



10.10
2021


WORLD DAY AGAINST
THE DEATH PENALTY



WOMEN

SENTENCED TO DEATH:
AN INVISIBLE REALITY

www.worldcoalition.org



On 10 October 2021, the World Coalition Against the Death Penalty and abolitionist organizations around the world will celebrate the 19th World Day Against the Death Penalty. This year the World Day is dedicated to women who risk being sentenced to death, who have received a death sentence, who have been executed, and to those who have had their death sentences commuted, have been exonerated or pardoned. Their stories are an invisible reality.

Since the late 1970s, the global abolitionist movement has won numerous and crucial victories. Today, 144¹ countries are abolitionist in law or practice, representing more than two thirds of the world's countries. While the statistics quantifying how many women are currently facing a death sentence are scarce, according to Amnesty International's report on the death penalty in 2020, at least 28,567 people were known to be under a sentence of death worldwide. The report also confirmed that at least 113 women were under sentence of death globally. However, this number only refers to figures confirmed for seven countries and does not account for women sentenced to death in other countries where precise numbers are not available. A 2018 Cornell Center on the Death Penalty Worldwide report, entitled 'Judged for More than Her Crime,' estimates that there are at least 800 women under sentence of death around the world and reports that over 100 were executed between 2008 and 2018.

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International legal instruments aim to exclude pregnant women and mothers of young children from the application of the death penalty (see page 9). However, these instruments do not address gender-based legal and socio-economic discriminations that women continuously face. Extensive discrimination based on sex and gender, often coupled with other elements of identity, such as age, sexual orientation, disability, and race expose women to intersecting forms

1 Amnesty International, <https://www.amnesty.org/en/documents/act50/3760/2021/en/>

of structural inequalities. Such prejudices can weigh heavily on sentencing, including when women are stereotyped as an *evil mother*, a *witch*, or a *femme fatale*. This discrimination can also lead to critical mitigating factors not being considered during arrest and trial, such as being subjected to gender-based violence and abuse. Non-discrimination is a core human rights principle embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and other core human rights treaties.

While working towards the complete abolition of the death penalty worldwide for all crimes and for all genders, it is crucial to sound the alarm on the discrimination women face and the consequences such discrimination can have on a death sentence.

KEY TERMS

Gender – Describes an identity in relation to "masculine" and "feminine," acknowledging that these notions are socially constructed rather than determined by physical attributes.

Gender-based discrimination – A form of discrimination based on a person's gender that can manifest in a multitude of ways, both subtle and overt.

Gender-based violence – Violence directed towards a person based on their biological sex or gender identity and grounded in unequal power relationships. It encompasses physical, sexual, verbal, emotional, and economic harm, and it includes threats and coercion. It should not be conflated with violence against women, which excludes a broad understanding of gender².

Intersectionality – A concept that recognizes that structural discrimination, for example based on sex, gender, race, class, caste, or another prohibited ground, does not operate in isolation; individuals may suffer additional or unique forms of discrimination when they are subjected to a combination of different forms of discrimination.

² Definitions referencing 'gender-based' are provided for by the Glossary and Working Concepts authored by Cornell Center on the Death Penalty Worldwide and Harm Reduction International.



Ghati Mwita
has served 13 years in a prison for the murder of a man who died in an accidental fire in her home.

"Like many women in prison, Ghati had lived a difficult life and had overcome many challenges. She first married when she was only 13 years and gave birth to her only child. Unhappy in her marriage, she ran away and joined the police force, where she excelled. However, whilst working, she was raped by her superior and forced to leave her job.

After leaving the force, she met her second husband, Manfred, a German national who was working in Tanzania. They married and moved to Germany, where they lived a happy life for nearly 20 years. In 2007, Ghati returned to Tanzania and set up a charity combatting FGM [Female Genital Mutilation], a practice she was subjected to as a girl.

However, this happy return was short-lived after her arrest and imprisonment. [Following the accidental house fire,] Ghati was held in police custody for 6 days without access to a lawyer. At her trial, there was no clear evidence against her, and all the witness testimonies were riddled with inconsistencies and contradictions. Despite this, Ghati was sentenced to death and spent many years on death row. Ghati has always maintained her innocence throughout the years."

Source: Testimonial and photo collected by Reprieve.





Masumi Hayashi
has been on death row in Japan since 2002.



"In July of 1998, 4 people died after eating poisoned curry at a festival in my neighborhood. After the curry was found to contain arsenic, I became a suspect- I helped prepare the curry, and my husband frequently used arsenic in his

extermination business.

After being named as a suspect, the mass media descended like a pack of jackals. 24H/ day they stood on ladders and photographed me, my husband and our four children. My kids were accosted, "Do you think your mother is a murderer? What will you do if she is arrested?" They would even forage through our trash.

Under Japanese law, the prosecution must provide a criminal motive to the court. The assumed motive was vengeance- my anger at slights from neighborhood people. None of this was ever proven. The media love a femme fatale and my picture appeared on the front page of every major newspaper. Despite the lack of evidence, I was sentenced to death."

Source : Testimonial and photo collected by the Japan Innocence & Death Penalty Information Center.

JAPAN



Fatemeh Haqiqatpajuh
was executed in 2008 for defending her daughter from being raped³.



"Ms. Haqiqatpajuh was arrested in [...] 2001 following the disappearance of her husband, Mohammad, and discovery of his body in a river near Tehran. [...] During the trial [of her husband's murder] Ms. Haqiqatpajuh stated [...] she woke up

hearing noises from her daughter's room. She ran there and saw her daughter's defenseless and naked body in the hands of her husband. She attacked him. 'My child was only 15 and was crushed under his body. I fought with him.' [...] [During her trial] there was only one session and Ms. Haqiqatpajuh had to defend herself without an attorney."

"My child was only 15 and was crushed under his body. I fought with him."

Source : Memorial and photo sent in by the Abdorrahaman Boroumand Center.

3 The testimonial has been edited for length and clarity. Fatemeh Haqiqatpajuh's full story can be found here: <https://www.iranrights.org/memorial/story/-7767/fatemeh-haqiqatpajuh> <https://www.iranrights.org/memorial/story/-7767/fatemeh-haqiqatpajuh>.

IRAN



Merri Utami
was convicted of drug trafficking, a charge that she insists she had no knowledge of, in 2002.

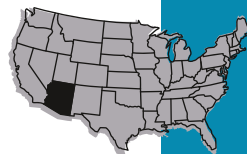
Fourteen years following her conviction, she was transferred to Nusakambangan Island, Cilacap, where executions usually take place⁴.

"The first time I stepped into Tangerang Detention Center, I was terrified. Then, at the moment the judges sentenced me to death, my emotion began to stir uncontrollably. Living in the prison, I tried to make peace with the unimaginable environment. I filled my days with gardening. I then became involved in many activities, from making music to praying [...] One night, two prison guards woke me up. The guards informed me that I had to go Cilacap, Central Java. I fell into silence. My eyes looked at the cell once inhabited by the late Rani Andriyani, another death row inmate who faced the same situation I was facing now. In Nusakambangan I lost my appetite. For two days, I did not meet anyone except the wardens. The next (few) days, I was met by my daughter who brought along my infant grandchild. It was the height of my sorrow. Everything in Cilacap prison appeared so unfamiliar. Every time I heard gates being opened or padlocks unlocked, my blood rushed; this went on again and again for so long.

I hope to be free, together with my family and other people, and become once again a citizen without the status of a deceased death row inmate."

Source : *Testimonial and photo gathered by LBH Masyarakat (Community Legal Aid Institute).*

⁴ The testimonial has been edited for length. Merri Utami's full story can be found here: <https://www.thejakartapost.com/academia/2020/08/28/if-only-i-were-given-a-chance-to-be-free.html>



Debra Milke **was on death row for 22 years for the murder of her son in** **the US State of Arizona. She was fully exonerated in 2015.**

"In December 1989, I was a single mother with a 4-year-old son named Christopher. A male friend, with whom I lived, took my son to visit Santa at the mall. Unbeknownst to me, Christopher was taken to the desert by my friend and another accomplice where he was shot 3 times in the head. Soon after, they lied to me and the police, and claimed that Christopher went missing in the mall.

"My character was assassinated and I was deemed criminal by associating, unknowingly, with bad men. The state violated womanhood, motherhood, and the law"

While in a state of despair waiting for my son to return, I was later informed of his murder and arrested at the same time. The detective claimed I had confessed to participating in the crime. I did not confess and I did not waive my right to an attorney.

There was no evidence of a confession; no witness, no audio/video tape, and no signed confession. There was also no evidence linking me to the crime. The suggested motives were to receive \$5000 of life insurance, and a fear of seeing Christopher grow up to be a drug addict like his father.

The prosecutor hid the detective's long history of malfeasance and decided what story to tell the jury instead of letting the evidence tell the story. My character was assassinated and I was deemed criminal by associating, unknowingly, with bad men. The state violated womanhood, motherhood, and the law, and I languished on death row for 22 years because of it. I am free today thanks to 3 U.S. federal judges who reviewed my case and granted my Habeas Corpus."

Source : *Testimonial collected by the Japan Innocence and Death Penalty Information Center and Witness to Innocence.*



Poem by Victoria Drain
a trans woman, who was sentenced to death in
2020 in the US State of Ohio.

TIME

Sand slips, losing its grip through the hands of time
like a forgotten girl's life falls through the cracks
lost somewhere between the concrete blocks and razor wire
an elegant autobiography etched into prison walls
with pretty nails and homemade make-up
surrounded by misogynistic hieroglyphics
like a single feminine rose drowning in a sea of thorns
Next to pictures of strangers she thinks she remembers
if memories could be more than just enemies to her
Continuously drifting through her thoughts and her dreams
like a long, lonely river flowing refusing to surrender
As she paces her cell and finally realizes
that time can never truly heal, or feel
it will only reveal that even mirrors are capable of lies
and forever and forgiveness, love and redemption
were never things she could ever obtain or acquire
As tomorrows die and resurrect as yesterdays
she waits and she prays to the women before her
And the scars on her arms, her only friends left
Will remain by her side until her last breath...

*Poem collected by The Office of the Ohio Public Defender.
Written on 4 April 2021.*

5 Amnesty International, <https://www.amnesty.org/en/documents/act50/3760/2021/en/>

108 countries have abolished the death penalty for all crimes

8 countries have abolished the death penalty for ordinary crimes only

28 countries are abolitionist in practice

55 countries are retentionist

In 2020, the 5 countries that carried out the most executions were:

- 1 China
- 2 Iran
- 3 Egypt
- 4 Iraq
- 5 Saudi Arabia

INTERNATIONAL HUMAN RIGHTS LAWS AND STANDARDS ON THE DEATH PENALTY - WOMEN AND DISCRIMINATION

> The African Charter on Human and People's Rights, General Comment No.3 on the Right to Life states

"whatever the offense or the circumstances of the trial, the execution of pregnant or nursing women [...] will always amount to a violation of the right to life."

> Article 4 (5) of the American Convention on Human Rights states

"Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women."

> Article 6 (5) of the International Covenant on Civil and Political Rights protects new mothers from the death penalty and Article 26 guarantees equality before the law.

> The Committee on the Elimination of Discrimination against Women, in its general recommendation No.28 (Article 2) states that

"the discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. States parties must legally recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them."

> Article 7 (2) of the Arab Charter on Human Rights states: "The death penalty shall not be inflicted on a pregnant woman prior to her delivery or on a nursing mother within two years from the date of her delivery."

> Freedom from discrimination is included in the Universal Declaration of Human Rights (Article 2) and core human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (Article 2), and the Convention on the Rights of the Child (Article 2).

10 REASONS

TO END THE USE OF THE DEATH PENALTY

1

No State should have the power to take a person's life.

2

It is irrevocable.

No justice system is safe from judicial error and innocent people are likely to be sentenced to death or executed.

3

It is unfair.

The death penalty is discriminatory and is often used disproportionately against people who are poor, people with intellectual or psychosocial disabilities, and members of racial and ethnic minority groups.

In some places, the imposition of the death penalty is used to target groups based on sexual orientation, gender identity, political opinion, or religion.

4

It is inhuman, cruel, and degrading.

Conditions on death row and the anguish of facing execution inflict extreme psychological suffering, and execution is a physical and mental assault.

5

It denies any possibility of rehabilitation.

6

It creates more pain,

particularly for the relatives of the person sentenced to death, including children, with harsh transgenerational consequences.

7

It is applied overwhelmingly in violation of international standards.

It breaches the principles of the 1948 Universal Declaration of Human Rights, which states that everyone has the right to life and that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. On seven occasions, the United Nations General Assembly has called for the establishment of a moratorium on the use of the death penalty (resolutions No. 62/149 in 2007, No. 63/168 in 2008, No. 65/206 in 2010, 67/176 in 2012, No. 69/186 in 2014, No. 71/187 in 2016, No. 73/175 in 2018, and No. 75/183 in 2020).

8

It is counterproductive,

because by instituting the killing of a human being as a criminal solution, the death penalty endorses the idea of murder more than it fights it.

9

It is inefficient and does not keep society safer.

It has never been conclusively shown that the death penalty deters crime more effectively than life imprisonment.

10

Not all murder victims' families want the death penalty.

A large and growing number of crime victims' families worldwide reject the death penalty and are speaking out against it, saying it does not bring back or honor their murdered family member, does not heal the pain of the murder, and violates their ethical and religious beliefs.

10 THINGS

YOU CAN DO TO END THE DEATH PENALTY

1

Organize a demonstration

This option must be considered with the utmost care given the COVID-19 pandemic – please use public policy and common sense if you decide to hold a public demonstration.

2

Organize a gathering on a videoconference platform

It can take the shape of a webinar, remote workshop, conversation, a public debate, art exhibition or even a virtual film screening to create awareness.

3

Build partnerships with women's rights organizations

to spread awareness about how gender-bias is present in the application of the death penalty.

4

Participate in a TV show or within a community radio

to raise awareness of the need to abolish the death penalty and the realities of women on death row.

5

Organize an interview with a woman on death row

to help raise awareness on their story.

6

Join the events

prepared for the abolition of the death penalty worldwide.

7

Donate

to a group working to end the death penalty.

8

Follow and repost the social media campaign

on Facebook, Instagram and Twitter:
#nodeathpenalty

9

Mobilize the media

to raise awareness on women who are sentenced to death both locally and worldwide.

10

Participate in "Cities Against the Death Penalty/Cities for Life"

on 30 November 2021.



To find out more...

Find out everything about The World Day Against the Death Penalty at: <http://www.worldcoalition.org/worldday.html> including : The 2021 World Day poster; The Mobilization Kit; The Detailed factsheet on women and the death penalty; The 2020 World Day Report.

The World Coalition Against the Death Penalty is an alliance of more than 160 NGOs, bar associations, local authorities and unions. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. The World Coalition gives a global dimension to the sometimes-isolated actions taken by its members on the ground. It complements their initiatives, while constantly respecting their independence.

The World Coalition Against the Death Penalty created the World Day Against the Death Penalty on 10 October 2003. For the 19th World Day, in 2021, the World Coalition would like to help activists worldwide rally to oppose the death penalty and unite behind the struggle for universal abolition.



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ROYAUME DE BELGIQUE
Affaires étrangères,
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Coopération au Développement

