبر 2021، علي الرابط التالي: <https://www.bbc.com/arabic/world-58683708> [↑](#footnote-ref-10)
11. Iran death penalty threat for abortion unlawful: UN rights experts, UN News, 16 November 2021, <https://bit.ly/3tW3wPX> [↑](#footnote-ref-11)
12. The Death Penalty in 2021: Year End Report, Death Penalty Information Center, 16 December 2021, <https://bit.ly/3IeK0TU> [↑](#footnote-ref-12)
13. كازاخستان تلغي عقوبة الإعدام، على الرابط التالي: <https://bit.ly/3JfkhMu> [↑](#footnote-ref-13)
14. سيراليون تلغي عقوبة الإعدام، على الرابط التالي: <https://bit.ly/3u1EG0X> [↑](#footnote-ref-14)
15. Women Sentenced to Death Showcased on the 19th World Day Against the Death Penalty, The World Coalition Against the Death Penalty, <https://twitter.com/wcadp> [↑](#footnote-ref-15)