**Response to the OHCHR call for input on the use of the moratorium on the death penalty**

**Submitted by**

**Ensemble Contre la Peine de Mort (Together Against the Death Penalty)**

**NGO with ECOSOC status since 2016**

**In preparation for the 2022 report on the use of the moratorium on the death penalty presented at the 57th session of the General Assembly in September 2022.**

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**ECPM** (Together Against the Death Penalty) is a French non-governmental organisation that fights against the death penalty worldwide and in all circumstances by uniting and rallying abolitionist forces across the world. The organisation advocates with international bodies and encourages universal abolition through education, information, local partnerships and public awareness campaigns. ECPM earned its legitimacy as a unifying group of the abolitionist movement because of its strong sense of ethics and values. ECPM is the organiser of the World Congresses against the death penalty and a founding member of the World Coalition Against the Death Penalty.

At the beginning of April 2022, there were 108 States abolitionist for all crimes, 8 abolitionist for ordinary crimes, 30 under a moratorium and 52 retentionist States. Since the end of 2020:

1. **Some countries have abolished the death penalty or are moving towards abolition, allowing for greater respect of human rights in their territories.**

In **Sierra Leone[[1]](#footnote-1)** the bill abolishing of the death penalty was voted by the Parliament on 23 July 2021 and signed by the President on 8 October 2021. **Kazakhstan[[2]](#footnote-2)** abolished the death penalty for all crimes on 2 January 2021. The **State of Virginia[[3]](#footnote-3)** voted to abolish the death penalty on 24 March 2021.

The Parliament of **Papua New Guinea** voted in favour of abolition[[4]](#footnote-4) on January 20, 2022. The decision must now be published in the Official Journal and the law enacted.

On 13 April 2021, the **Nevada** Assembly voted to abolish the death penalty.[[5]](#footnote-5) The Bill AB 395 still needs to be sent to the Senate.

The signing and ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights[[6]](#footnote-6) are the final steps in the abolition process. On 18 March 2021, **Armenia** ratified the Protocol. **Kazakhstan** ratified it on 24 March 2022.

Setbacks can happen until abolition is formally adopted. In April 2021, the **Malawi** Constitutional Court declared the death penalty unconstitutional. In August 2021, this decision was overturned[[7]](#footnote-7) by the Supreme Court on appeal. The country remains under a moratorium.

It is worth noting that the African continent is moving towards abolition: of the 55 member States of the African Union, only 10 are still retentionist.[[8]](#footnote-8)

Of the 57 member States of the Organisation of Islamic Cooperation, 34 States have abolished the death penalty in law or in practice.[[9]](#footnote-9)

**2. The moratorium is regularly challenged in a number of countries. An increasing number of death sentences has been reported in some States under a moratorium.**

**Tunisia** has not executed anyone in more than 30 years and has a de facto moratorium. However, death sentences continue to be handed down: the Tunisian Ministry of Justice reported that 36 people were sentenced to death in 2021, including two women. This figure represents a significant increase from the previous year. Since the beginning of 2022, 13 people have been sentenced to death. President Kais Saied has repeatedly expressed an opinion in favour of the application of the death penalty.[[10]](#footnote-10)

Courts in States with a de facto moratorium continue to sentence people to death. Despite the moratorium in place since 2003, courts in the **Democratic Republic of Congo** continue to sentence people to death. In 2021, at least 54 people were sentenced to death. The sentencing to death of 51 people[[11]](#footnote-11) by a military court in January 2022 confirms this trend.

**3. While some States are moving towards abolition of the death penalty, others appear to be moving backwards.**

The end of Donald Trump's term was marked by the lifting of the moratorium at the federal level: 13 people were executed between 2020 and 2021,[[12]](#footnote-12) after 17 years without executions. On 1 July 2021 Department of Justice of the Biden administration reimposed a moratorium on federal executions.[[13]](#footnote-13)

After several years without executions, the States of **Mississippi[[14]](#footnote-14)** (since 2012) and **Oklahoma[[15]](#footnote-15)** (since 2015) resumed executions in 2021.

**4. The trend towards abolition of the death penalty does not affect all States; a number of them continue to sentence and execute on a regular basis.**

**Iran** is the country that executes the most per capita. In February 2022, the European Parliament adopted a resolution[[16]](#footnote-16) calling on the Iranian authorities to immediately adopt a moratorium on the use of the death penalty. There was an increase in executions in 2021 compared to 2020, with 333 people executed, including at least 2 juveniles.[[17]](#footnote-17)

**Saudi Arabia** is also among the countries executing the most in the world. In 2019, the country executed 184 people. The decrease in 2020 was only temporary, since in the first half of 2021 this figure was already exceeded.[[18]](#footnote-18) The beginning of 2022 is marked by a continuum of executions on the rise: on March 12, 2022 the Saudi authorities conducted mass executions, executing 81 people.[[19]](#footnote-19)

Some States have set an execution date for people on death row whose sentencing conditions do not meet international standards. This is the case of Malaysian Nagaenthran Dharmalingam in **Singapore**, suffering from a mental disorder, for whom an execution date was announced and then postponed because of Covid-19.[[20]](#footnote-20) The imposition of the death penalty on persons with mental disorders is prohibited under international law and is a violation of the CRPD,[[21]](#footnote-21) which Singapore has ratified. His appeal was rejected and he could therefore be executed soon.[[22]](#footnote-22) Singapore resumed executions after three years: on 30 March 2022 Abdul Kahar Bin Othman was hanged.[[23]](#footnote-23)

Melissa Lucio's death sentence in the **State of Texas** in the United States has also been heavily criticized. During her trial, much evidence of her innocence was deliberately ignored and mitigating circumstances were not taken into account.[[24]](#footnote-24) Melissa Lucio's execution date is set for April 27, 2022.

The lack of transparency in the application of the death penalty also remains an issue in many States. It may lie, for instance, in the impossibility to obtain accurate data on people sentenced to death in certain countries, like Algeria,[[25]](#footnote-25) or collect data on people sentenced to death by military courts (Lebanon)[[26]](#footnote-26) or also in the opacity of clemency procedures (Indonesia).[[27]](#footnote-27)

**Recommendations:**

**Commute the death sentences to prison terms applicable to all death row prisoners;**

**Vote for the UNGA Resolution calling for a universal moratorium on the use of the death penalty in December 2022;**

**Formalise the moratorium in countries that no longer carry out executions;**

**Stop executions and implement a moratorium on the death penalty, with particular attention to cases where specific international laws apply, such as minors or people with disabilities.**

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