



Cornell Law School  
Cornell Center on the  
Death Penalty Worldwide

## **Submission to the Committee on the Elimination of Discrimination against Women**

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From: The World Coalition Against the Death Penalty (WCADP), The Advocates for Human Rights (TAHR), and the Cornell Center on the Death Penalty Worldwide (CCDPW).

Date: February 10, 2025

Re: Contribution to the CEDAW Half-Day Discussion on Gender Stereotypes

**The World Coalition Against the Death Penalty (WCADP)** was founded in Rome on May 13th, 2002. Is an alliance of over 160 NGO's, bar associations and local authorities strengthening the international dimension of the fight against the death penalty. Its objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition by supporting its member organizations, local, national and regional abolitionist forces and by coordinating the international advocacy towards worldwide abolition of the death penalty. The World Coalition gives a global dimension to the action taken by its members on the ground. It complements their initiatives, while constantly respecting their independence. The World Coalition Against the Death Penalty is committed to making visible gender and intersectional discrimination at work in capital punishment as well as to strengthen the protection of women and gender and sexual minorities facing the death penalty.

**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**The Cornell Center on the Death Penalty Worldwide (CCDPW)** provides transparent data on death penalty laws and practices around the world, publishes reports and manuals on issues of practical relevance to lawyers, judges, and policymakers, trains lawyers in best practices, and engages in targeted advocacy and litigation. The Center has gained a reputation for providing comparative legal analysis of the application of the death penalty, as well as for its one-of-a-kind Makwanyane Institute for capital defenders. Our Alice Project, which is the first global project to focus on women facing capital punishment, examines the role of gender in death penalty cases. By representing women before national and international tribunals, organizing judicial trainings, and through data collection and analysis, we are exposing the connection between gender-based discrimination and capital sentencing. Center staff and associated faculty continue to defend persons facing the death penalty around the world, with a combined caseload of dozens of death row prisoners. Students play a major role in our advocacy efforts through Professor Babcock's International Human Rights Clinic. Generations of Cornell undergraduates and law students have contributed to our research, training, and individual case representation.

## The impact of gender stereotypes on fair trial rights for women facing the death penalty

This submission aims to demonstrate **how gender stereotypes influence the trials of women accused of capital crimes**, leading to violations of their fundamental rights under the CEDAW Convention<sup>1</sup>. It's primarily based on Sandra Babcock's forthcoming essay, *Gendered Capital Punishment*<sup>2</sup>, which explores these issues in depth. Her article draws from the trial transcripts of the forty-five cisgender women on death row in the United States as of July 1, 2024. In addition to Sandra Babcock's essay, this submission draws on reports from the Cornell Center on the Death Penalty Worldwide (CCDPW) which were built on the basis of information shared by abolitionist organizations based in countries that retain the death penalty.

### Executive summary

1. Women's experiences in the criminal justice system have been historically **overlooked** by both criminologists and legal scholars. Despite progress from feminist criminologists, there remains a significant lack of data and persistent gendered assumptions in existing research. The idea that systemic bias affects women's criminal trials is often met with skepticism, reflecting a broader resistance to acknowledging gender bias within legal institutions<sup>3</sup>.
2. The legal system was historically **designed by men** and remains **dominated by male stakeholders**, which reinforces gender stereotypes. The underrepresentation of women in key legal roles contributes to biased judicial practices that fail to consider the gender-specific experiences of women facing capital punishment<sup>4</sup>.
3. Gendered expectations significantly shape the judicial treatment of women. Women who deviate from **traditional gender roles** are judged not only for their alleged crimes but also for their perceived failures as "good mothers, partners, or caretakers"<sup>5</sup>.
4. **Gender-based violence**, which affects the vast majority of women on death row, is frequently disregarded during trials. Courts often fail to consider histories of abuse as mitigating factors, influenced by stereotypes that question the credibility of survivors and dismiss the impact of prolonged violence on women's actions<sup>6</sup>.
5. **Intersectional discrimination and stereotypes** exacerbate gender bias in sentencing. Women who are from racial minorities, migrants, or living in poverty face compounded discrimination. They are subjected to both gendered biases and additional prejudices

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<sup>1</sup> In particular, this submission highlights violations of Articles 2, 5, and 15 of the [CEDAW Convention](#). Article 2 obliges States to eliminate all forms of discrimination against women; Article 5 requires States to modify social and cultural patterns based on gender stereotypes; and Article 15 guarantees women's equality before the law.

<sup>2</sup> Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025).

<sup>3</sup> Snell, 1994; Greenfeld & Snell, 1999; Klein & Kress, 2013; National Science Foundation, 2023, cited in Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.9.

<sup>4</sup> See *infra* Part 1.

<sup>5</sup> See *infra* Part 2.

<sup>6</sup> See *infra* Part 3.

related to race, class, disability and migration status, leading to harsher sentences and unequal access to justice<sup>7</sup>.

6. The case of Brenda Andrew<sup>8</sup> highlights how gender stereotypes can undermine fair trials. In January 2025, the U.S. Supreme Court recognized that **prejudicial, gendered evidence violated her due process rights**, setting an important precedent against the use of such biases in capital cases<sup>9</sup>.

## 1 A legal system designed by men perpetuating gender stereotypes

7. The criminal justice system in most countries was historically created by men and continues to be dominated by male actors, which inherently perpetuates gender stereotypes. As noted by feminist scholars, "the legal system was created by men, for men, and from a man's standpoint"<sup>10</sup>. This structural bias results in a system that fails to adequately address or even recognize the unique experiences of women and gender nonconforming people facing the death penalty.
8. In many countries, women remain significantly underrepresented in key roles within the judicial system. For example, as of July 1, 2024, **96% of District Attorneys in cases involving women on death row in the United States were men, and 89% of these women were tried in courtrooms presided over by male judges**<sup>11</sup>. Globally, similar patterns are observed, with women poorly represented among police officers, lawyers, and judges<sup>12</sup>.
9. **Prosecutors** often rely on gendered stereotypes to influence juries. To secure convictions, they may emphasize narratives that portray women as manipulative, immoral, or deviating from traditional gender roles<sup>13</sup>. This reliance on stereotypes contributes to harsher sentencing outcomes for women.
10. **Judges** play a critical role in determining the admissibility of evidence, guiding jury deliberations, and influencing plea negotiations. Research indicates that male judges are less likely to recognize the relevance of gender-based violence as a mitigating factor in

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<sup>7</sup> See *infra* Part 4.

<sup>8</sup> Brenda Andrew was convicted in 2004 of killing her husband to collect insurance money. During the trial, prosecutors portrayed her as promiscuous and immoral, using evidence unrelated to the crime to sway the jury. [https://www.supremecourt.gov/opinions/24pdf/23-6573\\_m647.pdf](https://www.supremecourt.gov/opinions/24pdf/23-6573_m647.pdf)

<sup>9</sup> See *infra* Part 5.

<sup>10</sup> Patricia Yancey Martin, John R. Reynolds, & Shelley Keith, "Gender Bias and Feminist Consciousness Among Judges and Attorneys: A Standpoint Theory Analysis," 27 Signs: J. Women Culture & Society 665, 667 (2002), and Catharine MacKinnon, *Feminism Unmodified: Discourses on Life and Law* 34 (1987), cited in Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.4.

<sup>11</sup> Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.19.

<sup>12</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (A Report of the Alice Project), September 2018, p.8, accessible at: <https://deathpenaltyworldwide.org/publication/judged-more-than-her-crime/>

<sup>13</sup> Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.15.

capital cases. A study found that women judges are “substantially more likely” to vote more liberally in capital case appeals compared to their male counterparts<sup>14</sup>.

11. **Defense attorneys** often lack the training or sensitivity to effectively address issues related to gender-based violence. Many do not know how to discuss topics such as sexual abuse, intimate partner violence, or coercion with their clients, leading to the exclusion of critical mitigating evidence. In the US, in cases involving women on death row, **68% had all-male defense teams**, which may hinder the effective presentation of gender-sensitive defenses<sup>15</sup>.
12. **Juries** are also affected by gender composition. Research shows that male-dominated juries are more likely to accept gendered stereotypes presented by the prosecution. In contrast, women jurors are generally less supportive of the death penalty, more likely to recognize the seriousness of intimate partner violence, and less likely to blame female defendants for their victimization<sup>16</sup>.
13. In the United States, jurors in capital cases must be “death qualified,” meaning they must be willing to consider all sentencing options, including the death penalty.<sup>17</sup> And because women are more likely to oppose the death penalty than men, fewer women typically serve on juries in capital trials.<sup>18</sup> One recent study of jury selection in capital trials found that African American jurors, particularly women, were excluded from capital juries at higher rates than white males, and “regardless of race, women were excluded from juries at higher rate[s] than men.”<sup>19</sup>
14. The **lack of academic focus** on the gender of courtroom actors further perpetuates this issue. Despite evidence suggesting that the gender of judges, prosecutors, and defense attorneys impacts trial outcomes, this topic remains under-researched<sup>20</sup>.
15. Ultimately, the **legal architecture that sustains the death penalty operates within a framework imbued with patriarchal norms**<sup>21</sup>, affecting both the process and outcomes of capital cases involving women. The overwhelming male dominance among courtroom actors not only influences judicial decisions but also undermines women's subjective experiences of justice, as they often do not see their identities or experiences reflected in those deciding their fates<sup>22</sup>.

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<sup>14</sup> Donald R. Songer & Kelley A. Crews-Meyer, *Does Gender Matter? Decision-Making in State Supreme Courts*, 81 Soc. Sci. Q. 750 (2000), cited in Sandra Babcock, Gendered Capital Punishment, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.26.

<sup>15</sup> Sandra Babcock, Gendered Capital Punishment, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.20.

<sup>16</sup> *Ibid*, p.30.

<sup>17</sup> Capital Punishment in Context, *Death Qualification*, accessible at : <https://capitalpunishmentincontext.org/resources/deathqualification> (last visited Feb.4, 2025).

<sup>18</sup> *Ibid*.

<sup>19</sup> Marina Rubio, *Jury of Your Peers?: How Death Disqualification Kills Diversity Among Jurors*, Race & Social Justice Law Review, Oct. 31, 2022, <https://race-and-social-justice-review.law.miami.edu/jury-of-your-peers-how-death-disqualification-kills-diversity-among-jurors/>.

<sup>20</sup> Sandra Babcock, Gendered Capital Punishment, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.32.

<sup>21</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, September 2018, p.8.

<sup>22</sup> Sandra Babcock, Gendered Capital Punishment, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.33.

16. This systemic bias has contributed to wrongful convictions and disproportionate death sentences for women worldwide<sup>23</sup>. The absence of diverse perspectives within the legal system prevents a comprehensive understanding of the factors that lead women to commit crimes, particularly those related to survival from abuse or coercion.

## 2 Gendered expectations shaping how the criminal legal system treats women

17. Numerous case studies of executed women demonstrate how prosecutors and the media rely on harmful gender stereotypes to demonize female defendants<sup>24</sup>.
18. Sandra Babcock highlighted three main pervasive stereotypes that influence the judicial treatment of women in capital cases in the United States of America (USA): **hypersexuality, poor motherhood, and manipulativeness**<sup>25</sup>.
19. The "**hypersexual woman**" trope portrays women as immoral and blameworthy due to their sexual behavior. Prosecutors often highlight irrelevant details about women's sexual histories, such as their number of partners or choice of clothing, to discredit them<sup>26</sup>. For example, in Brenda Andrew's case in Oklahoma in the USA, prosecutors emphasized her affairs, displayed her underwear in court, and argued that it was not the type a grieving widow would wear.
20. The "**bad mother**" stereotype ties a woman's moral worth to her parenting. Prosecutors use anecdotes of poor parenting to argue for harsher sentences, even when irrelevant to the crime<sup>27</sup>. In Kerry Dalton's case, in California in the USA, the prosecution highlighted her perceived failures as a mother to justify the death penalty. The case of Melissa Lucio illustrates how the 'bad mother' stereotype can influence not only judicial proceedings but also police investigations. Following the tragic death of her two-year-old daughter, Melissa was aggressively interrogated by the police, who disproportionately focused on her perceived failings as a mother rather than the forensic and eyewitness evidence suggesting the death resulted from an accidental fall. Her calm

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<sup>23</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, September 2018, p.8. See also Valena Beety, *Manifesting Justice: Wrongly Convicted Women Reclaim Their Rights* (2022).

<sup>24</sup> Jessica Sutton, John Mills, Jennifer Merrigan, & Kristin Swain, *Death by Dehumanization: Prosecutorial Narratives of Death-Sentenced Women and LGBTQ Prisoners*, 95 St. John's L. Rev. 1053, 1071 (2021); David Baker, *Women and Capital Punishment in the United States: An Analytical History* 24 (2015); Mary Welek Atwell, *Wretched Sisters: Examining Gender and Capital Punishment* 197, 296 (2nd ed. 2014); Joey L. Mogul, *The Dykier, the Butcher, the Better: The State's Use of Homophobia and Sexism to Execute Women in the United States*, 8 CUNY L. Rev. 473, 483–90 (2005), cited in Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.11.

<sup>25</sup> Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.12-13-14-15-16.

<sup>26</sup> Cynthia Calkins & Natalia Feldgun, *Did Sex Shaming Lead to the Death Penalty?*, Am. Psych. Ass'n (2024), cited in Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.12.

<sup>27</sup> Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.14.

demeanor during questioning was interpreted as a lack of remorse, reinforcing the stereotype that a ‘good mother’ should display visible grief in a specific manner<sup>28</sup>.

21. The **"manipulative schemer"** stereotype paints women as deceitful and morally corrupt. This narrative undermines women's credibility and increases their perceived blameworthiness<sup>29</sup>.
22. **Globally, similar patterns emerge.** In India, a woman accused of killing her husband was denied leniency due to her extramarital affair, with the court stating she "deserves no leniency"<sup>30</sup>. In Pakistan, a court criticized a woman in a drug case, stating she would have acted differently if she had cared about her child<sup>31</sup>.
23. At the investigation stage, police biases also play a role. In Pakistan, police often target wives as prime suspects in their husbands' murders without substantial evidence<sup>32</sup>.
24. Generally, gender role transgressions function like aggravating factors. Women are punished more harshly when they deviate from traditional roles, such as being submissive caregivers<sup>33</sup>. These prejudices also have an impact on women seeking to claim extenuating circumstances. For example, in the case of women sentenced to death for drug trafficking. In cases where they have unknowingly transported drugs, judges often rely on stereotypes of what constitutes a “good victim” to recognize or not her guilt. In Malaysia, for example, a woman sentenced to death argued that she had unknowingly transported drugs, but the court rejected her defense, finding that her past relationships made her too experienced to have been “blindly in love” and unaware of the crime<sup>34</sup>. Courts are often reluctant to accept the argument that a defendant was deceived into transporting drugs unless she conforms to the stereotype of a "helpless female victim"—one who is poor, uneducated, and, when a male co-conspirator is involved, inexperienced with men<sup>35</sup>.
25. The cumulative effect of these stereotypes creates a judicial environment where women are judged not only for their crimes but also for their failure to conform to societal expectations of femininity.

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<sup>28</sup> Cornell Center on the Death Penalty Worldwide, *Melissa Lucio*, accessible at: <https://deathpenaltyworldwide.org/advocacy/melissa-lucio/>.

<sup>29</sup> Deborah Epstein & Lisa Goodman, *Discounting Women: Doubting Domestic Violence Survivors' Credibility and Dismissing Their Experiences*, 167 U. Pa. L. Rev. 399, 425 (2019), cited in Sandra Babcock, *Gendered Capital Punishment*, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.16.

<sup>30</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, September 2018, p.7.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> Cornell Center on the Death Penalty Worldwide, *No One Believed Me: A Global Overview of Women Facing the Death Penalty for Drug Offenses*, September 2021, p.29, accessible at: <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>

<sup>34</sup> Monash University, Eleos Justice, Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-sanctioned killing of women*, March 2023, p 34, accessible at: [https://bridges.monash.edu/articles/report/Silently\\_Silenced\\_State-Sanctioned\\_Killing\\_of\\_Women/22357627?file=40117222](https://bridges.monash.edu/articles/report/Silently_Silenced_State-Sanctioned_Killing_of_Women/22357627?file=40117222)

<sup>35</sup> Monash University, Eleos Justice, Cornell Center on the Death Penalty Worldwide, *Silently Silenced: State-sanctioned killing of women*, March 2023, p 34.



### 3 The disregard of gender-based violence in capital trials

26. The overwhelming majority of women on death row have experienced gender-based violence (GBV) prior to their incarceration, yet these experiences are often minimized, dismissed, or entirely disregarded during capital trials<sup>36</sup>.
27. Research shows that in the US, “**96%** [of women on death row] **have experienced one or more forms of GBV**”<sup>37</sup>. Despite its significant impact on women’s lives, psychological abuse is poorly understood and frequently overlooked by legal actors.
28. Prosecutors commonly aim to discredit women's accounts of violence by accusing them of fabricating or exaggerating their experiences. When unable to discredit the accounts entirely, they argue that the women did not behave as “legitimate” victims should<sup>38</sup>, reinforcing harmful stereotypes about victimhood.
29. In the USA, in the case of **Brittany Holberg**, who was repeatedly sexually assaulted as a child, prosecutors implied she was fabricating her abuse. Similarly, in **Cynthia Coffman’s** case, prosecutors suggested she invented evidence of her partner’s torture to manipulate the jury<sup>39</sup>.
30. Murder is the first crime for which women are sentenced to death. As CCDPW's research, set out in its report *Judged for More than Her Crime*, shows, these murders are often committed in the context of gender-based violence, as acts of self-defense.
31. In **Indonesia**, courts failed to consider the history of GBV in 5 out of 32 capital cases where such evidence was presented. In one case, the court even advised the defendant to "respect and love her husband," despite his history of violence towards her<sup>40</sup>.

### 4 Intersecting stereotypes reinforcing gender bias in sentencing

32. Women from marginalized backgrounds—such as **racial minorities**, **migrants**, and those living in **poverty**—face compounded discrimination in capital cases because they are subjected to both **gendered stereotypes** and **additional biases** related to race, class, and migration status<sup>41</sup>.
33. Racialized women are often perceived as inherently more **dangerous**, **aggressive**, or **morally corrupt** compared to white women. This perception is rooted in stereotypes that associate criminality with race, amplifying the harshness of sentencing decisions.

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<sup>36</sup> Sandra Babcock, Gendered Capital Punishment, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.16.

<sup>37</sup> *Ibid.*

<sup>38</sup> Babcock & Greenfield, *supra* note 111, at 382. See also Epstein & Goodman, *supra* note 100, at 40, cited in Sandra Babcock, Gendered Capital Punishment, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.17.

<sup>39</sup> Sandra Babcock, Gendered Capital Punishment, 31 Wm. & Mary J. Race, Gender & Soc. Just. (forthcoming 2025), p.17.

<sup>40</sup> Institute for Criminal Justice Reform, *The Overlooked: She in the Vortex of Death Penalty*, October 2021, accessible at: <https://icjr.or.id/wp-content/uploads/2021/10/The-Overlooked-She-in-Vortex-of-Death-Penalty.pdf>

<sup>41</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, September 2018, p.15.



34. Migrant women accused of drug-related offenses are frequently viewed through a lens of criminal suspicion, with courts overlooking factors such as coercion, trafficking, or exploitation. In many cases, their vulnerability as migrants is weaponized against them, with judges dismissing claims of manipulation because of assumptions about their agency and moral character<sup>42</sup>.
35. Poverty exacerbates gender stereotypes by reinforcing the belief that poor women are **negligent, irresponsible, or morally deficient**. This is particularly evident in cases where women are punished not only for their crimes but also for failing to meet societal expectations of femininity, such as being a "good mother" or "caretaker"<sup>43</sup>.
36. The intersection of gender, race, migration status, and poverty leads to a **double or triple burden of stereotypes**, where women are judged both for their deviation from traditional gender roles and for their marginalized identities. This results in harsher sentences, and a lack of consideration for mitigating factors during trials.

## 5 Brenda Andrew's case: A turning point in addressing gender stereotypes in death penalty trials

37. At Brenda Andrew's 2004 trial in Oklahoma for the murder of her husband, the prosecution heavily relied on **gendered stereotypes** to portray her as an unfit mother and immoral woman. Witnesses were called to testify about her "provocative" clothing and her past **sexual relationships**, questioning "whether a good mother would dress or behave" the way she had<sup>44</sup>.
38. In his closing argument, the prosecutor dramatically opened a suitcase in front of the jury, displaying Ms. Andrew's underwear, including intimate items, as an attempt to question the sincerity of her grief. This tactic aimed to dehumanize and discredit her, focusing on her **personal life** rather than the facts of the case<sup>45</sup>.
39. On January 21, 2025, the **U.S. Supreme Court** reversed the lower court's decision, recognizing that the introduction of such **prejudicial, gendered evidence** violated Ms. Andrew's **due process rights** under the Fourteenth Amendment. The Court emphasized that evidence so unduly prejudicial could render a trial fundamentally unfair<sup>46</sup>.
40. This ruling marks a **historic precedent**, as it is the first time the Supreme Court explicitly acknowledged that **gender-based prejudices**—such as attacking a woman's abilities as a mother or her private sex life—can violate constitutional rights<sup>47</sup>.
41. This case illustrates how deeply ingrained **gender stereotypes** can shape capital trials, influencing both the prosecution's strategies and jurors' perceptions. It also highlights

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<sup>42</sup> Cornell Center on the Death Penalty Worldwide, *No One Believed Me*, September 2021.

<sup>43</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime*, September 2018, p.15.

<sup>44</sup> Leah Roemer, *Supreme Court Rules in Favor of Only Woman on Oklahoma Death Row, Confirming Admission of Prejudicial, Gendered Evidence Can Violate Due Process Rights*, Death Penalty Information Center, January 22, 2025, accessible at: <https://deathpenaltyinfo.org/supreme-court-rules-in-favor-of-only-woman-on-oklahoma-death-row-confirming-admission-of-prejudicial-gendered-evidence-can-violate-due-process-rights>

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

the urgent need for **systemic reforms** to prevent the misuse of such biases in the justice system<sup>48</sup>.

#### **Recommendations:**

- **Abolish the death penalty, death by incarceration, and decriminalize poverty, necessity, survival, morality, and pregnancy related offenses.**
- **Urge States to ensure that each person who is low income and unable to afford to hire their own private counsel is appointed high quality criminal defense counsel at no charge to themselves.**
- **Provide regular training for judges, prosecutors, and defense lawyers on recognizing and addressing gender stereotypes in capital cases.**
- **Dismantle reliance on incarceration** and convene states on alternative approaches that include addressing the root causes of women and girls' pathways to the criminal legal system, addressing power inequities, and embracing alternative frameworks such as **healing justice.**
- **Call on States to ban the use of racial, sexual-orientation based, and gender-based stereotypes,** such as a woman's sexual history or perceived role as a mother, as evidence in trials and sentencing.
- **Suggest that States require courts to consider and acknowledge histories of structural and gender-based violence** as part of an accused person's defense and/or as mitigating factors in all capital cases.
- **Urge States to decrease the rate of women and girls who are prosecuted and incarcerated** while increasing educational and professional development opportunities for women in the legal field.
- **Ensure that the criminal legal systems take full account of any mitigating factors related to women's backgrounds,** including evidence of trauma, economic pressures, child marriage, domestic and gender-based violence, as well as psycho-social and intellectual disabilities.
- **Call on States to ensure that defense lawyers handling capital cases are trained** to build trust with survivors of gender-based violence, speak with their clients about sexual histories, understand how to convey the role of gender-based violence in the lives of their clients, and are equipped to identify and challenge intersectional gender biases in court.
- **Amplify a model of defense team compositions that include experts who are criminalized survivors of gender-based violence. Urge legal systems to shift power by embracing, acknowledging, and compensating criminalized survivors for their expertise.**
- **Encourage the training of journalists** in the use of language that respects human rights and does not perpetuate gender stereotypes in capital cases.

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<sup>48</sup> *Ibid.*