

MONITORING
CONDITIONS OF
DETENTION
OF PRISONERS
SENTENCED
TO DEATH
PRACTICAL
GUIDE FOR
NHRI AND NPMs

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GUIDE FOR
NHRIs AND NPMs





ACRONYMS

ACHPR	African Commission on Human and Peoples' Rights
ACHR	American Convention on Human Rights
CAT	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRC	United Nations Convention on the Rights of the Child
ECHR	European Convention on Human Rights
ECPM	<i>Ensemble contre la peine de mort</i> (Together against the death penalty)
EPR	European Prison Rules
HRC	United Nations Human Rights Council
IACHR	Inter-American Commission on Human Rights
ICCPR	International Covenant on Civil and Political Rights
NHRI	National Human Rights Institution
NPM	National Preventive Mechanism
OHCHR	Office of the United Nations High Commissioner for Human Rights
OPCAT	Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
SRP	Special Rapporteur on Prisons and Conditions of Detention in Africa
SPT	United Nations Subcommittee on Prevention of Torture



NOTE ON TERMINOLOGY

Throughout this guide, we use the terms “prisons”, “prison facilities” and “places of detention” interchangeably to refer to any place where people are deprived of their liberty based on penal measures or sanctions.

The term “detention monitoring” refers solely to monitoring activities within the custodial setting.

THE ROLE OF NATIONAL PREVENTIVE MECHANISMS (NPMs) AND NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIS) IN PRISON MONITORING

NPMs and NHRIs play a crucial role in the prevention of torture through the monitoring of places of detention:

- **NPMs:** OPCAT is an optional protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Under OPCAT, states are required to establish an NPM with the aim of preventing torture and other cruel, inhuman or degrading treatment or punishment, in particular by monitoring places of detention. OPCAT also provides for a second monitoring mechanism, the SPT. NPMs are mandated to carry out regular visits to all types of places where persons are deprived of their liberty. NPMs can also make observations on laws and regulations, and propose reforms. OPCAT does not require an NPM to take a specific form: it is therefore up to each State Party to choose whether to create a new special mechanism or to designate an existing body, such as an NHRI, for the prevention of torture and ill-treatment.
- **NHRIs:** some countries do not have an operational NPM. In such cases, the monitoring of places of detention often falls to NHRIs. Moreover, in many countries, NHRIs are assigned the NPM mandate. In this case, the NHRI has both a specific mandate to monitor places of deprivation of liberty and prevent torture and ill-treatment, as an NPM, and a broader mandate to protect and promote human rights beyond places of detention, as an NHRI. Assessing the credibility of NHRIs is based in particular on their compliance with the Paris Principles, a set of standards defining the fundamental characteristics required for them to fulfil their missions.¹ These include: a founding constitutional or legislative text, a mandate that is as broad as possible, independent appointment procedures, a pluralist and representative composition, regular operation, independence from the executive and adequate funding.

1 These principles have been enshrined by the United Nations General Assembly in Resolution 48/134 on National Institutions for the Promotion and Protection of Human Rights, 20 December 1993, available at <https://digitallibrary.un.org/record/180217?ln=en&v=pdf>

THE NPM MANDATE

In collaboration with other international, regional and national bodies carrying out monitoring activities, NPMs play an important role in public oversight and control in the area of torture prevention. As the “eyes and ears” of the outside, NPMs aim to ensure that the human rights of detainees are fully respected and that they receive fair and humane treatment in detention. NPMs have a clear objective and a broad mandate: to examine the treatment of persons deprived of their liberty with a view to strengthening their protection against torture and other cruel, inhuman or degrading treatment or punishment. Their main functions include:

- **Visiting places** where persons are or may be deprived of their liberty (in accordance with Article 4 of OPCAT);
- **Advisory functions**, including drafting recommendations, opinions, reports and undertaking legislative monitoring;
- **Educational functions**, in particular by providing training or initiating other educational activities, as well as activities to raise awareness of the prevention of torture;
- **Cooperation activities** through constructive dialogue with States Parties and other key stakeholders on the prevention of torture and ill-treatment.²
- Although under OPCAT, NPMs are not expressly empowered to investigate or rule on individual cases, national regulations must take account of the specificities of each context. In some states, NPMs **investigate allegations of torture or other forms of ill-treatment**. In others, they may play a **supporting role in appeal procedures or requests for clemency** in individual cases.³

The **preventive monitoring mandate**, as defined in Articles 4 and 19 of OPCAT⁴, is at the core of NPMs’ mandate. Their visits act as an important deterrent against the practice of torture and other forms of ill-treatment. In this respect, NPM members have the power to:

- Visit any place where persons may be deprived of their liberty;
- Interview detainees in private;
- Access to all information concerning detainees;⁵
- Freely choose the places to be visited and the persons to be interviewed;
- Carry out scheduled or ad hoc visits;
- Make unannounced visits at different times of day, including at night. It is advisable to carry out this type of visit.

2 For more information: OHCHR, Preventing torture – The role of national preventive mechanisms, 2018, available at https://www.ohchr.org/sites/default/files/Documents/Publications/NPM_Guide_EN.pdf

3 See Part V, p. 57.

4 See also SPT, *Guidelines on National Preventive Mechanisms*, CAT/OP/12/5, 9 December 2010, available at <https://digitallibrary.un.org/record/695890?ln=en>; and OHCHR, *Preventing torture – The role of national preventive mechanisms*, 2018.

5 See Parts IV and V.

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INTRODUCTION

Prisoners sentenced to death are likely to be among the most marginalised groups in prisons worldwide. They are often forgotten, neglected and ignored by prison authorities, and may be held in unfavourable and inhumane conditions that fail to comply with international human rights standards. They find themselves in a specific situation, often characterised by a high level of psychological uncertainty about their future. Prisoners sentenced to death face deprivation and hardship in their daily lives in prison, which has an impact on their physical and mental well-being.

Monitoring bodies (at national, regional and international level) play a central role in ensuring that persons deprived of their liberty are held in an environment that respects their dignity and other human rights. These bodies can also play an important role in driving change in policies and practices.

In light of these specific challenges, ECPM has developed this guide to assist NPMs and NHRIs in their work to assess detention conditions of prisoners sentenced to death. This practical guide supports and complements ECPM's work on the detention conditions of individuals sentenced to death and its wider advocacy and awareness-raising activities.

This guide was developed in collaboration with Morocco's National Human Rights Council (*Conseil national des droits de l'Homme* – CNDH).

WHO CAN USE THIS GUIDE?

This guide is primarily aimed at NPMs and NHRIs. It provides tools, practical guidance and advice for assessing the specific conditions of prisoners sentenced to death, in accordance with international and regional standards. It aims to facilitate the monitoring process and to ensure that the rights of prisoners sentenced to death are at the centre of the efforts of detention monitoring bodies. Beyond NHRIs and NPMs, other actors may be interested in this guide, including academics, international organisations, civil society actors and donors.

Although closely linked to the work of detention monitoring, this guide does not address issues related to the monitoring of conditions of deprivation of liberty in immigration centres or police custody facilities.⁶

HOW TO USE THIS GUIDE?

Designed as a practical handbook for detention monitoring bodies, this guide should be considered a “living instrument”. Through general information, checklists, questions, innovative practices and advice from practitioners, this guide sets out the various stages involved in analysing the conditions of detention of women and men sentenced to death and helps to identify the systemic risk factors affecting this group. It can be used as a tool in various contexts, but its application and implementation will depend on each situation.

Ideally, this guide should not be read in isolation or as a “stand-alone” document, but as a complement to and in coordination with other general guides for assessing detention conditions.⁷

HOW WAS THIS GUIDE DEVELOPED?

This guide is based on a literature review of existing resources on prisoners sentenced to death, including international and regional resources from intergovernmental organisations, NGOs working to combat the death penalty, press articles and other open sources.

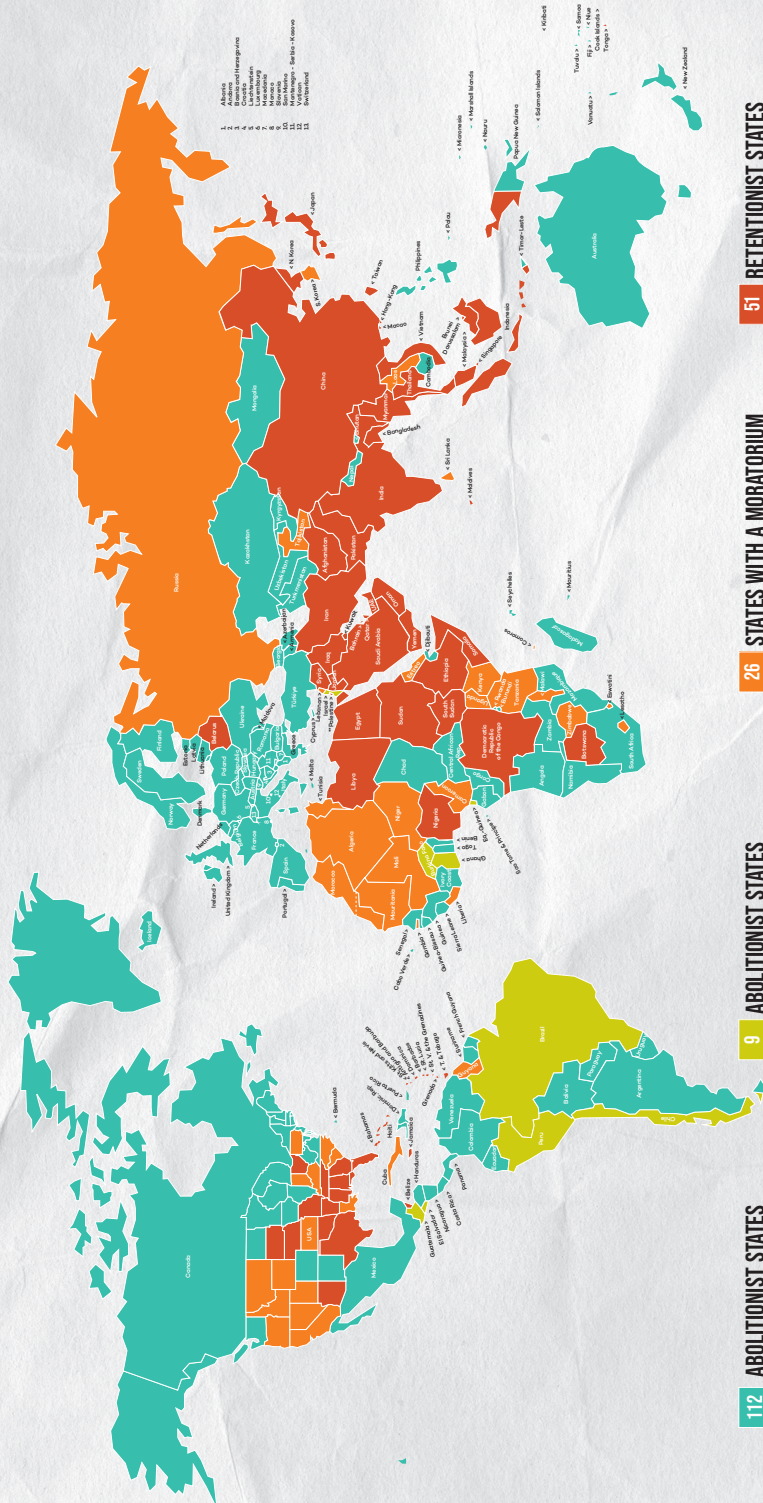
The information contained in this guide, such as monitoring techniques, practical procedures and guiding principles of monitoring bodies, is internationally recognised and implemented by many

⁶ For additional resources on monitoring police custody and detention of migrants, see APT, *Monitoring Policy Custody – A Practical Guide*, 2013, available at <https://policehumanrightsresources.org/content/uploads/2013/01/Association-for-the-prevention-of-torture-APT-Monitoring-police-custody--a-practical-guide.pdf?x96812>; and APT, UNHCR, International Detention Coalition, *Monitoring Immigration Detention – Practical Manual*, 2014, available at <https://idcoalition.org/wp-content/uploads/2015/06/Monitoring-Immigration-Detention-Practical-Manual.pdf>

⁷ See Annex III.

monitoring bodies. This guide has been inspired by other practical guides, particularly those dealing more broadly with the monitoring of places of deprivation of liberty, such as those developed by the Association for the Prevention of Torture (APT) and by Advocates for Human Rights.⁸ The information presented here has been adapted to the needs of prisoners sentenced to death.

8 Advocates for Human Rights, *A Practitioner's Guide to Human Rights Monitoring, Documentation and Advocacy*, 2011; APT, *Monitoring Places of Detention – A Practical Guide*, 2005, <https://www.apt.ch/sites/default/files/publications/monitoring-guide-en.pdf>; and APT, UNHCR, *International Detention Coalition, Monitoring Immigration Detention – Practical Manual*, 2014.



112 ABOLITIONIST STATES FOR ALL CRIMES

States or territories where the death penalty is abolished.

9 ABOLITIONIST STATES FOR ORDINARY CRIMES

States or territories where the death penalty is abolished unless there are exceptional circumstances.

26 STATES WITH A MORATORIUM ON EXECUTIONS

States or territories where the death penalty is implemented but no executions have been carried out for at least 10 years and which did not oppose the latest UN resolution for a universal moratorium on executions and/or having ratified OP2.*

51 RETENTIONIST STATES

States or territories where the death penalty is implemented.
 * Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.
 ** Palestine is a particular case: it cannot vote the moratorium resolution, has ratified OP2, but the death penalty is still applied in Gaza (last documented executions in 2023).

PRISONERS SENTENCED TO DEATH: AN OVERVIEW

There are currently at least 30,000 prisoners sentenced to death worldwide. This figure is an underestimate, as it excludes data from certain countries such as China, and many countries do not provide reliable data. The death penalty is mainly applied in Asia, the Middle East and the United States.⁹

SOME FACTS ON THE DEATH PENALTY

- There is a global trend towards abolition: 74% of the 198 Member States of the United Nations¹⁰ no longer carry out executions.
- The death penalty was still carried out in 51 states in 2023.¹¹
- The death penalty continues to be applied, although not carried out, in 26 additional states; these states therefore also continue to detain individuals sentenced to death.

WOMEN

Women represent under 5% of the total population sentenced to death worldwide, with around 800 women sentenced to death as of October 2021.¹² There are women sentenced to death in most countries that retain the death penalty. In 2022, of the 78 retentionist and moratorium states, 42 held women sentenced to death.¹³ Of the 59 countries with more than three prisoners sentenced to death, 71% held women sentenced to death.¹⁴ It should be noted that there are still uncertainties surrounding the situation in eight countries as to whether they hold women sentenced to death, which could alter the total percentage.¹⁵ According to international and regional standards, women can only be executed under certain conditions.

⁹ See ECPM website: <https://www.ecpm.org/en/barometer/>

¹⁰ Also included are observer states (Palestine, Holy See) as well as the Cook Islands, Niue and Taiwan.

¹¹ See ECPM website: <https://www.ecpm.org/en/barometer/>

¹² Women and girls represent a minority of the world's prison population, at 7%, and current figures indicate that there are over 740,000 women in prison worldwide. Penal Reform International, *Global Prison Trends 2023*, available at: <https://www.penalreform.org/global-prison-trends-2023/>

¹³ World Coalition Against the Death Penalty, *Mapping of Women on Death Row*, June 2023, available at https://worldcoalition.org/wp-content/uploads/2023/08/ENG_Country-Mapping-report_Women-on-Death-Row.pdf

¹⁴ Ibid.

¹⁵ Ibid.

WOMEN AND THE DEATH PENALTY – SELECTED INTERNATIONAL AND REGIONAL STANDARDS

- International Covenant on Civil and Political Rights (ICCPR): prohibition on execution of pregnant women (1966)
- Bangkok Rules: protection of women in conflict with the law, and adoption of a gender-sensitive approach (2010)
- United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty (1984)
- Arab Charter on Human Rights: prohibition on execution of any “nursing mother within two years of the date of her delivery” (1994)
- Protocol to the African Charter on the Rights of Women in Africa (“Maputo Protocol”): prohibition on execution of pregnant or breastfeeding women (2003)
- American Convention on Human Rights: prohibition on execution of pregnant women (1969)

CHILDREN¹⁶

International law prohibits the imposition of the death penalty on children, i.e. persons under 18 years of age at the time of the commission of the crime. We adopt the terminology of the International Convention on the Rights of the Child, which considers a child to be any person under 18 years of age. The prohibition on imposition of the death penalty on children is so widely observed that it now has the status of a peremptory norm of international law. However, several states continue to execute children who were minors at the time of commission of the alleged offences, despite the fact that this breaches international law. In some countries, children have been sentenced to death following mass trials.¹⁷

¹⁶ We prefer to use the term “children” to refer to people under the age of 18, rather than the term “minors”. The latter term emphasises legal status (not having reached the legal age of majority or emancipation), rather than their situation as children (requiring special treatment in view of their biological, emotional, psychological, social and educational needs, etc.).

¹⁷ See <https://www.peinedemort.org/international/executions-mineurs>

CHILDREN AND THE DEATH PENALTY – SELECTED INTERNATIONAL AND REGIONAL STANDARDS

- ICCPR: prohibition on imposition of the death penalty on persons under 18 years of age [Article 6(5)] (1966)
- CRC: prohibition on imposition of the death penalty on persons under 18 years of age (1989)
- African Charter on the Rights and Welfare of the Child: prohibition on imposition of the death penalty on children (1990)
- Arab Charter on Human Rights: the death penalty may not be imposed on persons under 18 years of age, unless otherwise provided by the legislation in force at the time of the offence (Article 7)
- American Convention on Human Rights: the death penalty shall not be imposed on persons who, at the time the crime was committed, were under 18 years of age [Article 4(5)] (1969)
- United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty: persons under 18 years of age at the time of the commission of the crime shall not be sentenced to death (1984)
- Havana Rules: protection of children in detention (1990)

SEXUAL AND GENDER MINORITIES

Sexual and gender minorities – i.e. “people who are minoritised on the basis of their bodies or bodily appearances, sexual orientations, gender identities or expressions that do not conform to cultural norms on sexuality and gender, and who are therefore exposed to stigmatisation and discrimination”¹⁸ – are at greater risk of being sentenced to death because of the imposition of the death penalty for consensual same-sex sexual relations. As of June 2023, 12 countries in the world were still imposing death sentences on individuals on the basis of their gender or sexual orientation.¹⁹ There is no record of the number of people sentenced to death or executed for homosexuality, as official data collection on this subject is extremely poor or non-existent. In 2017, the Human Rights Council adopted a resolution condemning the imposition of the death penalty for consensual same-sex sexual relations.²⁰ In September 2020, the

18 M. Geoffroy and L. Chamberland, “*Discrimination des minorités sexuelles et de genre au travail: quelles implications pour la santé mentale ?*” (Mental health implications of workplace discrimination against sexual and gender minorities: A literature review), *Santé mentale au Québec*, 2015. This term refers to lesbian, gay, bisexual and transsexual/transgender people.

19 See ECPM, *Death penalty and LGBTQIA+ rights: 10 questions to understand the threat of capital punishment for LGBTQIA+ people*, June 2023, available at <https://www.ecpm.org/en/death-penalty-and-lgbtqia-rights-10-questions-to-understand-the-threat-of-capital-punishment-for-lgbtqia-people/>

20 UN Human Rights Council, Resolution on the question of the death penalty, A/HRC/36/L.6, 29 September 2017, available at <https://www.right-docs.org/doc/a-hrc-res-36-17/>

Office of the United Nations High Commissioner for Human Rights called on states to ensure that the death penalty is not applied on the basis of discriminatory laws or because of the discriminatory or arbitrary application of the law.²¹

SEXUAL AND GENDER MINORITIES AND THE DEATH PENALTY – SELECTED INTERNATIONAL AND REGIONAL STANDARDS

- ICCPR: in countries that have not abolished the death penalty, it shall under no circumstances be applied as a sanction against conduct whose very criminalisation violates the Covenant [Articles 6(2) and 26] (1966)
- UN Human Rights Committee, General Comment No. 36 on the right to life (2019)
- Nelson Mandela Rules: principle of non-discrimination and equal treatment of all persons deprived of their liberty (2015)
- American Convention on Human Rights (Articles 4, 5, 8, 24)
- Inter-American Commission on Human Rights, Principles and Best Practices on the Protection of Persons Deprived of Liberty
- African Charter on Human and Peoples' Rights (Articles 2, 3 and 28) (1981)
- Arab Charter on Human Rights (Articles 5, 9, 10, 15) (1994)
- Bangkok Rules (2010)
- Yogyakarta Principles: non-binding legal standards on sexual orientation, gender identity, gender expression and sex characteristics (2006)

FOREIGN NATIONALS

Human rights organisations have documented more than 1,200 cases of foreign nationals sentenced to death in Asia and the Middle East.²² Foreign nationals are vulnerable, faced with a foreign legal system and a language they may not speak or understand. Access to an interpreter or lawyer is often limited. In addition, these people may come from particularly marginalised groups. Under the United Nations Vienna Convention on Consular Relations, foreign nationals have the right to consular assistance and to have their consulate promptly informed of their detention, if they so wish. This is essential in death penalty cases: nationals of a country may need their home government to advocate on their behalf.

21 UN General Assembly, 75th Session, Virtual High-Level Side Event, "Death Penalty and Gender Dimension – Exploring Disadvantage and Systemic Barriers Affecting Death Sentences", 24 September 2020.

22 See data from the Mapping Death Row Database, available at <https://www.law.ox.ac.uk/research-and-subject-groups/death-penalty-research-unit/mapping-death-row>

In 2019, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions confirmed that states have a duty to protect the right to life of their nationals. The Special Rapporteur underlined that a failure by a home state to provide adequate consular assistance, after being informed that one of its nationals has been sentenced to death abroad, constitutes a violation of its responsibility to protect the right to life under Article 6 of the ICCPR.²³

▶ **TRANSPARENCY AND THE DEATH PENALTY: IMPACT ON MONITORING BODIES**

Many states do not provide credible official data on the application and use of the death penalty in their territories. The lack of quality data on the death penalty has a concrete impact on the work of the monitoring teams:


- Impact on monitoring visits: inability to locate people sentenced to death, leading to a total or partial lack of knowledge of their specific conditions of detention, including those of the most vulnerable groups.
- Impact on understanding the use of the death penalty at national level: inability to understand the mechanisms in place at a systemic level.
- Impact on recommendations: inability to provide relevant recommendations that could lead to improvements.

If you are unable to access credible data, information may be available from other sources.²⁴

23 UN General Assembly, *Report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions – Application of the death penalty to foreign nationals and the provision of consular assistance by the home state*, A/74/318 paragraph 11, 20 August 2019, available at <https://undocs.org/A/74/318>

24 See Part IV.





LEGAL PROTECTION FRAMEWORK GOVERNING CONDITIONS OF DETENTION OF PRISONERS SENTENCED TO DEATH



International, regional and national standards apply to prisoners sentenced to death and their conditions of detention.

INTERNATIONAL AND REGIONAL LEGAL FRAMEWORK

STANDARDS ON THE DIGNITY OF PRISONERS

International standards do not deal directly with the conditions of detention of individuals sentenced to death, but a range of standards concerning “dignity” (international treaties, soft law and United Nations special procedures) protect people in prison. It is important to bear in mind that these texts are based on the principle of non-discrimination, meaning that **these rights apply to all detainees, without distinction, regardless of whether they have been sentenced to death.**

- **The International Covenant on Civil and Political Rights (ICCPR)** provides that “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”.²⁵
- **The Convention against Torture (CAT)** prohibits torture and cruel, inhuman or degrading treatment or punishment, without exception or derogation, including in the context of detention.
- **The Nelson Mandela Rules** provide that all prisoners shall be treated with the respect due to their inherent dignity and value as human beings.²⁶ They also call on prison administrations to “take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings”²⁷ and are underpinned by the principle of non-discrimination. Individuals sentenced to death must be considered as a group with specific needs and must enjoy all the rights set out in the Nelson Mandela Rules.
- **The Basic Principles for the Treatment of Prisoners** provide that “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings”.²⁸
- **The African Charter on Human and Peoples’ Rights** states that every individual “shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status”.²⁹

25 ICCPR, Article 10.

26 Nelson Mandela Rules, Rule 1.

27 Nelson Mandela Rules, Rule 2.1.

28 Basic Principles for the Treatment of Prisoners, Rule 1.

29 African Charter on Human and Peoples’ Rights, Article 5.

- **The Arab Charter on Human Rights** states that “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”³⁰
- **The American Convention on Human Rights** provides for the right to be treated “with respect for the inherent dignity of the human person” for all persons deprived of their liberty.³¹

▶ LINK BETWEEN DETENTION CONDITIONS, TORTURE AND THE DEATH PENALTY

The idea that the death penalty – in particular the detention conditions of those sentenced to death – should be considered a form of torture in all circumstances has gained traction among UN Special Procedures, academics and NGOs.

In 2013, the UN Special Rapporteur on torture and other inhuman or degrading treatment or punishment stressed that the use of solitary confinement should be absolutely prohibited for those sentenced to death, stating, “No prisoner, including those serving life sentence and prisoners sentenced to death, shall be held in solitary confinement merely because of the gravity of the crime.”³²

The Rapporteur also noted: “Solitary confinement used on death row is by definition prolonged and indefinite and thus constitutes cruel, inhuman or degrading treatment or punishment or even torture.”³³ More recently, in October 2022, the UN Special Rapporteurs on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and on Extrajudicial, Summary or Arbitrary Executions issued a statement affirming that the “death row phenomenon”³⁴ has long been characterised as a form of inhuman treatment, as has the near total isolation of those convicted of capital crimes and

30 Arab Charter on Human Rights, Article 20.

31 American Convention on Human Rights, Article 5.2.

32 UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment* [A/68/295], 2013, para. 61, available at https://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/IEGM_Brazil_Jan_2014/Special_Rapporteur_submission_-_English.pdf

33 UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment* [A/67/279], 2012, para. 48, available at <https://documents.un.org/doc/undoc/gen/n12/458/12/pdf/n1245812.pdf>

34 See Part V, p. 57.

often held in unlawful solitary confinement.³⁵ Recent case law from the IACHR has also concluded that certain conditions of detention of death row are incompatible with the prohibition of torture and ill-treatment.³⁶ Based on this, a group of 42 NGOs pointed out that the death penalty, from sentencing to execution, “inevitably causes physical harm and psychological suffering amounting to torture or ill-treatment”.³⁷

35 United Nations press release, “UN Experts Warn of Associated Torture and Cruel Punishment”, 10 October 2022, available at <https://www.ohchr.org/en/press-releases/2022/10/un-experts-warn-associated-torture-and-cruel-punishment#>

36 Collective of 42 NGOs, *The death penalty and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment*, Position paper, August 2023, available at <https://www.fiacat.org/en/publications-en/reports/thematic-reports/3003-the-death-penalty-and-the-prohibition-of-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment>, pp. 5-6.

37 *Ibid*, p. 1.

INTERNATIONAL AND REGIONAL STANDARDS ON DETENTION OF PRISONERS SENTENCED TO DEATH

- European Convention on Human Rights (1950)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- American Convention on Human Rights (1969)
- African Charter on Human and Peoples' Rights (1981)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty (1984)
- Beijing Rules – UN Standard Minimum Rules for the Administration of Juvenile Justice (1985)
- UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988)
- UN Convention on the Rights of the Child (1989)
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (1989)
- African Charter on the Rights and Welfare of the Child (1990)
- UN Basic Principles for the Treatment of Prisoners (1990)
- Havana Rules – UN Rules for the Protection of Juveniles Deprived of their Liberty (1990)
- Arab Charter on Human Rights (1994)
- Robben Island Guidelines and Measures for the Prohibition and Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Africa (2003)
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)
- Bangkok Rules – UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (2010)
- Nelson Mandela Rules – UN Standard Minimum Rules for the Treatment of Prisoners (2015)
- UN Human Rights Committee, General Comment No. 36 on the right to life (2019)

NATIONAL LEGAL FRAMEWORK

While it is important to know the international and regional standards applicable to detention conditions, members of monitoring teams must have a good understanding of the national legal framework governing these issues.

You will find below a useful checklist of factors to be taken into consideration.

CHECKLIST NO. 1: LEGAL FRAMEWORK TO BE ANALYSED BY MONITORING BODIES

Analysis of the Constitution

- Does the Constitution contain specific provisions on the right to life and the prevention of inhuman or degrading treatment, torture and other forms of ill-treatment?
- Does the Constitution provide specific protection and provisions for prisoners, particularly those sentenced to death?
- Does the Constitution contain specific provisions on the appeal or pardon procedure for prisoners sentenced to death?

Analysis of laws and regulations

- Do the laws and regulations (in particular the Criminal Code and the Code of Criminal Procedure) contain specific provisions on the rights, guarantees and protection afforded to prisoners, in particular those sentenced to death?
- Are there any military laws? In countries where military laws may be relevant, what are the provisions on the rights of prisoners, in particular the rights of those sentenced to death, and procedural guarantees?
- Are specific guarantees granted to particular groups (women, foreign nationals, etc.)?

Analysis of prison law (including soft law)

- Do prison standards (including institutional policies, guidelines and manuals) contain specific provisions on the rights, guarantees and protections afforded to prisoners, particularly those sentenced to death?
- Does national case law contain references to the rights of detainees and, in particular, to the rights of prisoners sentenced to death? Have the courts handed down any important judgments?



MAIN RIGHTS OF PRISONERS SENTENCED TO DEATH

This section looks at the main rights of prisoners sentenced to death and the sources of these rights. Above all, those sentenced to death must under no circumstances be treated less favourably in prison on the grounds of their status.

CIVIL AND POLITICAL RIGHTS

- **Right to life**

Prisoners have the right to life. In practice, this means that prison staff must protect detainees and prevent any life-threatening harm.³⁸

Example: Prison staff must not use lethal force indiscriminately against detainees in the event of a violent mutiny inside a prison.

- **Prohibition on torture**

Prisoners have the right not to be subjected to torture or cruel, inhuman or degrading punishment. In the case of prisoners sentenced to death, there is a higher risk that they will be subjected to treatment constituting torture or other forms of ill-treatment (such as excessive use of force or restraints, solitary confinement).³⁹

Example: Solitary confinement (isolation for more than 22 hours a day without significant human contact) is inhumane treatment and is prohibited.⁴⁰

- **Procedural guarantees and right to a fair trial** (including access to a lawyer, right to appeal, to seek a pardon or commutation of sentence)

The right to a fair trial is of crucial importance for those sentenced to death when their right to life is threatened. In all death penalty cases, respect for the right to a fair trial must be carefully examined. Prisoners sentenced to death have the right to legal counsel at all stages of the criminal proceedings (during arrest, pre-trial, trial and post-trial). International standards require that the right to a fair trial includes the right to effective legal representation.⁴¹ Access to legal advice must be prompt. Legal assistance may be provided through legal aid

38 Main sources: ICCPR, Article 6; African Charter on Human and Peoples' Rights, Article 4; African Charter on the Rights and Welfare of the Child, Article 5; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 4; Arab Charter on Human Rights, Articles 5 and 6; ECHR, Article 2; American Convention on Human Rights, Article 4.

39 Main sources: ICCPR, Articles 7 and 10; African Charter on Human and Peoples' Rights, Article 5; American Convention on Human Rights, Article 5; ECHR, Article 3; CAT; Nelson Mandela Rules, Rule 34; Havana Rules, Rule 87a; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 6; Robben Island Guidelines.

40 See Part V, p. 57.

41 UN Human Rights Committee, General Comment No. 36.

if necessary.⁴² Prisoners sentenced to death should have the right to exhaust all avenues of appeal and other judicial and non-judicial procedures before the death penalty is carried out, including the right to seek a pardon or commutation of their sentence.⁴³ These rights are crucial guarantees in all death penalty cases. The right to a pardon is codified in several international instruments, including the ICCPR, which establishes the right to seek pardon or commutation of sentence for anyone sentenced to death.⁴⁴ Under international law, clemency or pardon procedures must be meaningful, effective, fair and transparent. While pardon or commutation procedures are pending, executions should not be carried out.⁴⁵

Example: It is absolutely forbidden to execute a person who has not exhausted all legal remedies, such as appeals, requests for pardon or commutation of sentence.

- **Right to family life**

Detainees have the right to maintain contact with their families, which includes visiting and sending and receiving correspondence. The right to communicate with families can provide a vital link with the outside world and is essential to the physical and mental well-being of prisoners sentenced to death. It can also help to alleviate the sense of isolation that many prisoners sentenced to death feel while in detention. International standards require prison authorities to facilitate family contact as far as possible.⁴⁶

42 UN Human Rights Committee, Concluding Observations: Trinidad and Tobago, UN CCPR/CO/70/TTO, 3 November 2000, para. 7. Main sources on fair trial guarantees: ICCPR, Article 14; UN Human Rights Committee, General Comment No. 36; UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Nelson Mandela Rules; UN Basic Principles on the Role of Lawyers; UN Guidelines on the Role of Prosecutors; UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems; Arab Charter on Human Rights; African Charter on Human and Peoples' Rights; American Convention on Human Rights.

43 Main sources: UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty; ICCPR, Article 14; ECHR, Article 6; American Convention on Human Rights, Article 8; African Charter on Human and Peoples' Rights, Article 7; Arab Charter on Human Rights, Article 13; Robben Island Guidelines, paras 20, 21 and 30; UN Human Rights Committee, General Comment No. 36.

44 ICCPR, Article 6(4); UN Human Rights Committee, General Comment No. 36, paras 46 and 47; UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty.

45 UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, Safeguard 8.

46 Main sources: Nelson Mandela Rules, Rules 58.1, 58.2, 88.2, 106 and 107; Bangkok Rules, Rules 26, 27 and 28; Havana Rules, Rules 59-61; EPR, Rules 24.1-24.9, 37.2 (foreign nationals); Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XVIII; Robben Island Guidelines, para. 31. See also, for example, *Marta Lucía Álvarez Giraldo* (Colombia), Case 11,656, IACHR, Report No. 71/99 (1999).

Example: It is forbidden to prevent a person sentenced to death from receiving visits from his or her family.

- **Right to freedom of expression, religion, thought and belief**

Detainees have the right to express their opinions, to seek and receive information and to be connected to the outside world, in particular by having access to the news and by writing and receiving correspondence. For many prisoners sentenced to death, social isolation can be extremely acute and contact with the outside world, by whatever means, becomes all the more important.⁴⁷

Example: It is forbidden to deny prisoners sentenced to death access to prayer books.

- **Right to privacy**

Detainees have the right to respect for their privacy. Prisons are places where individuals can spend many years. This right to privacy extends to correspondence, accommodation and health matters.⁴⁸

Example: It is forbidden to refuse to allow a prisoner sentenced to death to have personal photos of his or her family.

- **Right to consular protection**

Foreign nationals have the right to consular assistance and the right to have their consulate informed of their detention.⁴⁹

Example: It is forbidden to prevent foreign nationals from contacting their consular representations.

47 Main sources: Nelson Mandela Rules, Rules 58.1 and 62 (foreign nationals); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 19; Bangkok Rules, Rule 26; Havana Rules, Rules 59, 61 and 62; EPR, Rule 24.1-24.5; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XVIII; Robben Island Guidelines, para. 31

48 Main sources: American Convention on Human Rights, Article 11(2); ECHR, Article 8; Bangkok Rules, Rule 27; Yogyakarta Principles, Principle 9(e).

49 See Introduction.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- **Right to health**

Every human being has the right to enjoy the highest attainable standard of physical and mental health. When a state deprives a person of their liberty, it has an obligation to provide that person with medical care and to protect and promote his or her physical and mental health and well-being. The Nelson Mandela Rules require equivalence of care, which means that health services in prison must be of the same standard as those available in the community.⁵⁰

Example: It is forbidden to prevent prisoners sentenced to death from accessing a health care service outside the prison if the necessary care is not available inside.

- **Right to education, recreation, outdoor exercise and work⁵¹**

Detainees have the right to education (including compulsory education, literacy and numeracy, higher education and vocational training), which is considered crucial to their rehabilitation and reintegration into society. According to international standards, the aim of any prison system is “reform and social reintegration”. Anyone imprisoned must therefore be reintegrated into society and lead a law-abiding and independent life, even if they were convicted of the most serious offences.⁵² Education must be adapted to individual needs. Prisoners also have the right to work, to participate in recreational activities and to take outdoor exercise. Prisoners sentenced to death are often excluded from

50 Main sources: Nelson Mandela Rules, Rules 24-31; ICESCR, Article 12; Havana Rules, Rules 49-55; EPR, Rules 39 and 40.3; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle IX; Robben Island Guidelines, para. 31.

51 Main sources: (i) Education – Nelson Mandela Rules, Rules 4, 64, 104 and 105; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 28; Basic Principles for the Treatment of Prisoners, Principle 6; Bangkok Rules, Rule 37; Havana Rules, Rules 18 and 38-41; EPR, Rules 28.1-28.7 and 35.2; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XIII. (ii) Recreational activities – Nelson Mandela Rules, Rule 105; Havana Rules, Rule 47; EPR, Rules 25.1, 27.3, 27.5 and 27.6; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XIII. (iii) Outdoor exercise – Nelson Mandela Rules, Rules 4, 23.1 and 23.2; Havana Rules, Rule 47; EPR, Rules 27.1, 27.2 and 27.3. (iv) Work – Nelson Mandela Rules, Rules 96-103; Basic Principles for the Treatment of Prisoners, Principle 8; Havana Rules, Rules 18 and 42-46; EPR, Rules 26.1-26.17; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XIV.

52 ICCPR; Nelson Mandela Rules; Bangkok Rules.

or have limited access to rehabilitation and work programmes because of their status, which invariably has an impact on their mental health.

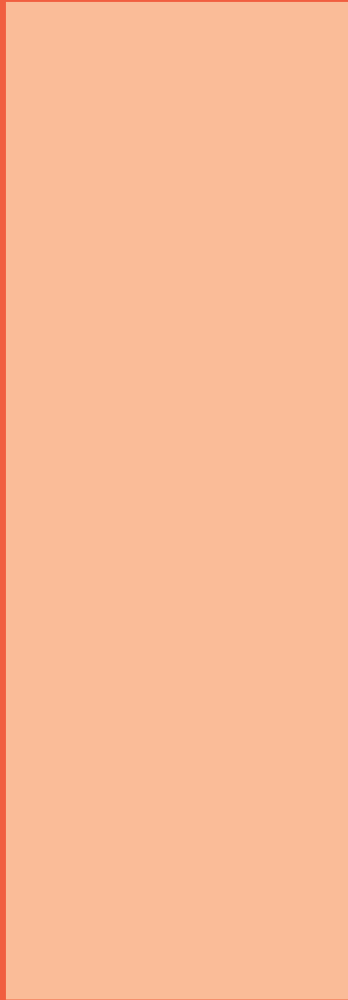
Example: It is forbidden to prevent people sentenced to death from accessing social and professional reintegration programmes because of their status.


- **Right to food and adequate living conditions**

Prisoners have the right to be treated humanely in detention. This includes the right to live in a safe, clean and decent environment. These material conditions of detention include: adequate heating, lighting and ventilation, minimum living space and privacy, regular access to sanitary facilities, good quality food, drinking water, and clean clothing and bedding. These rules apply to all detainees, without exception.⁵³


Example: It is forbidden to hold prisoners sentenced to death in cells that do not have a window large enough to allow them to read or work in natural light.

53 Main sources: Robben Island Guidelines, para. 33-37. (i) *Food and water* – Nelson Mandela Rules, Rules 22 and 35.1; Havana Rules, Rule 37; Bangkok Rules, Rules 48.1-48.3; EPR, Rules 22.1-22.6; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XI. (ii) *Accommodation* – Nelson Mandela Rules, Rules 12, 13, 17 and 42; Havana Rules, Rules 32 and 33; EPR, Rules 18.5-18.10, Rule 96; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XII. (iii) *Clothing and bedding* – Nelson Mandela Rules, Rules 19-21 and 42; Havana Rules, Rules 33 and 36; EPR, Rules 20.1-20.4 and 21; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XII. (iv) *Light and ventilation* – Nelson Mandela Rules, Rules 14 and 42; EPR, Rule 18.2; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XII. (v) *Sanitary installations and personal hygiene* – Nelson Mandela Rules, Rules 15, 16, 18 and 42; Bangkok Rules, Rule 5; Havana Rules, Rule 34; EPR, Rules 19.3-19.7; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XII.





PROCEDURES AND GUIDING PRINCIPLES FOR VISITS TO MONITOR PLACES OF DETENTION



This section presents the main monitoring bodies and the guiding principles on detention monitoring.

MAIN MONITORING BODIES

Supervision and control of places of detention are the responsibility of several bodies and structures at different levels – national, regional and international.

As a member of a monitoring team, it is important that you understand the work and remit of these other bodies, and how your role within the NHRI or NPM fits into this network of actors. The contribution of other monitoring bodies to the general supervision of detention serves to intensify examination of places of detention, to make additional recommendations and to familiarise the authorities with independent prison monitoring, which in turn leads to change on the ground. These bodies may be national, regional or international.

We recommend that you consult the reports of these bodies to find out more about their concerns and their recommendations for improvement.⁵⁴

NATIONAL BODIES CARRYING OUT MONITORING VISITS

- **NPMs and NHRIs**⁵⁵
- **Prison authorities:** In many countries, prison authorities can carry out internal inspections of prisons, although these are generally limited to inspections of staff compliance with national standards and directives.
- **Members of Parliament:** Parliamentarians may visit prisons to assess detention conditions or investigate complaints from detainees. These mechanisms are sometimes specified in the Constitution of a given state.
- **Judiciary:** In many countries, members of the judiciary are obliged or authorised to visit places of detention in order to monitor prison conditions. In addition to these mechanisms, a specialised body may be set up to inspect prisons. Such bodies are often supervised by the Ministry of Justice.
- **Civil society and NGOs:** Civil society organisations or international NGOs may be granted access to prisons in order to monitor

⁵⁴ See Part IV, Checklist No. 5.

⁵⁵ See p. 5, The role of National Preventive Mechanisms (NPMs) and National Human Rights Institutions (NHRIs) in prison monitoring.

detention conditions and meet individual prisoners. Access to prisons for civil society actors and NGOs is recommended by international standards.⁵⁶

INTERNATIONAL BODIES CARRYING OUT MONITORING VISITS

- **Subcommittee on the Prevention of Torture (SPT):** The SPT is mandated to visit places where people are deprived of their liberty in States Parties to OPCAT. Visits are carried out by at least two SPT members, who may be accompanied by experts such as lawyers, health professionals, education specialists and social workers. The SPT may carry out four types of visit: Country visits, follow-up country visits, advisory visits to NPMs and advisory visits under OPCAT.⁵⁷
- **International Committee of the Red Cross (ICRC):** ICRC staff make regular visits to places of detention and conduct confidential interviews in private with detainees. ICRC then submits confidential reports to the authorities to express its concerns and discuss possible solutions. ICRC maintains ongoing dialogue with state and non-state authorities depending on the context.⁵⁸

REGIONAL BODIES CARRYING OUT MONITORING VISITS⁵⁹

- **Africa:** Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa (SRP), African Commission on Human and Peoples' Rights.

56 Openness to external control mechanisms, and in particular to civil society, is an objective promoted by security sector reform: OECD, *OECD DAC Handbook on Security System Reform*, 2007, p. 199. See also: Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, Article 42.

57 For further information: <https://www.ohchr.org/en/treaty-bodies/spt/visits>

58 In addition, ICRC undertakes projects to address broader systemic issues affecting detainees. For further information: <https://www.icrc.org/en/what-we-do/helping-detainees>

59 The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) is not mentioned here, as prohibition of the death penalty is one of the conditions of access to the Council of Europe. However, it should be noted that the CPT is a body for monitoring places of deprivation of liberty, which carries out visits to places of detention, including prisons, police stations, holding centres for immigration detainees, social care homes and psychiatric hospitals. The CPT carries out periodic visits (generally once every four years) but may also carry out ad hoc visits if necessary. Following each visit, the CPT sends a detailed report to the state concerned, including its findings and recommendations and any requests for information. For further information: <https://www.coe.int/en/web/cpt/>

The SRP, a special mechanism of the ACHPR, is empowered to examine the situation of persons deprived of their liberty within the territories of States Parties to the African Charter on Human and Peoples' Rights. The remit covers all types of places of detention, including police cells, pre-trial detention centres, detention centres and psychiatric hospitals. The Special Rapporteur's mandate consists of providing advice on alleged violations, analysing national laws and their compliance with international standards, and conducting fact-finding missions in Member States. During visits, the Special Rapporteur can enter places of detention, interview staff and detainees, monitor conditions and make recommendations for improvement or propose urgent action measures. The visiting delegation communicates its preliminary observations and recommendations to the competent authorities. A written report of its findings and recommendations is then sent to the government and made public through the African Commission on Human and Peoples' Rights (ACHPR). Biannual activity reports are submitted to the ACHPR.⁶⁰

- **Americas: Special Rapporteur on the Rights of Persons Deprived of Liberty and to Prevent and Combat Torture, Inter-American Commission on Human Rights.**

The Special Rapporteur is one of the special mechanisms supervised by the IACHR. Its mandate includes visiting states to monitor the situation of persons deprived of their liberty. The Special Rapporteur can enter places of detention and meet detainees and their families, civil society organisations and prison staff. The Special Rapporteur prepares reports for the IACHR on conditions of detention. It can also follow up with the state to check what remedial action has been taken to resolve the problems identified during the visit and to help it comply with its international obligations.⁶¹

60 For further information: <https://achpr.au.int/en/mechanisms/special-rapporteur-prisons-conditions-detention-and-policing-africa>

61 For further information: <https://www.oas.org/en/iachr/jsForm/?File=/en/IACHR/r/DPPL/mandato.asp>

ETHICAL MONITORING PRINCIPLES

The work of detention monitoring bodies is often delicate and extremely sensitive, given the location, the people involved and the imbalance of power between the authorities and detainees. These bodies must therefore always act with great caution and follow a set of ethical principles to guide their work.

Although these principles are applicable in any custodial setting, they are of particular importance in the case of children, women and men sentenced to death, who are perhaps one of the most vulnerable and isolated groups within the prison community. Prisoners sentenced to death may be reluctant or nervous about discussing their concerns and anxieties with external monitoring bodies and, as a result, may be withdrawn or uncommunicative.

We encourage you to familiarise yourself with these principles before undertaking your monitoring visits.

DO NO HARM

At the core of any monitoring visit is the “Do no harm” principle. Detainees are often vulnerable given the context of detention and your actions must not cause them further harm. While gathering information is central to your work, it must never be at the expense of another person’s physical safety or emotional or mental health.

DOs

- You must protect the confidentiality of interviewees.
- You need to analyse the added value of group discussions in terms of the “Do no harm” principle. While these discussions can be useful for identifying systemic issues or themes of concern, as well as a useful way of gauging the general atmosphere, some people may be reluctant to reveal their real concerns in a context where confidentiality is not respected (fear of reprisals, fear of passing on sensitive information to the prison authorities, etc.).
- You must ensure that the protection of interviewees is always at the centre of your practices.

DON'Ts

- You must not conduct interviews that are likely to cause physical or psychological harm to detainees.
- You must not pass on information about interviewees without their express consent.

▶ COMPLY WITH YOUR MANDATE

As a member of a monitoring team, it is important that you fully understand your mandate, how your monitoring work contributes to fulfilling it, what actions are permitted, and the potential risks and harms associated with them.

DOs

- You must remain as neutral as possible during your visit, even if you are deeply affected by conversations with detainees.
- You must show empathy at all times.
- If you consider that a detainee has needs, you must inform the authorities if the detainee agrees.

DON'Ts

- Complying with the mandate also means always respecting the professional boundaries between yourself and detainees; you must not seek to make friends with detainees.

▶ USE COMMON SENSE AND ACT WITH INTEGRITY

DOs

- You must always use your best judgement during a visit. While it is important that you have a good understanding and knowledge of the standards underpinning your monitoring visit, these rules cannot replace common sense and sound personal judgement on your part.

DON'Ts

- You must not behave in an inappropriate manner in the presence of or towards prisoners and prison staff.

▶ SHOW RESPECT FOR PRISON AUTHORITIES AND STAFF

DOs

- It is essential that you establish a good working relationship with the authorities to ensure the success of your mission. In all circumstances, your activities must be conducted in a respectful manner towards the authorities, using professional language.
- Be aware that the working conditions of prison staff dealing with prisoners sentenced to death can be very difficult and stressful and take this into account in your interactions with them.
- Show respect and sensitivity in all your dealings with the authorities and prison staff.

DON'Ts

- Don't be aggressive or disrespectful towards prison staff.

▶ SHOW RESPECT FOR PRISONERS SENTENCED TO DEATH

DOs

- You must treat prisoners sentenced to death with respect and courtesy.
- Before interviews, you must introduce yourself, explain the purpose of the visit and the conditions governing publication of the information collected during interviews.
- You must respect any refusal by prisoners sentenced to death to take part in interviews or to answer certain questions.

DON'Ts

- Under no circumstances should you force anyone to talk to you.
- You must not be aggressive or disrespectful towards prisoners sentenced to death.

▶ BE AND REMAIN CREDIBLE

Credibility is essential to the success of monitoring. Women and men prisoners, as well as prison staff, will be more open if they have confidence in the organisation and the project.

DOs

- You must always clearly explain the objectives and limitations of your activities.
- You must ensure that the conclusions presented in the report or at the meeting with the authorities are accurate and objective.

DON'Ts

- You must not make any promises you are unlikely to keep, or take any action you may not be able to follow through on later.

▶ RESPECT THE CONFIDENTIALITY PRINCIPLE

DOs

- You must ensure that protecting confidentiality is at the core of your work.
- All information provided during interviews must be handled confidentially, including individual allegations of torture or ill-treatment, if the interviewee objects to the information being shared.
- During interviews, make sure that the interviewee understands the benefits as well as the possible negative consequences of taking action on their behalf.

DON'Ts

- You must not make any statements on behalf of prisoners sentenced to death or disclose their names without their express and informed consent.

▶ ENSURE YOUR SAFETY

DOs

- You have a duty to comply with the internal security rules imposed by the prison authorities.
- You must comply with security measures where necessary, in particular where prisoners sentenced to death are held in units with enhanced security measures.
- The head of the monitoring team must ensure that the safety of the members of the team is guaranteed, which may involve regular checks and moving around the prison in pairs.

DON'Ts

- You must not ignore or neglect safety rules.

▶ SHOW PERSEVERANCE, PATIENCE AND CONSISTENCY

DOs

- Monitoring is not a one-off exercise, but an ongoing effort requiring regular visits and consistency in activities in order to bring about change.
- You should not be afraid to repeat the same question until you receive an answer from the authorities.

DON'Ts

- Avoid feeling overwhelmed by the many challenges you are likely to face.

▶ BE ACCURATE AND PRECISE

DOs

- During any monitoring visit, you must collect accurate and precise information.
- During interviews, you should ask specific, in-depth questions, as well as additional questions to clarify certain points.

DON'Ts

- You must not ask broad or overly general questions.

▶ SHOW SENSITIVITY

DOs

- You must be sensitive to the state of mind and needs of prisoners sentenced to death interviewed, including the risk of re-traumatisation during interviews.
- You must ensure that you have received relevant training, in particular on trauma-informed practices and gender-sensitive monitoring methodologies and practices, especially in relation to secondary victimisation (e.g. in the case of sexual abuse).

DON'Ts

- You must not force a prisoner sentenced to death to share information about their situation in prison. He or she may be reluctant to share such information for fear of reprisals or because of previous trauma, and you must react appropriately.

▶ DEMONSTRATE IMPARTIALITY AND OBJECTIVITY

DOs

- You must endeavour to ensure objectivity and impartiality at all times during visits.
- You must bear in mind that your work must be structured around the international and national framework and your monitoring mandate.
- It is possible that, during a visit, you may meet someone you know. If there is a possibility of a conflict of interest, you must inform the head of mission so that the potential nature of the conflict of interest can be determined, taken into account and appropriate measures implemented.

DON'Ts

- You must not take a political stance on or against governments, civil servants, detainees or on any other subject.

▶ ENSURE YOUR VISIBILITY

DOs

- You must ensure that staff and detainees are informed of your mandate and working practices.
- You must wear a badge or other means of identification during a visit.
- You must consider the possibility of publishing visit reports (depending on your mandate).

DON'Ts

- You must not remove your badge or means of identification during a visit.

INNOVATIVE PRACTICES

A TRAUMA-INFORMED CRIMINAL JUSTICE SYSTEM

In one country, the authorities are seeking to pass legislation to make the criminal justice system trauma informed. Trauma-informed practice recognises the impact of traumatic experiences on an individual and seeks to adapt processes and procedures accordingly, with a view to minimising the risk of re-traumatising victims. If passed, this legislation will ensure that the prison administration – among other bodies – takes account of these challenges in its practices.



PREPARATION OF THE MONITORING VISIT

This section sets out the key stages to be followed in preparation for any visit to a place of detention where prisoners sentenced to death are held.

In accordance with the provisions of OPCAT, NPMs are entitled to carry out visits in the manner and at the frequency they choose. The NPM decides whether visits are announced or unannounced; visits may be carried out at different times, including at night.⁶² The local context (political, economic, human rights, security) will determine the level and thoroughness of preparation for an inspection, but there are some good practices to be followed before any visit.

STAGE ONE: DEVELOP TERMS OF REFERENCE AND OBJECTIVES

Before any monitoring visit, the aims and objectives must be defined, ideally in a document (terms of reference). Your objectives, in particular analysis of compliance with international, regional and national standards and the realities experienced by prisoners sentenced to death, should be as clear as possible. The terms of reference may include the elements listed below.

CHECKLIST NO. 2: INFORMATION TO BE INCLUDED IN TERMS OF REFERENCE

- Scope of the monitoring visit (taking into account the time, infrastructure, money and resources available)
- Places of detention to be visited
- Timetable and key dates of the visit
- List of persons likely to be interviewed (in compliance with confidentiality rules)
- Logistical aspects: Composition and size of the monitoring team, distribution of tasks, security considerations, technological needs, accommodation and travel arrangements.

STAGE TWO: SELECT AND TRAIN THE MONITORING TEAM

NPMs and NHRIs should choose the members of their monitoring team carefully, as the composition of the team reflects the independence and objectivity of the institution, which has a direct

⁶² See Part III, p. 39.

bearing on its credibility. All members of the monitoring team must be objective, neutral and without any conflict of interest. Where appropriate, monitoring bodies may consider setting up a procedure for vetting and selecting potential team members.

CHECKLIST NO. 3: SELECTING AND TRAINING THE MONITORING TEAM

- Ensure gender parity within the team: The team must be gender-balanced so that women and men detainees feel comfortable.
- Ensure diverse representation of ethnic and racial backgrounds, socio-cultural backgrounds, ages and language skills within the team, to reflect and better understand the prison population.
- If appropriate, consider setting up a procedure for vetting and selecting potential team members.
- Appoint a head of team for each mission. This person is responsible for recruiting and managing the monitoring team. The head of the monitoring team may be appointed from among those with the most experience and training in monitoring. It is up to the head of the team to decide whether interviews should be conducted by one or two people. Working as a team ensures the credibility and accuracy of interviews, and can be a safety measure in areas considered to be dangerous or high-risk.
- Consider whether it is appropriate to call on external actors and establish selection procedures: It may be necessary to draw on particular skills or specific qualities for certain visits, for example lawyers, education experts or health professionals (doctors, psychiatrists, psychologists). NPMs should keep a list of qualified experts who can be contacted, even at short notice, to join the monitoring team as an ad hoc member (with, for example, their CVs, statements of interest and references).
- Evaluate the optimal number of members of the mission team: The optimal size of the monitoring team will depend on the resources available, the scale and complexity of the problems at the prison and language issues.
- Train team members in monitoring practices: Time and thought should be devoted specifically to this to ensure that the team is equipped to conduct interviews and has been made aware of key issues, including:
 - Standards governing monitoring activities
 - Interview methodology and practice, including secondary traumatisation and vicarious traumatisation
 - Cross-cultural issues
 - Management of difficult interviewees
 - Gender equity.

STAGE THREE: COLLECT AND ANALYSE RELEVANT INFORMATION

Before visits, it is important for members of the monitoring team to collect data or other information in order to acquire a basic knowledge of the death penalty and the situation of prisoners sentenced to death.

▶ CHECKLIST NO. 4: USEFUL INFORMATION TO BE COLLECTED ON CONDITIONS OF DETENTION OF PRISONERS SENTENCED TO DEATH

- Collection and analysis of official and unofficial statistics and other available information on prisoners sentenced to death, if available:
 - Number of prisoners sentenced to death
 - Gender
 - Nationality
 - Age
 - Ethnic and racial distribution
 - Marital and family status
 - Type of offence
 - Number of years spent in prison
 - Socio-economic situation (level of education, employment, family situation, number of children, etc.)
 - Health situation (physical and mental)
 - At prison level, health statistics, in particular the rate of suicide and self-harm among this category of detainees.
- Collection and analysis of information on the prison regime for prisoners sentenced to death: The regime to which these people are subjected may not be uniform throughout the country. It may vary according to the categories of detainees, their classification and the facilities concerned.
- Collection and analysis of prison protocols: Members of the monitoring team must examine all the policies, guidelines and procedures applicable to prisoners sentenced to death. These guidance documents may vary from one facility to another.
- Collection and review of grey literature: Members of the monitoring team must undertake a wide-ranging review of the literature to gain a comprehensive understanding of the treatment of prisoners sentenced to death, related concerns and suggested recommendations for improvement. This review includes (but is not limited to) the elements listed in Checklist No. 5.
- Meetings with stakeholders: Members of the monitoring team may find it useful to organise meetings with organisations and resource persons with direct or in-depth knowledge of the issue of prisoners sentenced to death. These may include:
 - NGOs or civil society organisations working on the death penalty
 - Members of Parliament
 - Lawyers
 - Family support groups.

CHECKLIST NO. 5: DOCUMENTS TO READ

- Previous NPM or NHRI reports
- Recent visit reports by the SPT and regional monitoring bodies
- Prison monitoring reports by national and international NGOs
- Reports by international actors (UN system, OHCHR) and NGOs to mechanisms and treaty bodies (UPR, UN Human Rights Committee, Committee against Torture, ACHPR, etc.)
- Reports of visits by parliamentarians and judicial bodies
- Academic literature
- Press articles
- Information available on social networks.

STAGE FOUR: PREPARE INTERVIEW GUIDES

Interviews (with detainees, prison staff, health professionals) are an integral part of any monitoring visit. As the monitoring team develops its terms of reference and programme, it is useful to prepare a wide range of questions that might be raised. Members of the monitoring team may need to prepare different sets of questions for each source of information. For example, separate questions may be needed for different groups such as detainees, prison staff, health professionals and men and women, etc.

Sample interview guides for prisoners sentenced to death and prison staff are provided in Annexes I and II.

CHECKLIST NO. 6: PREPARING INTERVIEW GUIDES

- Design questions that are open, clear, non-leading and non-provocative
- Use as few closed questions as possible (those that can only be answered by yes or no)
- Design questions that are concise, easy to understand and neutral.

STAGE FIVE: DRAW UP A SCHEDULE

The team head must prepare a provisional schedule for the monitoring visit, including meetings with prison staff, detainees and facility management.

STAGE SIX: MAKE LOGISTICAL ARRANGEMENTS

The team must ensure that logistical arrangements (travel, accommodation) are confirmed and approved at least a week before the visit, unless you become aware of an urgent situation at a facility you decide to visit. In this case, the time may be reduced to a few days or even a few hours.

You must look after your own safety. If you are travelling to sensitive areas (security risks, earthquakes, etc.):

- Contact organisations that monitor the area you will be travelling through and to
- Travel by plane for long distances
- Avoid travelling at night
- Obtain training in techniques for managing high-risk situations (behaviour in the event of a serious incident, travel in a high-risk area, personal protection, personal safety, risk and threat management, dealing with stress and trauma, first aid, etc.).

SUMMARY

CHECKLIST NO. 7: PREPARING THE VISIT

- Develop terms of reference
- Select and train the team
- Collect and analyse information
- Prepare interview guides
- Prepare a schedule for the visit
- Make logistical arrangements.





THE MONITORING VISIT



This section focuses on the main activities undertaken by the monitoring team during visits to places of detention. Firstly, it discusses the practicalities of visits, such as conducting interviews, reviewing documents and carrying out the prison visit. It then presents the key thematic areas of the inspection and highlights the main areas of concern in relation to prisoners sentenced to death. It provides a list of relevant questions that members of the monitoring team can raise during their visit. Finally, it focuses on groups of prisoners sentenced to death with specific needs, which should receive particular attention during monitoring visits.

PRACTICAL ARRANGEMENTS FOR VISITS

The monitoring team must undertake several activities during its inspection visit:

- Interviews
- Inspection of records (documentary analysis)
- Prison visit (observation).

PERSONS TO BE INTERVIEWED

You will need to meet with several key stakeholders during the visit. Ideally, these meetings should take place in the order set out below.

CHECKLIST NO. 8: PERSONS TO BE INTERVIEWED WITHIN THE PRISON

- Prison governor: Team members should organise an initial meeting with the person in charge of the prison to introduce the team and gain a better understanding of the day-to-day regime for prisoners sentenced to death.
- Persons in contact with prisoners sentenced to death:
 - Supervisory staff
 - Social workers
 - Health professionals
 - Other persons within the prison (e.g. religious representatives, sports facilitators, NGOs involved in rehabilitation or other activities in prisons, persons involved in programmes to combat drugs, etc.).
- Prisoners sentenced to death: Interviews with detainees must be conducted in complete confidentiality and in a private setting (see below). In particular, members of the monitoring team must ensure that they interview:
 - Prisoners sentenced to death held under various detention regimes (see Checklist No. 12)
 - Men and women (see Checklist No. 20)
 - Adults and children
 - Nationals and foreign nationals
 - Members of sexual and gender minorities
 - Members of other minority groups (racial, ethnic, etc.).
- Team debriefing: It is good practice for members of the monitoring team to meet as a team to conduct an internal debriefing, in order to share initial findings, verify information and check in with each other after a visit that may have been physically and emotionally demanding.
- Debriefing with prison management: At the end of the monitoring visit, it is useful for members of the team to organise an informal meeting

with prison management to share the main findings and identify areas of concern, which will then be the subject of a full report. This enables a confidential dialogue to be initiated with the authorities. In accordance with the “Do no harm” principle and the confidentiality principle, members of the monitoring team must not divulge sensitive confidential information, unless the interviewee has given their express consent to do so.⁶³ Confidentiality must be respected at all times, including during this meeting. In addition, members of the monitoring team must ensure that the persons interviewed are not identifiable by context or any other factor. If individual interviewees agree, members of the monitoring team should inform the prison management of urgent situations and recommend actions to be taken. The team may also ask to obtain the file numbers of those whose situations require urgent action, so that follow-up can be carried out from outside the prison.

▶ INSPECTING RECORDS

You must have full and free access to the files, databases and records (electronic and hard copy) concerning prisoners sentenced to death. It is preferable that these records are consulted at the beginning of any visit. These records can provide you with a great deal of information.

▶ CHECKLIST NO. 9: ANALYSING RECORDS

Gather information on:

- Number of prisoners sentenced to death
- Gender
- Nationality
- Unit in which they are held
- Classification, if relevant
- Time spent in detention in this facility and any other facility
- Other prison facilities in which they have been held and reasons for their transfer
- Activities in which they are involved (work, rehabilitation, education, etc.)
- Specific situations (suicide attempts, disciplinary sanctions, solitary confinement, etc.).

63 See also Text Box p. 61, “Torture and ill-treatment allegations”.

PRISON VISITS

At the outset of the visit, members of the mission must conduct a general tour of the prison, to help them understand the ways in which prisoners sentenced to death are integrated into the prison population. You must have full and unrestricted access to all areas and facilities potentially holding prisoners sentenced to death.

N.B.: In some countries, prisoners sentenced to death share communal areas in the prison with the general prison population, while in others they may be more isolated from the general population. Within the same prison, some prisoners sentenced to death may be completely isolated, as a result of their designation as high risk prisoners, while others may be mixed with the rest of the prison population.⁶⁴ In certain countries, certain prisoners sentenced to death (e.g. those convicted of political offences) may have access to financial resources enabling them to improve their conditions of detention, while others are held together with the rest of the prison population in very precarious conditions.⁶⁵ It is therefore important to visit all areas.

CHECKLIST NO. 10: AREAS TO VISIT INSIDE THE PRISON

- Accommodation areas representative of all categories of prisoners sentenced to death held in the prison (including high security areas)
- Showers and toilets
- Health facilities: Infirmary, laboratory, medical unit, isolation area for individuals with contagious diseases (e.g. tuberculosis), dormitory, etc.
- Education areas
- Work areas
- Areas for reintegration and rehabilitation activities
- Leisure, sports and library areas
- Visiting areas, visiting rooms
- Kitchens
- Isolation and disciplinary cells.

⁶⁴ See for example C. Berrih and Kontras, *Dehumanized. The Prison Conditions of People Sentenced to Death in Indonesia*, ECPM, 2019, available at <https://www.ecpm.org/app/uploads/2022/08/mission-enquete-indone%CC%81sie-GB-2019-230320-WEB.pdf>

⁶⁵ C. Berrih and N. Toko, *Sentenced to Oblivion. Fact-Finding Mission on Death Row in Cameroon*, ECPM, 2019, available at <https://www.ecpm.org/app/uploads/2022/08/mission-enquete-cameroun-2019-GB.pdf>

▶ INTERVIEWING PRISONERS SENTENCED TO DEATH

It is recommended to visit all prisoners sentenced to death or, if this is not possible, at least a representative group of the different categories of prisoners sentenced to death, taking into account any existing formal or informal classification system. It is particularly important that members of the monitoring team pay attention to differences in the material conditions of detention between categories of prisoners sentenced to death. Members of the monitoring team must check carefully that access has been given to all groups within this community and not just a small selection.

You must:

- Be familiar with interview techniques
- In all interviews, be non-judgmental, communicate clearly and build a connection with the interviewee
- Always be polite and professional
- Take notes to gain the trust of the prisoner sentenced to death (in addition, recording devices are not always permitted on prison premises).

▶ TORTURE AND ILL TREATMENT ALLEGATIONS

Members of the monitoring team may become aware or be informed of allegations of torture or ill-treatment during their visits. For example, a prisoner sentenced to death may have told you about a situation, but, for security reasons (reprisals, risk of violence, etc.), does not want his or her identity to be disclosed. You must respect their wishes. Particular attention must be paid to the “Do no harm” principle mentioned above.⁶⁶ The monitoring team can raise concerns anonymously in order to protect the identity of the person concerned.

⁶⁶ See Part III, p. 39.

CHECKLIST NO. 11: ADVICE ON INTERVIEWING PRISONERS SENTENCED TO DEATH

- Make sure you interview at least a representative sample of each group of prisoners.
- Conduct interviews in private to ensure that interviewees feel comfortable to disclose difficult or confidential information.
- Ensure that interviews take place outside the presence of prison staff; if this is not possible, avoid asking sensitive questions that could lead to risks of reprisals. Ask questions that are sufficiently open-ended for prisoners sentenced to death to decide what they wish or do not wish to disclose.
- Make sure that the interviewee has given informed consent to be interviewed, to ensure that their participation is voluntary: introduce yourself, explain the monitoring mandate and your role, the conditions for publication of specific information in the final report, the conditions of confidentiality, the duration of the interview and the right to withdraw from the interview at any time without having to provide justification.⁶⁷
- Do not ask questions in an accusatory or aggressive tone. Interview questions can trigger feelings of trauma, anxiety and fear. It is important that questions are formulated in an understanding and sensitive way.
- Use plain language and terms familiar to the interviewee.
- Start the interview with non-controversial and less sensitive questions. Create a climate of trust right from the start of the interview. You must show empathy during the interview.⁶⁸
- Be prepared to deviate from the question during the interview or to rephrase it if necessary. A particular subject may come up that does not appear in your guide, but the analysis of which may form part of your mandate. Do not hesitate to ask for further clarification.

⁶⁷ For more details, see the template interview/script in Annex I.

⁶⁸ Ibid.

THEMATIC AREAS OF MONITORING

Depending on the type of crime committed or the sentence handed down, prisoners sentenced to death may be subject to regimes that differ from those that apply to the rest of the prison population. In some countries, prisoners sentenced to death are segregated from other prisoners and excluded from rehabilitation programmes, work or employment opportunities. Many find themselves in a state of forced idleness, sometimes for very long periods.

MATERIAL DETENTION CONDITIONS OF PRISONERS SENTENCED TO DEATH

“There are three of us adults and my baby in a cell normally meant for one person. We have mattresses on the floor, without sheets.”

Sylvie, prisoner sentenced to death in Democratic Republic of Congo

The conditions in which prisoners sentenced to death are held, regardless of the prospect of execution, can in themselves have an extremely detrimental impact on an individual’s psychological and physical well-being, and can in some cases amount to torture. The UN Human Rights Committee expressed its deep concern about the poor living conditions of prisoners sentenced to death, including undue restrictions on visits and correspondence,⁶⁹ small size of cells, lack of food and physical exercise,⁷⁰ extreme temperatures, lack of ventilation, insect-infested cells and insufficient time spent outside cells.⁷¹

The material conditions of detention of prisoners sentenced to death vary considerably from one state to another. Prisoners can be placed in solitary confinement on the sole basis that they have

69 UN Human Rights Committee, 64th session, Concluding observations of the United Nations Human Rights Committee. Committee: Japan, 19 November 1998, CCPR/CO/79/Add.102, para. 21, available at <https://documents.un.org/doc/undoc/gen/g98/197/29/pdf/g9819729.pdf>

70 UN Human Rights Committee, 71st session, Concluding observations of the Human Rights Committee: Uzbekistan, 26 April 2001, CCPR/CO/71/UZB, para. 10, available at <https://documents.un.org/doc/undoc/gen/g01/414/79/pdf/g0141479.pdf>

71 UN Human Rights Committee, 79th session, Communication No. 1096/2002: Tajikistan, 12 November 2003, CCPR/C/79/D/1096/2002, para. 7.8, available at <https://digitallibrary.un.org/record/516932?ln=en>

been sentenced to death, as they are automatically considered to be a danger to themselves, to others and to present a risk of escape. They may be confined to maximum security areas, often in a specific building or unit. In this case, prisoners may be held in tiny cells with a steel bed, concrete slab, toilet and small writing table, either alone or with another person. Other prisoners sentenced to death may be held in collective cells of several dozen people, mixed in with the other detainees, without any bedding. In terms of food, prisoners sentenced to death often only have access to food that is not very nutritious or varied and have only limited access to meat and certain fruits or vegetables.

▶ CHECKLIST NO. 12: MATERIAL DETENTION CONDITIONS

The following factors need to be taken into consideration when inspecting the material detention conditions of prisoners sentenced to death.

- Consider the differences between the regimes and conditions for the detention of prisoners sentenced to death:
 - Are all prisoners sentenced to death subject to the same detention regimes and conditions, or are there differences?
 - What are the differences and how are they explained?
 - If conditions differ considerably between groups, the following questions should be considered in order to identify the specific features of each group.
- Consider sleeping arrangements:
 - Are cells collective or individual?
 - In collective cells, does each prisoner have a dedicated space to sleep?
 - Are prisoners sentenced to death held together with other detainees in the same cell?
 - Is the sleeping area of all prisoners sentenced to death well maintained, safe, clean and equipped with suitable furniture?
 - Is bedding (mattress, bed base, sheets) provided for prisoners sentenced to death? How often are the sheets changed?
- Consider the cells:
 - Do the cells have natural light? Can fresh air circulate? Are there any windows? Can they be opened?
 - Do the windows provide adequate light for reading and working?
 - Are the heating and cooling systems safe, appropriate and functional?
 - Is ventilation adapted to the climate?
- Consider diet and access to food and water:
 - Are prisoners sentenced to death provided with sufficient, nutritious and balanced food, free of charge? Are special dietary needs taken into account? What is the daily food budget for each prisoner?
 - How many meals a day are provided to prisoners sentenced to death? Are they fed at the same time as the rest of the prison population?

- Is there any evidence of discrimination against prisoners sentenced to death in terms of access to food and water?
- **Consider hygiene facilities:**
 - Are prisoners sentenced to death given easy and unrestricted access to clean and decent toilets?
 - Are prisoners sentenced to death given access to adequate showers, at temperatures adapted to the climate and as often as necessary for their general hygiene?
 - Is there any evidence of discrimination against prisoners sentenced to death in terms of access to showers?
 - Are prisoners sentenced to death provided with the toiletries they need for their basic health, cleanliness and dignity (soap, toothbrush, toothpaste, sanitary pads), free of charge?
- **Consider clothing conditions:**
 - Are prisoners sentenced to death allowed to wear their own clothes and footwear?
 - If prisoners sentenced to death do not have their own clothes, are they provided with appropriate and sufficient footwear and clothing, adapted to the context?

HEALTH CARE

Members of the monitoring team must visit prisoners sentenced to death and must also meet with health care professionals, to gain a better understanding of the main health care challenges facing these prisoners and the medical and paramedical care and treatment they receive.

Physical health

Prisoners sentenced to death often have more extensive health care needs than the general population: their morbidity rate is higher than in the general population and they are exposed to many diseases in prison, including HIV, hepatitis B and C, and tuberculosis.⁷² Prisoners sentenced to death may have ongoing or chronic health problems that require continuous attention and care, and possibly hospitalisation, intensive care or palliative care.

⁷² WHO (World Health Organization), *Good Governance for Prison Health in the 21st Century: A Policy Brief on the Organization of Prison Health*, 2013, available at <https://www.who.int/europe/publications/i/item/9789289000505>

CHECKLIST NO. 13: PHYSICAL HEALTH

- Consider the principle of equivalence of care:
 - Are the ongoing health needs of prisoners sentenced to death met in accordance with international standards and at least equivalent to those available in the community?
 - Can prisoners sentenced to death receive health care outside of the prison if necessary?
 - Is there a protocol in case of medical emergencies?
- Consider the prevalence of certain diseases, pathologies and conditions:
 - Is there a health statistic monitoring system to analyse the prevalence of certain pathologies among prisoners sentenced to death?
 - Is there a system to record the injuries treated?
 - Do these statistics show that the situation of prisoners sentenced to death is specific? What about certain groups sentenced to death (children, foreign nationals, sexual and gender minorities, etc.)?
- Consider the resources (financial, human and material) available to meet the needs of prisoners sentenced to death:
 - How many carers are available? What kind of training do they receive? What are their working hours?
 - Is the health service run by the Ministry of Justice, the Ministry of Health or another body?
 - What kind of medical equipment is available? What medicines are available?
 - What is the budget allocated to health care?

Mental health

“I’ve already died a million times.”

 Bilal, prisoner sentenced to death in Lebanon since 1997

Mental health issues are also more prevalent in prisons than in the general population; studies suggest that one in seven prisoners suffers from a serious mental health condition.⁷³ Rates of psychological disorders and poor mental health are high among prisoners sentenced to death, as a result of social isolation, lack of activities, potentially long periods of confinement and “loss of hope”. Research shows high rates of anxiety, distress, suicidal thoughts, suicide attempts and psychiatric illness among prisoners sentenced to death. In some countries, it has been documented that more than half of the prisoners sentenced to death interviewed suffered

⁷³ See Penal Reform International, *Mental Health in Prison: A Short Guide for Prison Staff*, 2018, available at <https://www.penalreform.org/resource/mental-health-in-prison-a-short-guide-for/>

from mental illness.⁷⁴ In accordance with international standards (principle of equivalence of care), prisoners sentenced to death should have the same access to mental health care facilities as the rest of the population. Prisoners sentenced to death must be able to receive psychiatric, psychological and psychosocial support if necessary.

Members of the monitoring team must meet with health care professionals and ask to meet in particular with prisoners sentenced to death who are at risk of suicide or self-harm.

▶ CHECKLIST NO. 14: MENTAL HEALTH

- **Consider data on the mental health of prisoners sentenced to death:**
 - Do the statistics provided by prison health professionals reveal any patterns or trends (suicides, suicide attempts, self-harm, depression, other pathologies in this population; comparison with the rest of the prison population)?
- **Consider the existence of specific programmes designed to address the risk of suicide:**
 - Are there existing suicide prevention programmes for prisoners sentenced to death?
 - If so, what do they include?
- **Consider the treatments available:**
 - Is care and treatment (medication, psychiatric follow-up, psychological follow-up, etc.) provided to prisoners who are particularly at risk of suicide or self-harm?
 - If so, what kind of care and treatment is provided?
 - Is the quality of care equivalent to that provided to the rest of the prison population and the wider community?

⁷⁴ See for example Project 39A, National Law University, Delhi, *Deathworthy: A Mental Health Perspective of the Death Penalty*, 2021, available at https://static1.squarespace.com/static/5a843a9a9f07f5ccd61685f3/t/616fd7988256c93ab9735618/1634719720928/Deathworthy_MainReport_19Oct_2021.pdf

DEATH ROW PHENOMENON

The death row phenomenon is a state of mental and emotional distress that has been frequently documented among prisoners sentenced to death, resulting in a higher rate of psychological and psychiatric disorders compared to the rest of the prison population: paranoia, hallucinations, self-harm, depression, loss of sense of reality, suicidal thoughts or suicide. These consequences are known as “death row syndrome” or “death row phenomenon”. Although this phenomenon is sometimes defined as “prolonged delay under the harsh conditions of death row”,⁷⁵ there is no universal definition of this notion. However, the length of time spent under a sentence of death and the conditions of imprisonment have been identified as factors contributing to death row syndrome. The European Court of Human Rights has found that the “death row phenomenon” constitutes inhuman and degrading punishment⁷⁶. In December 2022, the African Court on Human and Peoples’ Rights handed down judgments concerning the death sentences of Marthine Christian Msuguri and Ghat Mwita in Tanzania. The Court reaffirmed that the application of the death penalty violated Article 5 of the African Charter, relating to the right to human dignity. The Court found that the psychological impact of a death sentence and the “deplorable conditions of detention” amounted to inhuman and degrading treatment.⁷⁷

The Inter-American Court of Human Rights ruled that two prisoners sentenced to death had been subjected to mental suffering constituting cruel, inhuman and degrading treatment within the meaning of Article 5.2 of the American Convention on Human Rights, as a result of conditions of detention incompatible with international standards.⁷⁸

The UN Human Rights Committee stated that “Extreme delays in the implementation of a death penalty sentence that exceed any reasonable period of time necessary to exhaust all legal remedies may also entail the violation of article 7 of the Covenant, especially when the long time on death row exposes sentenced persons to harsh or stressful conditions, including solitary confinement, and when sentenced persons are particularly vulnerable due to factors such as age, health or mental state”.⁷⁹

75 Patrick Hudson, “Does the Death Row Phenomenon Violate a Prisoner’s Human Rights Under International Law?”, *European Journal of International Law*, Vol. 11, No. 4, 2000, p. 836.

76 *Soering v. UK* (1989), Serie A, No. 161 [111].

77 Para. 115, “The Court also finds that a thorough examination of the claim on deplorable conditions of confinement is not warranted as it intrinsically seeks to buttress the central claim that the Applicant indeed suffered and may still be suffering inhuman and degrading treatment”, *Msuguri v. United Republic of Tanzania*, Application No. 052/2016, 1 December 2022 available at <https://www.african-court.org/cpmt/storage/app/uploads/public/638/e00/81d/638e0081da92d827945897.pdf>

78 Inter-American Court of Human Rights, *Dial et al v. Trinidad and Tobago*, Judgment of 21 November 2022, available at https://www.corteidh.or.cr/docs/casos/articulos/seriec_476_ing.pdf

79 UN Human Rights Committee, *General Comment No. 36 on Article 6: the right to life*, 3 September 2019, available at <https://www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life>

▶ WORK, REHABILITATION AND REINTEGRATION ACTIVITIES

While reform and social reintegration is the aim of any prison system,⁸⁰ prisoners sentenced to death are often neglected in terms of access to work, rehabilitation and reintegration activities. In many cases, only those who are likely to be released are eligible for these programmes. For those under sentence of death, lack of work, forced idleness and lack of other meaningful activities can contribute to depression and poor mental health, and reinforce feelings of helplessness and hopelessness. This may also lead to disorder and violence.

Members of the monitoring team must inspect all work facilities, places of education, rehabilitation workshops, etc. During interviews, members of the monitoring team must question women and men sentenced to death about existing opportunities and access to these programmes.

INNOVATIVE PRACTICES

In one country, the prison authorities support the access of prisoners sentenced to death to education programmes, including university programmes.

In another, work and rehabilitation programmes have been set up by the authorities for women sentenced to death, including arts and crafts activities, sport, lessons, singing and a breakdance club.⁸¹

80 See Part II.

81 Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, September 2018, available at <https://deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>

CHECKLIST NO. 15:

WORK, REHABILITATION AND REINTEGRATION ACTIVITIES

- Consider the access of prisoners sentenced to death to available services:
 - Are there work activities or training courses adapted to the diversity of prisoners sentenced to death?
 - How are prisoners sentenced to death informed of the work or training programmes available?
 - What do case files and records reveal about the implementation and availability of these programmes for prisoners sentenced to death? Are any prisoners excluded? On what grounds?
 - Are educational opportunities, including vocational training, open and accessible to prisoners sentenced to death? If not, why not?
 - Are work programmes open and accessible to prisoners sentenced to death? If not, why not?
- Consider the conditions for implementing work activities:
 - Are work activities carried out in a safe, decent and non-abusive manner?

VIOLENCE IN THE PRISON SYSTEM – PUNISHMENT, SEGREGATION, MEANS OF RESTRAINT

In some countries, prisoners sentenced to death are subjected to very severe security measures – excessive use of handcuffs or other means of restraint, excessive use of solitary confinement, strip searches or excessive use of force – which are rarely justified by the risk they pose. Prisoners sentenced to death may be placed under constant surveillance. They may also be subject to disciplinary sanctions more frequently than the rest of the prison population. Prisoners sentenced to death are therefore disproportionately liable to be subjected to torture and other forms of ill-treatment, possibly on a discriminatory basis. Such acts are strictly prohibited and can never be justified under any circumstances.⁸²

Solitary confinement

The American Civil Liberties Union has described solitary confinement as “a death before dying”.⁸³ Solitary confinement, defined as locking prisoners up for 22 hours a day without any significant human contact, is considered inhumane treatment.⁸⁴ In several countries, prisoners sentenced to death can be held in solitary confinement

82 See Part II, p. 31.

83 American Civil Liberties Union, *A Death Before Dying: Solitary Confinement on Death Row*, July 2013, available at <https://www.aclu.org/report/death-dying-solitary-confinement-death-row?redirect=death-dying-solitary-confinement-death-row-report>

84 See Part I, pp. 24–26.

for 10 to 15 days, sometimes chained or deprived of food.⁸⁵ In some cases, prisoners sentenced to death have virtually no human contact, except with prison officers or volunteers who bring them food or treats. Solitary confinement is sometimes used as a disciplinary sanction for those who have attempted suicide (see below).

Means of restraint and use of force

Means of restraint and force should only be used when they are strictly necessary, reasonable and proportionate to the legitimate aim of maintaining security and order in the place of detention, or when the safety of persons or property is threatened.⁸⁶

Violence

Prison staff may seek to exercise their authority in a variety of ways, including by using violence against prisoners sentenced to death. For example, violence may be used to maintain order and discipline within the prison, before or during intrusive searches or other methods of restraint, or to gain respect and status. Violence inflicted by prison staff may be covert and carried out in isolated spaces or may be practised more openly. Prison staff may take advantage of situations such as prison disturbances to target prisoners, including those sentenced to death. The use of force by prison staff is strictly regulated by the UN Nelson Mandela Rules: force may only be employed in very limited circumstances, namely in self-defence, in cases of attempted escape or “active or passive physical resistance to an order based on law or regulations.”⁸⁷ The use of force must be strictly justified by the circumstances and must be reported immediately to the prison management.⁸⁸

Moreover, violence is not only perpetrated by prison staff. In several countries, the prison administration informally employs prisoners to administer discipline in detention units.⁸⁹ These prisoners can inflict

85 Prison Insider, “Years in the Row”, 18 January 2022, available at <https://www.prison-insider.com/en/articles/au-pays-des-morts-vivants>

86 UN Nelson Mandela Rules, Rule 82.

87 UN Nelson Mandela Rules, Rule 82.1.

88 Ibid.

89 C. Berrih and L. Ngondji, *Towards a Silent Death. Conditions of Detention of People Sentenced to Death in Democratic Republic of Congo*, ECPM, 2019, available at <https://www.ecpm.org/app/uploads/2022/08/mission-enquette-RDC-GB-2019-300420-WEB.pdf>. See also C. Berrih and K. El Mufti, *Vivants sans l'être. Mission d'enquête au Liban (Alive Without Being: Fact-Finding Mission in Lebanon)*, ECPM, 2020, available at <https://www.ecpm.org/app/uploads/2022/08/OK-mission-enquette-LIBAN-FR-2020-120120-WEB.pdf>

violence – physical, sexual, psychological or economic – directly on other prisoners, including those sentenced to death.

Violence can take many forms, including acts of corruption, restrictions on access to prison services and goods, beatings and rape. Furthermore, these mechanisms can contribute to total impunity, in particular because these prisoners contribute to filtering out complaints from their cellmates. As a result, complaints rarely reach the state administration. Such informal practices are prohibited by the Nelson Mandela Rules.

Members of the monitoring team must access all solitary confinement units where prisoners sentenced to death are held and inspect all prison records (including use of force, solitary confinement records) and protocols relating to issues of security and order. They must also physically inspect all instruments of restraint (handcuffs, chains, etc.) used by the authorities to manage security and order issues in the prison. They must also understand the informal organisation of the prison.

Disciplinary sanctions

A wide range of disciplinary sanctions are taken against prisoners sentenced to death, including restrictions on visits, limited access to light or food, and solitary confinement. It has been observed that disciplinary sanctions such as solitary confinement may be imposed on those who have attempted suicide.

CHECKLIST NO. 16: VIOLENCE, CONSTRAINT, DISCIPLINE

- **Consider ill-treatment or torture allegations:**
 - Do prisoners sentenced to death complain about their treatment in detention?
 - Are there allegations of torture or ill-treatment from prisoners sentenced to death?
- **Consider complaints mechanisms:**
 - Is there a protocol to address torture or ill-treatment allegations?
 - If so, what is the content of this protocol?
 - Are there any mechanisms enabling prisoners sentenced to death to report assaults or violent incidents?
 - If such mechanisms exist, what are they and what are their conditions?
 - How many complaints have actually been investigated in prison? What were the conclusions?
- **Consider the disciplinary system:**
 - Is disciplinary action taken by prison staff? If so, on what grounds and for how long?
 - What safeguards are in place (length of detention, ongoing reviews and appeals) to protect prisoners sentenced to death in solitary confinement?
 - On what grounds are prisoners sentenced to death placed in solitary confinement (punishment, protection, risk of suicide or self-harm, behavioural management)?
 - What are the conditions of solitary confinement?
 - What kind of medical checks and safeguards exist during the period of solitary confinement? Is there any daily monitoring by an independent doctor to assess physical, emotional and psychological well-being?
- **Consider the incidence of the use of means of restraint and disciplinary sanctions:**
 - How many prisoners sentenced to death have been subjected to solitary confinement, force, restraints and strip searches over a given period?
 - What do prison records and databases reveal about the prevalence and use of disciplinary measures, restraints, force and solitary confinement on prisoners sentenced to death? Do any patterns or trends emerge?
 - How does the institution monitor the use of force against prisoners sentenced to death?
- **Consider mechanisms used to manage discipline within prison units:**
 - What is the internal governance system within the prison?
 - Are any prisoners in charge of discipline within the prison? What are their roles and responsibilities? What is their relationship with the prison administration?
 - Are there any allegations of violence committed by other prisoners?

▶ MEANINGFUL HUMAN CONTACT, CONTACT WITH THE OUTSIDE WORLD, OUTDOOR EXERCISE, LEISURE AND CULTURAL ACTIVITIES

*“We have to let them humiliate us,
otherwise they can refuse family visits.
We accept because we have no choice.”*

▶ **Wife of a prisoner sentenced to death in Indonesia**

Prisoners sentenced to death have much more limited contact with the outside world (family and friends, lawyers) than the rest of the prison population. They are often detained in remote locations, which makes visits by family members, lawyers, interpreters and consular staff difficult and costly. They often have limited access to newspapers, television or radio.

Family visits are a lifeline for prisoners sentenced to death, particularly women, who may have children outside prison. Restrictions on visits can be devastating for women prisoners and their dependent family members. When prison visits do take place, the conditions do not always respect privacy and dignity: 20 to 30 minute visits in a communal room without privacy; guards taking notes of conversations between women sentenced to death and their family members; visitors separated by a glass partition, communicating via a screen or telephone that can be monitored; correspondence subject to censorship; telephone calls forbidden to prisoners sentenced to death. Families may also be subject to humiliating checks before meeting their loved ones in prison. Prisoners may be completely shackled (handcuffs, leg irons, chains) for professional visits, including with a lawyer or medical staff.

Members of the monitoring team must inspect all visiting areas (professional and family), including visiting rooms, in order to assess the conditions and, in particular, to identify any differences in terms of visiting rights for the different categories of prisoners sentenced to death. They must also ask interviewees whether they agree to members of the mission contacting members of their family outside the prison to obtain information about their situation. In such cases, the contact details must be provided by prisoners sentenced to death themselves and not by prison staff. Members of the monitoring team must also visit areas where sporting activities, walks, cultural activities, etc. take place. According

to international standards, all detainees must have “at least one hour of suitable exercise in the open air daily.”⁹⁰ Although prisoners sentenced to death are generally given recreation time, they are sometimes separated from other prisoners during exercise. International standards emphasise that detainees have the right to access socio-cultural activities, including those of a cultural and recreational nature.⁹¹ Such activities have been shown to boost self-esteem and can be extremely psychologically beneficial for the individual concerned.

▶ CHECKLIST NO. 17: MEANINGFUL HUMAN CONTACT, CONTACT WITH THE OUTSIDE WORLD AND SPORTING AND CULTURAL ACTIVITIES

- **Consider visiting arrangements:**
 - What are visiting arrangements for prisoners sentenced to death?
 - How often and at what times can they receive visits?
 - Are there differences in the visiting arrangements for different categories of prisoners sentenced to death?
 - How are prisoners sentenced to death informed about visits? Are they informed in a language they understand?
 - Are there reasonable facilities for the reception of visitors? Are visits actively encouraged by prison staff and management?
 - Is privacy and confidentiality respected during visits?
- **Consider the quality of contact with the outside world:**
 - Are prisoners sentenced to death given easy and immediate access to NGOs and other external bodies?
 - Are prisoners sentenced to death given easy and immediate access to telephones and can they receive unmonitored and uncensored incoming calls at any time?
 - Are prisoners sentenced to death discriminated against in any way as regards communication with the outside world?
- **Consider the availability and accessibility of activities:**
 - What are the exercise arrangements for prisoners sentenced to death? Are they allowed to mix with the wider prison population during exercise?
 - What types of recreational activities are available for prisoners sentenced to death?
 - Are prisoners sentenced to death excluded from certain recreational activities?

90 UN Nelson Mandela Rules, Rule 23.

91 UN Nelson Mandela Rules, Rule 105.

PRISON STAFF

This guide focuses on the impact of death sentences on prisoners, but prison staff can also be affected by their work with prisoners sentenced to death.⁹² They can experience physical and mental health problems, which may be caused or exacerbated by working in a very difficult and stressful prison environment.

The role played by prison staff must be recognised by the management and strategies must be put in place to promote and protect their wellbeing. These measures may include:

- Support programmes for prison staff
- Good working conditions
- Good pay conditions
- Good supervision
- Good training.

Prison staff working with prisoners on death row must receive appropriate training to support this vulnerable group. The UN Nelson Mandela Rules provide that: “Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences.”⁹³ If prison staff treat prisoners with respect, dignity and care, this will help to improve the overall atmosphere of the prison. In particular, training should be provided in mental health first aid (symptom identification, early detection and intervention, and suicide and self-harm prevention strategies), crisis management, gender-sensitive prison management and trauma-informed care and approaches. Members of the monitoring team must ensure that time is set aside during inspection visits to interview prison staff who are in daily contact with prisoners sentenced to death.

92 For general rules on institutional personnel, see UN Nelson Mandela Rules, Rules 74 to 81.

93 UN Nelson Mandela Rules, Rule 75.2.

CHECKLIST NO. 18: PRISON STAFF

- **Consider the working conditions of prison staff:**
 - What are the general working conditions for staff working with prisoners sentenced to death? Do they encounter any specific difficulties in the performance of their duties?
 - What are the views of prison staff on their wage conditions (basic salary and other aspects of remuneration – coverage of health costs, paid leave, professional expenses, retirement, etc.)?
 - Are prison staff given easy, free access to debriefing or counselling services?
- **Gauge the general atmosphere of relations:**
 - What is the general atmosphere between prison staff and prisoners sentenced to death?
 - Are positive interactions between prison staff and prisoners sentenced to death encouraged by prison management?
- **Consider prison staff practices:**
 - Are there any allegations of inappropriate behaviour towards prisoners sentenced to death on the part of prison staff (verbal or physical violence, sexual exploitation, corruption, manipulative or abusive behaviour, etc.)?
- **Consider regulations applicable to prison staff:**
 - Is there a code of conduct or policies in force for prison staff working with prisoners sentenced to death?
- **Consider recruitment conditions for prison staff:**
 - What are the requirements for recruiting staff working with prisoners sentenced to death?
 - Do they receive specific ongoing training on the management and handling of prisoners sentenced to death?
 - Do any members of staff work specifically with prisoners sentenced to death? If so, how many? Who are they (mainly new members, mainly longstanding members, etc.)?
- **Analyse the profile of prison staff:**
 - What is the gender ratio of prison staff and is it appropriate in relation to prisoners sentenced to death?
 - What training is provided to prison staff to understand the problems and special needs of prisoners sentenced to death?

PROCEDURAL GUARANTEES

Access to justice and the minimum guarantees of a fair trial are non-negotiable in death penalty cases, given the irrevocable nature of the sentence. International human rights standards are unequivocal: those facing the death penalty must be afforded special protection and fair trial guarantees without exception.⁹⁴ International human rights bodies, including the UN Human Rights Committee, have called for greater respect for the right to a fair trial in death penalty cases.⁹⁵

Prisoners sentenced to death have specific needs in the criminal justice system and may not benefit from the procedural safeguards to which they are entitled. This may be the result of a number of factors, including the accused's lack of familiarity with the legal system, their lack of financial resources,⁹⁶ language barriers, varying quality of legal representation, lack of family support available locally, or the national regulations (criminal procedure) applicable to certain crimes.

Effective legal representation

The right to legal aid is crucial for individuals sentenced to death, many of whom come from marginalised and poor groups, and are unable to afford legal representation.

Legal remedies

While there are numerous rules governing the exercise of legal remedies, in particular the obligation to wait until all legal remedies have been exhausted before carrying out executions,⁹⁷ there have been reports of executions of persons awaiting a decision on their request for clemency.⁹⁸ In other cases, prison authorities

94 ICCPR, Article 14, fair trial guarantees; UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, Safeguard 5; UN Human Rights Committee, General Comment No. 36.

95 UN Human Rights Committee, *General Comment No. 32 on the right to equality before courts and tribunals and to a fair trial*, UN Doc CCPR/C/GC/32, paragraph 59, 2007, available at <https://www.refworld.org/docid/478b2b2f2.html>

96 UN Press Release, "Death penalty disproportionately affects the poor, UN human rights experts warn", 6 October 2017, available at <https://www.ohchr.org/fr/press-releases/2017/10/death-penalty-disproportionately-affects-poor-un-rights-experts-warn>
Those who are most marginalised run a particular risk of being sentenced to death, as they do not have access to a lawyer, do not have the means to be represented or to apply for bail to secure their release pending trial.

97 See Part II, pp. 32-33.

98 See for example: C. Berrh and Kontras, *Dehumanized. The Prison Conditions of People Sentenced to Death in Indonesia*, ECPM, 2019, available at <https://www.ecpm.org/app/uploads/2022/08/mission-enquete-indone%CC%81sie-GB-2019-230320-WEB.pdf>

have demanded money from an individual in order to apply for a clemency order.⁹⁹ The broad discretionary powers to grant clemency, generally entrusted to heads of state, can lead to abuse and can be applied selectively and arbitrarily.

INNOVATIVE PRACTICES

Some NPMs go beyond the requirements of OPCAT by providing individual support to prisoners sentenced to death to ensure that they benefit from all procedural guarantees. One NPM has formulated requests for clemency for women and men sentenced to death and has followed up these requests.

Members of the monitoring team must ask detainees about their legal situation – appeals, pardon and commutation procedures.

▶ CHECKLIST NO. 19: PROCEDURAL GUARANTEES

- **Consider access to legal representation:**
 - Are individuals sentenced to death informed of their right to legal representation? At what stage in proceedings do prisoners sentenced to death have the right to meet with a lawyer or legal representative?
 - Is legal assistance available to prisoners sentenced to death? If so, how can they access it?
 - Do prisoners sentenced to death encounter difficulties in obtaining legal representation and assistance? If so, how?
 - Do prisoners sentenced to death have access to a confidential area where they can meet with their legal representative?
- **Consider access to appeal procedures:**
 - What is the existing process for appeals to higher courts? Do prisoners sentenced to death have full and free access to these appeal procedures?
 - What are the existing commutation or pardon procedures for those sentenced to death?
 - Are the commutation or pardon procedures known to those sentenced to death?

⁹⁹ Prison Insider, "Years in the Row", 18 January 2022, available at <https://www.prison-insider.com/en/articles/au-pays-des-morts-vivants>

CATEGORIES OF PERSONS WITH SPECIAL NEEDS

Within the population of prisoners sentenced to death, there are specific sub-groups who have particular needs on the grounds of their characteristics, personal circumstances, socio-economic situation or other factors. These individuals may be at particular risk of human rights violations by prison staff or other detainees and should therefore receive special attention from members of the monitoring team.

This section highlights several groups with specific needs, sets out the applicable standards and suggests topics on which members of the monitoring team should question detainees during visits. This list is not intended to be exclusive of other groups. The monitoring team must ensure that it assesses the situation of all persons with special needs who have been sentenced to death.

WOMEN

“I don’t do anything. I sweep the floor and wait.”

Woman sentenced to death in Ghana

The treatment of women sentenced to death deserves specific mention, as most prisons are designed for men only, which means that women’s special needs and vulnerabilities are often overlooked.

Among the charges for which women are sentenced to death are:

- Murder in the context of gender-based violence
- Drug-related offences
- Witchcraft
- Adultery
- Blasphemy.

Women’s path to prison is characterised by gender-based violence, physical abuse, socio-economic deprivation, drug addiction, illiteracy and poor mental and physical health. These problems are compounded for women sentenced to death, who constitute a minority within a minority. Little attention is paid to their specific needs while they are in prison. In particular, women sentenced to death face a lack of family contact, exclusion from opportunities for

rehabilitation, work and sporting activities, ill-treatment (shackling with heavy chains or solitary confinement) and restricted access to justice. They also face strong social stigmatisation – including within the prison by their fellow prisoners, because of their sentence or the offence on which it is based.¹⁰⁰ They frequently face barriers in accessing medical treatment or essential health products such as sanitary pads. Women may also be exposed to gender-based violence, perpetrated by other prisoners or by prison staff. In countries where mothers are imprisoned with their young children, paediatric care is not always accessible.

▶ CHECKLIST NO. 20: SPECIFIC CONDITIONS FOR WOMEN

- **Consider conditions of detention:**
 - Are women separated from men?
 - Are there any allegations of violence, harassment or discrimination against women sentenced to death by other prisoners or prison staff?
 - What are the conditions to conduct searches?
 - Do women prisoners sentenced to death have access to educational, professional, sporting and recreational activities?
- **Consider the situation of prison staff working in detention facilities where women are held:**
 - Which prison staff (women or men) are responsible for supervising women?
 - What training do staff working with women receive on gender and the specific needs of this category of the population?
- **Consider access to health care and conditions of provision of treatment:**
 - What psychological, psychiatric and psychosocial care is available for women sentenced to death?
 - What specialised care is available for groups of women sentenced to death, including survivors of sexual violence or torture?
 - What services are available for older women and, in particular, those going through menopause?
 - Are women promptly seen by female health professionals?
 - In cases where children are imprisoned with their mothers, what is the level of access to child specialists, including paediatricians and social workers?
- **Consider access to the outside world:**
 - Can mothers maintain regular contact with their families, particularly their children, outside prison?

¹⁰⁰ C. Berrih and N. Toko, *Sentenced to Oblivion. Fact-Finding Mission on Death Row in Cameroon*, ECPM, 2019, available at <https://www.ecpm.org/app/uploads/2022/08/mission-enquete-cameroun-2019-GB.pdf>

CHILDREN

Children sentenced to death are extremely vulnerable to a range of human rights violations, including torture or ill-treatment, unfair trials, coerced confessions, and violence, exploitation or intimidation by prison staff or other prisoners. Torture and ill-treatment of children on death row have been widely documented by human rights organisations.¹⁰¹ Child detainees are also at risk of depression and anxiety, and may present symptoms consistent with post-traumatic stress disorder such as insomnia, nightmares and bed-wetting. Members of the monitoring team must be particularly vigilant with children on death row given their status and their specific needs.

CHECKLIST NO. 21: SPECIFIC CONDITIONS FOR CHILDREN

- **Consider the situation of children on death row:**
 - What is the gender distribution within this community?
 - How old are they?
- **Consider the conditions of detention for children:**
 - Are children and adults separated?
 - Where are girls held? What are their conditions of detention?
 - Are children on death row given access to education, leisure, recreational and sporting activities, social support and material assistance?
 - Have children been subjected to violence by prison staff or other prisoners?
 - What are the specific complaints mechanisms available to children?
 - How is the physical, mental and psychological well-being of children affected by detention and the death sentence? How do the authorities deal with these problems?
- **Consider prison staff working in detention facilities where children are held:**
 - What training do staff working with children receive?
- **Consider procedural guarantees:**
 - Are children given access to legal assistance?
- **Consider their contact with the outside world:**
 - Where are children detained in relation to their family members?
 - What is the distance between their family and the prison?
 - Do they receive visits from their families? How often?

101 For example, Human Rights Watch, "Saving Iran's Children From Death Row", 2016, available at <https://www.hrw.org/news/2016/08/09/saving-irans-children-death-row>; Amnesty International, *Growing Up on Death Row: The Death Penalty and Juvenile Offenders in Iran*, 2016, available at <https://www.amnestyusa.org/reports/growing-up-on-death-row-the-death-penalty-and-juvenile-offenders-in-iran>

FOREIGN NATIONALS

*“There’s no real human contact here. It’s so difficult...
As a foreigner, I don’t have anyone here. Being so far from
home and my family is painful. I feel alone and hopeless.
There’s nothing here to help me through this difficult time.”*

 **Michelle, person sentenced to death in 2015 in Malaysia**

Foreign nationals are particularly at risk of being sentenced to death due to a variety of challenges, including language barriers, economic vulnerability and lack of institutional knowledge of the criminal justice system. They may also face difficulties in accessing legal representation, adequate translation and consular assistance, making them particularly vulnerable to coerced confessions and unfair trials. Research has shown that foreign workers, in particular, are disproportionately affected by the death penalty due to their social isolation, socio-economic disadvantage and lack of access to consular assistance. Some may have been victims of trafficking and forced to commit crimes punishable by death.¹⁰²

During their detention, foreign nationals face particular challenges in terms of communication with prison staff, other prisoners, medical staff and their families. In several countries, prisoners sentenced to death are denied access to books in a foreign language on the grounds that prison staff do not understand the content, which further contributes to the detainee’s sense of isolation.¹⁰³

Members of the monitoring team must talk to prisoners who are foreign nationals and pay particular attention to their needs during their visits.

102 See Reprieve, *Worked to Death: A Study on Migrant Workers and Capital Punishment*, November 2021, available at <https://reprieve.org/uk/2021/11/23/worked-to-death/#:-:text=Our%20research%20also%20shows%20that,of%20access%20to%20legal%20representation>

103 See for example C. Berrih and N. Chow Ying, *Isolation and Desolation: Conditions of Detention of People Sentenced to Death in Malaysia*, ECPM, 2020, available at <https://www.ecpm.org/app/uploads/2022/08/OK-mission-enquete-Malaisie-GB-2019-280420-WEB.pdf>

CHECKLIST NO. 22: SPECIFIC CONDITIONS FOR FOREIGN NATIONALS

- **Consider access to consular assistance:**
 - Are foreign nationals on death row given easy and immediate access to consular officials or diplomatic missions?
 - Do they receive support to contact consular missions?
 - Do they receive visits from the consular authorities? If so, how often?
- **Consider the specific measures for foreign nationals:**
 - Is there a policy for dealing with foreign nationals on death row?
 - Who is responsible for the care of foreign nationals sentenced to death in prison?
 - What contact do foreign nationals on death row have with their family and friends, and how is this made possible (free telephone calls, extended visits, video calls)?
 - How do prison staff support foreign nationals on death row (language support, support among nationals of the same country)?
 - Are prison rules (internal regulations, policy, guidelines, complaints mechanism, etc.) available in different languages?
 - How can foreign prisoners complain to the authorities about mistreatment or discrimination? How are such complaints handled by the authorities?
 - Are foreign prisoners on death row given access to books in a foreign language or is this restricted in any way?

SEXUAL AND GENDER MINORITIES

During their detention, members of sexual and gender minorities have specific needs, particularly in terms of sexual health, medical and mental health care, harm reduction services for those who use drugs and protection from gender-based violence. Transgender and intersex people may also be at particular risk if they do not receive the medicines they need; some states do not make these medicines available.

Sexual and gender minorities are exposed to specific risks in detention, in particular:

- Rape and sexual coercion (which may constitute torture or ill-treatment in certain circumstances)
- Inappropriate touching during searches
- Sexual harassment
- Denial of due process guarantees, including the right to a proper defence, access to legal aid
- Denial of or limited access to medical care
- Poor physical and mental health.

Members of the monitoring team must ensure that they meet members of these communities and pay particular attention to their needs in detention.

▶ CHECKLIST NO. 23: SPECIFIC CONDITIONS FOR SEXUAL AND GENDER MINORITIES

- **Consider training of prison staff:**
 - Are prison staff trained on non-discrimination and equality in relation to sexual and gender minorities?
 - Are they aware of the particular risks and needs of this group of prisoners sentenced to death?
- **Consider the protection of sexual and gender minorities:**
 - Is there a code of conduct or policy addressing the treatment and care of sexual and gender minorities on death row?
 - What are the existing safeguards to protect sexual and gender minorities from violence and abuse in detention? Are these measures effective?
 - Are there any documented cases of violence (physical, psychological or sexual abuse) against sexual and gender minorities on death row?
- **Consider specific conditions of access to care:**
 - Do these prisoners sentenced to death have access to appropriate medical care, treatment and advice tailored to their specific needs?
- **Consider complaints mechanisms:**
 - Can these prisoners sentenced to death lodge complaints with the prison authorities for discrimination, harassment or ill-treatment? How are these complaints handled and resolved?

ETHNIC AND RACIAL MINORITIES

Evidence that racial and ethnic minorities are disproportionately affected by the death penalty has been documented for many years.¹⁰⁴

As a marginalised group, members of racial, ethnic and other minorities face discrimination in the criminal justice system, including unfair trials, disproportionate sentences and torture or other ill-treatment by the authorities (police, prison staff). In addition, they do not always have access to quality legal representation, which exposes them to potential miscarriages of justice.

Detention monitors should include members of racialised groups in the team conducting interviews and pay particular attention to their needs during inspection visits.

CHECKLIST NO. 24: SPECIFIC CONDITIONS FOR ETHNIC AND RACIAL MINORITIES

- **Consider specific challenges:**
 - What are the common problems or challenges faced by racialised groups during their time in prison? Do any patterns or trends emerge?
- **Consider complaints mechanisms:**
 - Can members of racialised groups lodge a complaint about any incident of discrimination or abuse? What is the procedure?
 - Do members of these groups have effective access to complaints mechanisms? What is the follow-up given to these complaints?
- **Consider non-discrimination policies:**
 - What are the existing equality and non-discrimination policies and guidelines?
 - Are staff trained in equality, non-discrimination and how to respond to the needs of members of ethnic and racial minorities on death row?

¹⁰⁴ In the United States, for example, the criminal justice system is characterised by strong racial disparities: African Americans make up 41% of people on death row and 34% of those executed, but only 13% of the population. See Equal Justice Initiative available at <https://eji.org/issues/death-penalty/>. Similarly, the Baluch minority, which represents 2-6% of the population in Iran, accounted for 30% of executions in 2022: ECPM, *The Death Penalty in Iran 2023*, available at <https://www.ecpm.org/app/uploads/2023/07/flyer-anglais.pdf>



FOLLOW-UP TO THE MONITORING VISIT



After visits, members of the monitoring team must take certain key steps in relation to the information collected during the prison visit. Detention monitoring work does not end with the conclusion of the visit. These tasks vary according to the mandate of NPMs and NHRIs. You should refer to your mandate.

STAGE ONE: CONDUCT FURTHER INTERVIEWS

Visits to prisoners sentenced to death hospitalised outside prison

Individuals sentenced to death may be receiving care in health facilities outside prison. It is important that you visit these facilities and analyse the conditions in which they are treated.

- Visits to places of detention:
 - Are hospitalised patients free to move around their room?
 - Are they tied to their hospital bed?
- Interviews with prisoners sentenced to death (depending on their health):
 - Are hospitalised patients given access to food of sufficient quantity and quality?
 - Do they have access to family visits?
 - How often do they receive consultations by medical staff?
 - Have they reported allegations of torture or ill-treatment?
- Interview with medical staff:
 - N.B. The penalty (death sentence) must not be disclosed to the medical staff.**
 - Do prisoners receive the same level of care as other hospitalised patients?

Interviews with relatives of prisoners sentenced to death, including guardians of those with serious mental disorders

If interviewed prisoners agree, members of the monitoring team can contact their relatives. These interviews contribute to an understanding of visiting arrangements, including any restrictions they may face, and more generally the impact of imprisonment and the death penalty on them. Relatives can only be contacted if prisoners

sentenced to death have given their explicit consent. In the case of guardians, these interviews provide an opportunity to better understand the needs of people with serious mental disorders, to obtain their consent to follow up and, potentially, take concrete action on their behalf (see below).

STAGE TWO: **MOBILISE PRISONERS' SUPPORT NETWORKS**

If you come across serious or urgent situations during your visits, you can contact actors who are in a position to respond to and deal with these situations, such as institutions, NGOs, lawyers, health professionals, support networks for marginalised groups or consular missions. Bear in mind that individual situations should only be disclosed if the interviewee or, in the case of a person with a serious mental disorder, their guardian, has given their consent.

STAGE THREE: **DRAFT THE REPORT**

Members of the monitoring team must draft a full report including:

- Key findings of the visit (while respecting confidentiality)
- Main recommendations for improvement. Any urgent actions should be highlighted in the report. Where possible, recommendations should be SMART (specific, measurable, achievable, realistic, time-bound).

STAGE FOUR: **SEND A PRELIMINARY REPORT TO THE PRISON AUTHORITIES**

Sending the draft report to the prison authorities, which is not necessarily compulsory, is not intended to change your observations and findings, but it does allow you to correct any minor errors and

to strengthen dialogue with the prison authorities, who are invited to submit their comments within a short deadline.



STAGE FIVE: SHARE THE FINAL REPORT

This report should be shared with the prison authorities. It may also be disseminated to other stakeholders, including regional or international human rights bodies, parliamentarians, NGOs and civil society actors, as well as to any other stakeholder interested in prison issues. The report may also be published widely.



STAGE SIX: CONDUCT FOLLOW-UP AFTER THE REPORT

Follow-up visits

It is good practice to carry out a follow-up visit to assess the extent of implementation of recommendations. These follow-up visits may be unannounced.

Advocacy, media relations

If members of the monitoring team become aware of worrying trends and patterns in the treatment of prisoners sentenced to death, they may wish to undertake advocacy on the issue at national, regional or international level and engage with the media if necessary. Confidentiality and the “Do no harm” principle must be respected at all times by all members of the monitoring team.

Training or capacity building for prison staff

Members of the monitoring team may identify areas for improvement in prison practice and policy that would benefit prisoners sentenced to death. In such cases, they may wish to organise training or capacity-building programmes on thematic issues for prison staff and management, in partnership with the prison authorities.

Meeting between members of the monitoring team

A debriefing must be carried out at the end of the monitoring mission in order to take stock with the members of the mission of elements which do not specifically relate to the drafting of the report. Ensuring the mental well-being of the team members is essential, particularly if they have been confronted with shocking situations. It is important that mechanisms exist to detect risks of trauma for members of the monitoring team and to address them. It is useful to put in place a referral system so that members can seek external support or guidance if needed.


Members of the monitoring team may also have identified areas for training that would be useful to them during future visits, in order to strengthen their own capacities. Such training can be organised in conjunction with international, regional or national organisations.




VOICES OF PRISON ACTORS




“There must be control procedures, an external eye, an NGO. Everything is hidden. Even NGOs find it hard to get in, and when they do, they can’t ask all the questions they have.”

 **Community activist, family member
of a prisoner sentenced to death**

“The majority of people sentenced to death in first instance are transferred [to the same prison]. Once they are held in this prison, it is almost impossible for them to prepare their appeal with their lawyer.”

 **Lawyer working with prisoners
sentenced to death**

“Recently, a prisoner sentenced to death was ill. His condition was worrying. We reported it to the authorities. But, because he was a prisoner sentenced to death, he was left there, without care, even though his situation was urgent and required serious medical attention. Finally, when the authorities agreed to evacuate him outside of the prison, it was too late and he died.”

 **Prisoner sentenced to death**

*“Water conditions are difficult.
I spent three weeks without a shower.”*

 **Prisoner sentenced to death**


“As a foreigner, I don’t have anyone here. Being so far from home and my family is painful. I feel alone and hopeless. There’s nothing here to help me through this difficult time. Thinking about my mother and my son makes me feel better. I have a photo of them. I look at it all the time.”

 **Prisoner sentenced to death**

"I used to make wooden tools and statues. In 2008, I was transferred to Building C. Since then, I've been doing nothing. I'd prefer to be executed. It would be easier."

 **Prisoner sentenced to death**

"If you get into a fight or smoke hemp, you can be locked in your cell for 15 to 45 days. You stay there half-naked, and they spray you with water."

 **Prisoner sentenced to death**

"There are 50 of us in a cell. For bedding, everyone fends for themselves. If you can afford it, you can have your own private bed. Others sleep on the floor."

 **Prisoner sentenced to death**

"Prisoners sentenced to death suffer from the same pathologies as other prisoners, but they have a higher rate of neurotic disorders because of their high anxiety levels."

 **Nurse in a prison holding prisoners sentenced to death**

"Sometimes, when they talk, they fall apart and cry."

 **Religious counsellor**

ANNEXES

Annexes I and II of this document contain interview scripts and guides that can be used to interview prisoners sentenced to death and prison staff working in places holding prisoners sentenced to death.

These templates provide an introductory script and general questions which are to be supplemented by topic-specific questions set out in Part V above.

As mentioned above, interviews should be conducted in places that offer as much privacy as possible, where interviewees feel safe and comfortable.

These templates should be adapted to each country and context.

ANNEX I – TEMPLATE INTERVIEW/ SCRIPT FOR PRISONERS SENTENCED TO DEATH

N. B. Depending on the circumstances, questions may be formulated in the first person singular or plural if interviews are conducted by several people.

Introduction

“Hello, my name is [...] and I’m from an institution called [name of organisation]. Thank you for taking the time to meet with me today. I’m an independent observer and I’m not under government authority.”

Explain the purpose of the interview, how the information will be used and the limits of what you can change.

“I’m monitoring conditions of detention and I’m carrying out this visit specifically to assess the conditions of detention of prisoners sentenced to death like yourself. I would like to interview you as part of this research, and I will write a report based on our interviews. The information you give me today will be used to help us make a wider assessment of prison conditions for prisoners sentenced to death.

We can’t offer you direct assistance, but by talking with us, we hope it will help us to advocate for changes in practice and policy.”

Explain why you are taking notes during the interview and that these will remain confidential.

“I’m going to take notes. This is to ensure that we have an accurate record of what you have told me.”

Confirm the confidentiality of the interview.

“The information you provide is confidential, and I will not disclose your identity unless you give me your express consent to do so. Similarly, in my final report, I will not include any information that could identify you personally. I will keep my notes in a secure place after this interview.”

Make sure the person you are talking to feels at ease.

“This interview will be conducted in a safe, non-judgmental environment. I will keep my questions simple. If you don’t understand a question or would like me to repeat it, please let me know. If you don’t feel comfortable answering a particular question, I will respect your wishes and we will move on to the next question. You are always free to come back to the question later in the interview.

If any of these questions make you feel uncomfortable or upset, please let me know and I will ensure that you can consult a professional (with your permission).”

Duration of interview and comfort breaks.

“I expect this interview to last [xx] minutes today. If you would like to take a break during the interview, please let me know. We’ll interrupt the interview to give you time to compose yourself and have a glass of water.”

Confirm that you can proceed to the questions.

“Do you agree to be interviewed?”

“Can you introduce yourself?”

Start with open-ended questions about the time spent in prison (in no particular order).

- How long have you been in prison?
- How did you settle in this prison? Was it easy or difficult? Why?
- Do you think your needs are different from those of the rest of the prison population? If so, what are they?
- Do you have any current concerns or problems about your time in prison? What are they? Do you know what to do about them?
- Can you describe a typical day in prison (from the time you get up to the time you go to bed)?
- Do you accept that we, as a national prevention mechanism, contact your family to discuss your situation? If so, can we have their contact details?
- For what crime have you been charged or convicted?

Continue with specific thematic questions.

Several checklists can be used to get a clear idea of certain situations. For example, to assess women’s health, use Checklist No. 20 in conjunction with Checklist No. 23.

ANNEX II – TEMPLATE INTERVIEW/ SCRIPT FOR PRISON STAFF WORKING WITH PRISONERS SENTENCED TO DEATH

N. B. Depending on the circumstances, questions may be formulated in the first person singular or plural if interviews are conducted by several people.

Introduction

“Hello, my name is [...] and I’m from an institution called [name of organisation]. Thank you for taking the time to meet with me today. I’m an independent observer and I am not under government authority.”

Explain the purpose of the interview, how the information will be used and the limits of what you can change.

“I’m monitoring conditions of detention and I’m carrying out this visit specifically to assess the conditions of detention of prisoners sentenced to death. I would like to interview you as part of this research, given your daily work with the prison community. I will write a report based on our interviews. The information you give me today will be used to help us make a wider assessment of prison conditions for prisoners sentenced to death.

These interviews will also enable us to assess the working conditions of prison staff who work with prisoners sentenced to death on a daily basis.”

Explain why you are taking notes during the interview and that these will remain confidential.

“I’m going to take notes. This is to ensure that we have an accurate record of what you have told me.”

Confirm the confidentiality of the interview.

“The information you provide is confidential, and I will not disclose your identity unless you give me your express consent to do so. Similarly, in my final report, I will not include any information that could identify you personally. I will keep my notes in a secure place after this interview.”

Make sure the person you are talking to feels at ease.

“This interview will be conducted in a safe, non-judgmental environment. I will keep my questions simple. If you don’t understand a question or would like me to repeat it, please let me know. If you don’t feel comfortable answering a particular question, I will respect your wishes and we will move on to the next question. You are always free to come back to the question later in the interview.

If any of these questions make you feel uncomfortable or upset, please let me know and I will ensure that you can consult a professional or a prison officer (with your permission).”

Duration of interview and comfort breaks.

“I expect this interview to last [xx] minutes today. If you would like to take a break during the interview, please let me know. We'll interrupt the interview to give you time to compose yourself and have a glass of water.”

Confirm that you can proceed to the questions.

“Do you agree to be interviewed?”

“Can you introduce yourself?”

Start with open questions.

- How long have you been working in the prison system?
- Can you describe a typical day as a prison officer in this prison where people sentenced to death are held?
- For how long have you been working in this particular prison? Has it been easy or difficult? Why?
- Can you describe the atmosphere between prisoners sentenced to death and prison staff? Are there any difficulties? What could be improved?
- In your opinion, what are the specific needs of prisoners sentenced to death compared with those of the rest of the prison population?
- What training have you received to support prisoners sentenced to death? What training is inadequate or lacking?
- What kind of support are you given to meet your own emotional, physical and psychological needs? For example, counselling, therapy, regular supervision. Do you think the current support is sufficient?
- Is there anything else you would like to share with me today?

Continue with specific questions on thematic areas.

ANNEX III – SOME USEFUL RESOURCES

Guides on Monitoring

- Association for the Prevention of Torture (APT), *Monitoring Places of Detention – A Practical Guide*, April 2004, available at <https://www.apr.ch/sites/default/files/publications/monitoring-guide-en.pdf>
- APT, UNHCR, International Detention Coalition, *Monitoring Immigration Detention: A Practical Manual*, 2014, available at <https://idcoalition.org/wp-content/uploads/2015/06/Monitoring-Immigration-Detention-Practical-Manual.pdf>
- The Advocates for Human Rights, *A Practitioner's Guide to Human Rights Monitoring, Documentation and Advocacy*, 2011, available at https://www.theadvocatesforhumanrights.org/Res/practitioners_guide_final_report.pdf
- UNHCR, *The Immigration Detention Monitoring Strategy*, available at <https://www.refworld.org/pdfid/5bfd5344a.pdf>

NHRIs and the Prevention of Torture

- APT, Asia Pacific Forum, OHCHR, *Preventing torture: An Operational Guide for National Human Rights Institutions*, 2010, available at https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/Torture_Prevention_Guide.pdf
- OHCHR, *Preventing Torture – The role of National Preventive Mechanisms*, 2018, available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/OPCAT/NPM/NPM_Guide.pdf

NHRIs and the Death Penalty

- ECPM, *Abolition of the Death Penalty: A Practical Guide for NHRIs*, 2019, available at https://www.ecpm.org/app/uploads/2022/10/Practical-Guide-for-NHRIs_ENGLISH-VERSION.pdf

Women and the Death Penalty

- World Coalition Against the Death Penalty, *Mapping of Women on Death Row*, June 2023, available at https://worldcoalition.org/wp-content/uploads/2023/08/ENG_Country-Mapping-report_Women-on-Death-Row.pdf
- Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, September 2018, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>

Prison Regime: Restraints, Solitary Confinement

- Sharon Shalev, *A Sourcebook on Solitary Confinement*, 2008, available at https://www.solitaryconfinement.org/_files/ugd/SolitaryConfinementSourcebookPrint.pdf

Mental Health

- Penal Reform International, *Mental Health in Prison: A Short Guide for Prison Staff*, 2018, available at <https://www.penalreform.org/resource/mental-health-in-prison-a-short-guide-for/>

- Penal Reform International, *Women in Prison: Mental Health and Well-Being – A Guide for Prison Staff*, 2020, available at <https://www.penalreform.org/resource/women-in-prison-mental-health-and-well-being/#>

Sexual and Gender Minorities

- ECPM, *10 Questions on the Death Penalty for LGBTQIA+ People*, 2022, available at <https://www.ecpm.org/app/uploads/2023/06/10-questions-LGBT-GB-160623-bd.pdf>
- United Nations, *Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law*, 2012, available at <https://www.ohchr.org/sites/default/files/Documents/Publications/BornFreeAndEqualLowRes.pdf>

General – National Human Rights Institutions

- UNDP, OHCHR, *UNDP-OHCHR Toolkit for Collaboration With National Human Rights Institutions*, 2010, available at <https://www.undp.org/publications/undp-ohchr-toolkit-collaboration-national-human-rights-institutions>

Conditions of Detention of Prisoners Sentenced to Death in Specific Countries

- C. Berrih and N. Chow Ying, *Isolation and Desolation: Conditions of Detention of People Sentenced to Death in Malaysia*, ECPM, 2020.
- C. Berrih and K. El Mufti, *Vivants sans l'être. Mission d'enquête au Liban (Alive, Without Being: Fact-Finding Mission in Lebanon)*, ECPM, 2020.
- C. Berrih and Kontras, *Dehumanized: The Prison Conditions of People Sentenced to Death in Indonesia*, ECPM, 2019.
- C. Berrih and L. Ngondji, *Towards a Silent Death: Conditions of Detention of People Sentenced to Death in the Democratic Republic of Congo*, ECPM, 2019.
- C. Berrih and N. Toko, *Sentenced to Oblivion: Fact-Finding Mission on Death Row in Cameroon*, ECPM, 2019.
- N. Drici, *Le Bagne au pays des sables. Peine de mort, conditions de détention et de traitement des condamnés à mort, Mauritanie (Prison in the Land of Sands: Death Penalty, Conditions of Detention and Treatment of Prisoners sentenced to death in Mauritania)*, ECPM, 2019.
- N. Drici, *Conditions de détention et de traitement des personnes condamnées à mort dans le monde: le droit international à l'épreuve (Conditions of Detention and Treatment of People Sentenced to Death in the World: International Law Put to the Test)*, Planète Réfugiés – Droits de l'Homme, 2022.

Websites on the Fight Against the Death Penalty

- Together Against the Death Penalty (ECPM) – <https://www.ecpm.org>
- World Coalition Against the Death Penalty – <https://worldcoalition.org>
- International Federation of ACATs (FIACAT) – <https://www.fiacat.org/>
- Penal Reform International (PRI) – <https://www.penalreform.org>
- The Death Penalty Project – <https://deathpenaltyproject.org>

