



Ethiopia's Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: The Death Penalty

Submitted by The Advocates for Human Rights

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and

The World Coalition Against the Death Penalty

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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established 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 publications. 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 World Coalition Against the Death Penalty is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate 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.

EXECUTIVE SUMMARY

1. This report addresses Ethiopia's compliance with its human rights obligations with regard to the death penalty. As of November 2022, there are 124 people on death row in Ethiopia. The Federal Supreme Court of Ethiopia has issued sentencing guidelines that purport to reduce the likelihood of persons being sentenced to death as a punishment for their crimes. Nonetheless, Ethiopia has not taken concrete steps to reduce the number of crimes eligible for the death penalty, and the use of torture and other due process violations related to judicial proceedings render all death sentences arbitrary.

Ethiopia fails to uphold its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

I. Torture (List of Issues, para. 4)

2. In the List of Issues, the Committee asked Ethiopia to provide further information on the measures adopted to allow the Ethiopian Human Rights Commission (EHRC) to conduct regular and unannounced visits to all civilian and military places of deprivation of liberty, including unofficial detention centers, without any restriction and to ensure effective follow up of the findings and recommendations of such systematic monitoring.¹ The Committee also requested updated information, including statistical data, on the complaints examined by the EHRC in relation to alleged torture or ill-treatment, and asked authorities to specify how many such cases have been submitted to the competent authorities for prosecution and to provide the details of such cases.²
3. In the Replies to the List of Issues, Ethiopia states that the adoption of a new EHRC establishment proclamation (amendment) gives the EHRC the mandate to visit and monitor any correction center or prison, police detention center, or any place where people are held in custody or otherwise detained anywhere in the country, including public service institutions such as school, hospitals, shelter camps, and market centers, without prior notice.³ Ethiopia further states that the amendment affords EHRC investigators immunity which enables them to carry out their roles.⁴ Ethiopia further reports that as of June 2022, the EHRC has referred 26 incidents potentially related to torture and other cruel, inhuman, and degrading treatment and has made recommendations to relevant authorities for further investigations.⁵
4. Although Ethiopia maintains that the new EHRC amendment permits EHRC members to conduct assessments of all places of deprivation of liberty, recent actions by Ethiopian

¹ Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶ 4.

² Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶ 4.

³ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 10; EHRC establishment (amendment) proclamation No. 1224/2020.

⁴ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 10.

⁵ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 15.

authorities may indicate certain efforts to undermine independent human rights monitoring.⁶ On January 5, 2023, authorities arrested four members of the Ethiopian Human Rights Council (EHRCO), a member-based non-governmental human rights advocacy organization, in the Alem Bank area while they were investigating complaints of illegal evictions and destruction.⁷ Authorities detained and forcibly disappeared the four EHRCO members for several hours.⁸ The Police charged the EHRCO members with conducting human rights monitoring without permission (not a crime under Ethiopian law) and the court denied them bail at their court hearing.⁹ As of January 11, 2023, the Ethiopian authorities had not released the four EHRCO members and there have been no further updates.¹⁰

5. On April 6, 2022, Amnesty International issued a report documenting crimes against humanity and ethnic cleansing occurring in Ethiopia's western Tigray zone.¹¹ The report states that the Tigrayans held in custody suffered physical abuse from Ethiopian security forces.¹² Many former detainees described regular beatings, physical and psychological torture, and ill-treatment.¹³ It was also reported that detainees were forced into a painful position, frequently punched, kicked, slapped, or beaten with implements such as sticks, rifle butts, and heavy metal objects, often resulting in serious injuries.¹⁴ The report also documents that detainees were subject to psychological torture, ill-treatment, humiliation, and verbal abuse.¹⁵ In addition, former detainees believed some people died in custody as a result of the deprivation of food and the denial of medical treatment.¹⁶

II. Legal safeguards, due process, and the death penalty (List of Issues, para. 26)

6. In the List of Issues, the Committee asked Ethiopia to provide information on the measures taken to ensure that the death penalty is imposed only for the most serious crimes, in line with international legal standards that limit its application to crimes of extreme gravity involving

⁶ Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶ 4; Amnesty International (<https://www.amnesty.org/en/latest/news/2023/01/ethiopia-human-rights-defenders/>)

⁷ Amnesty International (<https://www.amnesty.org/en/latest/news/2023/01/ethiopia-human-rights-defenders/>)

⁸ Amnesty International (<https://www.amnesty.org/en/latest/news/2023/01/ethiopia-human-rights-defenders/>); International Federal for Human Rights (<https://www.fidh.org/en/issues/human-rights-defenders/ethiopia-arbitrary-arrest-and-detention-of-four-ehrc-members>)

⁹ Amnesty International (<https://www.amnesty.org/en/latest/news/2023/01/ethiopia-human-rights-defenders/>)

¹⁰ International Federal for Human Rights (<https://www.fidh.org/en/issues/human-rights-defenders/ethiopia-arbitrary-arrest-and-detention-of-four-ehrc-members>)

¹¹ Amnesty International, "We Will Erase You From This Land": Crimes Against Humanity and Ethnic Cleansing in Ethiopia's Western Tigray Zone (<https://www.amnesty.org/en/documents/afr25/5444/2022/en/>).

¹² Amnesty International, "We Will Erase You From This Land": Crimes Against Humanity and Ethnic Cleansing in Ethiopia's Western Tigray Zone (<https://www.amnesty.org/en/documents/afr25/5444/2022/en/>).

¹³ Amnesty International, "We Will Erase You From This Land": Crimes Against Humanity and Ethnic Cleansing in Ethiopia's Western Tigray Zone (<https://www.amnesty.org/en/documents/afr25/5444/2022/en/>).

¹⁴ Amnesty International, "We Will Erase You From This Land": Crimes Against Humanity and Ethnic Cleansing in Ethiopia's Western Tigray Zone (<https://www.amnesty.org/en/documents/afr25/5444/2022/en/>).

¹⁵ Amnesty International, "We Will Erase You From This Land": Crimes Against Humanity and Ethnic Cleansing in Ethiopia's Western Tigray Zone (<https://www.amnesty.org/en/documents/afr25/5444/2022/en/>).

¹⁶ Amnesty International, "We Will Erase You From This Land": Crimes Against Humanity and Ethnic Cleansing in Ethiopia's Western Tigray Zone (<https://www.amnesty.org/en/documents/afr25/5444/2022/en/>).

intentional killing.¹⁷ The Committee also asked Ethiopia to indicate whether it is considering the possibility of reviewing its policy with a view to abolishing the death penalty in law or taking affirmative steps to formalize the moratorium on the death penalty, as well as for information regarding efforts made to commute all death sentences into alternative penalties and regarding the steps taken to strengthen legal safeguards and guarantees of due process in all phases of the proceedings and concerning all offences.¹⁸

7. In the Replies to the List of Issues, Ethiopia states that Ethiopia's Constitution, criminal law, and the Sentencing Manual issued by the Federal Supreme Court ensure that courts impose the death penalty for only the most serious criminal offences and in the absence of any extenuating circumstances.¹⁹ Further, Ethiopia states that as a result, the competent courts of law impose death sentences in cases involving grave crimes and exceptionally dangerous criminals.²⁰
8. Ethiopia also states that there has not been any shift with respect to Ethiopia's position to abolish the death penalty and accede to the Second Optional Protocol of the International Covenant on Civil and Political Rights.²¹ The draft criminal procedure and evidence code, however, provides for authorities to commute a death sentence to life imprisonment if they do not carry out the execution within two years after the final judgment.²²
9. Despite these assurances, Ethiopian courts continue to sentence people to death and Ethiopian law does not limit the death penalty to the "most serious" crimes. In the 2011 Concluding Observations, Committee also expressed concern about the "Ginbot 7" case in which the Federal High Court sentenced five opposition leaders to death in absentia and sentenced another opposition leader to death after allegedly having subjected him to torture.²³ Although Ethiopia had no known death sentences issued in 2019 or 2020 and is not reported to have carried out any executions since 2007, Ethiopian courts sentenced at least two people to death in 2021.²⁴ According to Amnesty International, in April 2021, a court in Oromia sentenced a man to death for murder.²⁵ Amnesty International further reports that on August 6, 2021, "the Western Command First Instance Military Court convicted an undisclosed number of members of the Ethiopian National Defense Force (ENDF) of treason for conspiring with the Tigrayan

¹⁷ Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶ 26.

¹⁸ Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶ 26.

¹⁹ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 126.

²⁰ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 127.

²¹ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 129.

²² Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 129.

²³ Committee Against Torture, *Concluding observations: Ethiopia* (20 Jan. 2011), U.N. Doc. CAT/C/ETH/CO/1, ¶ 24.

²⁴ Cornell Center on the Death Penalty Worldwide, *Ethiopia*, available at <https://deathpenaltyworldwide.org/database/#/results/country?id=25>, last visited June 3, 2022; Amnesty International, *Death Sentences and Executions 2021* (2022), at 13, available at <https://www.amnesty.org/en/documents/act50/5418/2022/en/>; Amnesty International, *Death Sentences and Executions 2019* (2020), at 44, available at <https://www.amnesty.org/en/documents/act50/1847/2020/en/>.

²⁵ Amnesty International, *Death Sentences and Executions 2021* (2022), at 55, available at <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

People’s Liberation Front (TPLF) to launch an attack on the military in the context of the armed conflict in Tigray. Those convicted were sentenced to death or to life imprisonment.”²⁶ In addition, Ethiopia’s Replies to the List of Issues show that courts sentenced at least five people to death in 2022.²⁷

10. The Constitution of Ethiopia provides a framework for the protection of human rights.²⁸ Article 14 guarantees every person the inviolable and inalienable right to life and the security of person; Article 15 guarantees that every person has the right to life and no person may be deprived of their life except as a punishment for a serious criminal offence determined by law; and Article 18 states that everyone has the right to protection against cruel, inhuman or degrading treatment or punishment. The Constitution of Ethiopia gives the President of the Federal Government the power to decide whether capital punishment should be carried out by approving the judicial conviction or commuting the punishment to life imprisonment.²⁹
11. Under Ethiopian law, a person may be sentenced to death for aggravated murder, robbery causing the death of the victim, failure to give proper medical treatment that causes the death of a wounded combatant on the battlefield, as well as certain vaguely defined terrorism-related offenses, including offenses not resulting in death.³⁰ The Criminal Code also authorizes the death penalty for certain other crimes not resulting in death, such as robbery as a member of a gang, certain economic crimes, treason, espionage, and certain military offenses.³¹ Moreover, attempted crimes are punishable by the same punishment as the underlying offense, and crimes that are not expressly eligible for the death penalty may nonetheless be so punished if the court deems the offense to be aggravated under the Criminal Code.³²
12. Despite Ethiopia’s assertions in the Replies to the List of Issues, Ethiopia has not provided any information regarding efforts made to strengthen legal safeguards and guarantees of due process. People at risk of being sentenced to death in Ethiopia often lack adequate representation by qualified legal counsel. According to the Cornell Center on the Death Penalty Worldwide, the Constitution recognizes that indigent defendants have a right to legal representation provided by the State. But even though there is a federal public defender’s office, “state and local courts often lack public defender offices. When legal aid is provided through a public defender’s office, it is often rendered by non-lawyers or inexperienced lawyers.”³³ Moreover, attorneys are often unprepared for trial in part because defendants

²⁶ Amnesty International, *Death Sentences and Executions 2021* (2022), at 55, available at <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

²⁷ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. Annex VI.

²⁸ 1995 CONSTITUTION [Federal Democratic Republic of Ethiopia], available online at <http://www.wipo.int/edocs/lexdocs/laws/en/et/et007en.pdf>.

²⁹ 1995 CONSTITUTION [Federal Democratic Republic of Ethiopia], art. 28. See Suryaraju Mattimalla, *Compatibility of Death Penalty with the Purpose of Criminal Punishment in Ethiopia*, 11 *The Age of Human Rights Journal* 91, 102-103 (2018).

³⁰ Cornell Center on the Death Penalty Worldwide, *Ethiopia*, available at <https://deathpenaltyworldwide.org/database/#/results/country?id=25>, last visited March 7, 2023.

³¹ Cornell Center on the Death Penalty Worldwide, *Ethiopia*, available at <https://deathpenaltyworldwide.org/database/#/results/country?id=25>, last visited March 7, 2023.

³² Cornell Center on the Death Penalty Worldwide, *Ethiopia*, available at <https://deathpenaltyworldwide.org/database/#/results/country?id=25>, last visited March 7, 2023.

³³ Cornell Center on the Death Penalty Worldwide, *Ethiopia*, available at <https://deathpenaltyworldwide.org/database/#/results/country?id=25>, last visited March 7, 2023.

reportedly are not informed of the specific charges against them until trial.³⁴ Authorities commonly restrict or prohibit contact between defendants and their attorneys before trial, and some people charged under the Anti-Terrorism Law are held incommunicado.³⁵

III. Conditions of Detention (List of Issues, para. 15)

13. In the List of Issues, the Committee asked Ethiopia to provide detailed, updated information on the progress of projects to improve conditions of detention in police stations, prisons, and other places of detention.³⁶ In particular, the Committee asked for information regarding the actions taken to reduce overcrowding in places of detention, to ensure that conditions of detention for condemned prisoners do not constitute cruel, inhuman or degrading punishment, and to improve sanitation, the quality and quantity of food and water, and health care provided to detainees.³⁷ The Committee also asked for further insights on the measures taken to address the needs of children, women, and persons with disabilities held in detention.³⁸
14. In its Replies to the List of Issues, Ethiopia states that the daily budget for food and drinks allocated per prisoner increased by 60 percent.³⁹ In addition, Ethiopia has constructed new detention centers to address congestion and health care concerns, and additional facilities are under construction.⁴⁰ Ethiopia also points to the establishment of a special arrangement which allows foster care institutions to bring the children of women in prison to the prison facility for visitation once in a two-week period.⁴¹ Ethiopia also notes that the EHRC allocates a special budget to pregnant prisoners and women prisoners with an infant.⁴²
15. Despite these efforts, overcrowding and harsh conditions remain significant problems in some of Ethiopia's prisons and detention centers.⁴³ According to a Reuters' report of the conflict in the Tigray zone, thousands of Tigrayans have "endured squalor and disease" in detention centers.⁴⁴ The report documents that Tigrayans, including women and children, were crowded

³⁴ Cornell Center on the Death Penalty Worldwide, *Ethiopia*, available at <https://deathpenaltyworldwide.org/database/#/results/country?id=25>, last visited March 7, 2023.

³⁵ Cornell Center on the Death Penalty Worldwide, *Ethiopia*, available at <https://deathpenaltyworldwide.org/database/#/results/country?id=25>, last visited March 7, 2023.

³⁶ Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶ 15.

³⁷ Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶¶ 15 and 26.

³⁸ Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶ 15.

³⁹ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 79.

⁴⁰ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 78.

⁴¹ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 80.

⁴² Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 80.

⁴³ Reuters Report (<https://www.reuters.com/investigates/special-report/ethiopia-conflict-prisoners/#:~:text=Most%20facilities%20were%20crowded%20and,bribe%20guards%20to%20get%20medicines>)

⁴⁴ Reuters Report (<https://www.reuters.com/investigates/special-report/ethiopia-conflict-prisoners/#:~:text=Most%20facilities%20were%20crowded%20and,bribe%20guards%20to%20get%20medicines>)

into makeshift facilities such as former factories, industrial parks, and unfinished prisons.⁴⁵ Most facilities were crowded and dirty and authorities denied sick detainees medical treatment for weeks.⁴⁶ Reuters estimates that as of June 17, 2022, around 9,000 Tigrayans remain in detention.⁴⁷

IV. Violence Against Women and the Deprivation of Women's Liberty (List of Issues paras. 5, 15)

16. In the List of Issues, the Committee asked Ethiopia to provide further information on the measures taken to prevent and combat all forms of violence against women and to provide victims with legal, medical, psychosocial, and rehabilitative services, as well as with compensation.⁴⁸
17. In its Replies to the List of Issues, Ethiopia fails to provide comprehensive data regarding the number of prosecutions of alleged perpetrators of violence against women since the last report.⁴⁹ Ethiopia reports that it has established one-stop centers, hotlines, and safe houses to help victims of gender-based violence including sexual and harmful practices.⁵⁰
18. According to the Replies to the List of Issues, as of November 2022, there were 2 women on death row in Ethiopia, having been found guilty and sentenced to death by courts with jurisdiction to try cases involving serious crimes, inter alia, aggravated homicide.⁵¹ But only one of the women had been sentenced to death for aggravated homicide⁵² while the other woman had been sentenced to death for simple homicide, contradicting the government's assertion that the country's Constitution, criminal law, and the Federal Supreme Court's Sentencing Manual authorize the death penalty only for the most serious criminal offences, for exceptionally dangerous criminals,⁵³ and in the absence of any extenuating circumstances.⁵⁴ There is no public information that the woman convicted of simple homicide committed a most serious criminal offense, nor is there public information that either woman was an exceptionally dangerous criminal. Likewise, there is no public information regarding any

⁴⁵ Reuters Report (<https://www.reuters.com/investigates/special-report/ethiopia-conflict-prisoners/#:~:text=Most%20facilities%20were%20crowded%20and,bribe%20guards%20to%20get%20medicines>)

⁴⁶ Reuters Report (<https://www.reuters.com/investigates/special-report/ethiopia-conflict-prisoners/#:~:text=Most%20facilities%20were%20crowded%20and,bribe%20guards%20to%20get%20medicines>)

⁴⁷ Reuters Report (<https://www.reuters.com/investigates/special-report/ethiopia-conflict-prisoners/#:~:text=Most%20facilities%20were%20crowded%20and,bribe%20guards%20to%20get%20medicines>)

⁴⁸ Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶ 3.

⁴⁹ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 1.

⁵⁰ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 4.

⁵¹ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 19.

⁵² Belaynesh Denu, Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2 ¶ Annex VI, *Statistics on Convicts of Death Penalty (as of November 2022)*.

⁵³ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 19.

⁵⁴ Mestawut Getaneh, Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2 ¶ Annex VI, *Statistics on Convicts of Death Penalty (as of November 2022)*.

extenuating circumstances in those cases that could have applied. Both women have spent at least 10 years in prison since their conviction.

19. In a groundbreaking 2018 study, the Cornell Center on the Death Penalty Worldwide found that, in the global context, women are more vulnerable and most likely to be sentenced to death for criminal offenses committed within the context of gender-based violence⁵⁵ and manipulative or coercive relationships with male co-defendants.⁵⁶ Cornell's data indicate that most women under sentence of death have been sentenced to death for the crime of murder.⁵⁷ These women have overwhelmingly experienced prolonged domestic violence at the hands of a partner, spouse, or another family member.⁵⁸ In many cases, the abuse has occurred repeatedly. Many women under sentence of death are survivors of gender-based violence and come from disadvantaged socio-economic backgrounds.⁵⁹ At a global level, sentencing courts typically fail to take into account a defendant's experience as a survivor of gender-based violence or a victim of a manipulative or coercive relationship (for example in cases where women are pressured or tricked into transporting drugs) as mitigating factors during sentencing.⁶⁰ Research also indicates that courts also fail to account for power dynamics and tactics of coercive control that may affect a woman's involvement in and culpability for a crime.
20. Cases documented by the Cornell Center on the Death Penalty Worldwide have shown violations of women's right to a fair trial. A 2021 follow-up study demonstrated that "fair trial principles dictate that courts should consider all relevant mitigating circumstances before imposing a sentence. In practice, however, many courts neglect gender-specific mitigation."⁶¹
21. Moreover, according to the 2018 Cornell study, women are more likely to receive a death sentence when the adjudicating authority perceives that they are violating entrenched gender norms, being cast as the "female fatale" or the "witch." Women are often put on trial not only

⁵⁵ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, 4, Sept. 2018. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁵⁶ Cornell Center on the Death Penalty Worldwide, *"No One Believed Me": A Global Overview of Women Facing the Death Penalty for Drug Offenses*, 6, Sept. 2021. Available online at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

⁵⁷ Cornell Center on the Death Penalty Worldwide, *"No One Believed Me": A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 6, 2021), 11. Available online at <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁵⁸ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018), 4. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁵⁹ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018), 4. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁶⁰ Cornell Center on the Death Penalty Worldwide, *"No One Believed Me": A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 6, 2021). Available online at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

⁶¹ Cornell Center on the Death Penalty Worldwide, *"No One Believed Me": A Global Overview of Women Facing the Death Penalty for Drug Offenses*, 6, Sept. 2021. Available online at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

for acts they performed but also for allegedly being “a bad wife, a bad mother, and a bad woman.”⁶²

22. Global trends show that women sentenced to death face intersectional discrimination. According to Cornell’s 2018 report, most women on death row come from backgrounds of severe socio-economic deprivation and many are illiterate, which can reinforce unequal access to effective legal representation.⁶³ These women are more likely to be illiterate and unaware of their legal rights.⁶⁴ Illiteracy and lack of education among poor women leave them more vulnerable to discrimination, coercion, and exploitation.⁶⁵ This intersectional discrimination exacerbates the risk that a woman charged with a capital crime will be subjected to an unfair trial.
23. Ethiopian authorities have provided only minimal information about the two women currently under sentence of death in Ethiopia. But Cornell’s studies suggest that the women may have experienced gender-based and intersectional discrimination in their prosecutions and trials.
24. The Committee also asked for information about the measures taken to improve conditions of detention, including reducing overcrowding, improving sanitation, food and water, health care, and psychiatric care and to address the special needs of, among others, women deprived of their liberty, in particular pregnant women and women held in detention with their children.⁶⁶
25. In its Replies to the List of Issues, Ethiopia reported that there was a separate prison facility dedicated to women prisoners under the Federal Prison Commission.⁶⁷ But the capacity of the Prison Facility for Women for 2022/2023 was 500 women,⁶⁸ while the occupancy rate for the same period was equal to 110.4% with 552 female prisoners,⁶⁹ denoting overcrowding.

V. Suggested recommendations for the Government of Ethiopia

26. The coauthors suggest the following recommendations for the Government of Ethiopia:
 - Adopt a moratorium on executions, with a view to the abolition of the death penalty.

⁶² Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018), 4. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁶³ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018), 3. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁶⁴ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018), 18. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁶⁵ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018), 18. Available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁶⁶ Committee Against Torture, *List of issues in relation to the second periodic report of Ethiopia*, (Dec. 21, 2022) UN Doc. CAT/C/ETH/Q/2 ¶ 6.

⁶⁷ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ 11.

⁶⁸ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ Annex V, *The capacity of detention facilities under the Federal Prison Commission (Paragraph 14)*.

⁶⁹ Committee Against Torture, *Replies of Ethiopia to the list of issues in relation to its second periodic report* (Feb. 15, 2023) UN Doc., CAT/C/ETH/RQ/2. ¶ Annex V, *Total number of prisoners admitted at prison facilities of the Federal Prison Commission and Occupancy Rate (Paragraph 14)*.

- Commute all existing death sentences to penalties that are fair, proportionate, and in compliance with international human rights standards.
- Ratify the Second Optional Protocol to the ICCPR and the Optional Protocol to the Convention Against Torture.
- Adopt a new federal penal code that does not provide for the death penalty and work to promote the adoption of this penal code as a unified model for all other court systems that continues to operate within the territory of Ethiopia.
- Ensure that every individual apprehended on suspicion of committing a capital crime and/or charged with a capital crime is provided with free, effective, and adequately funded legal representation, from the moment of arrest including through all appeals processes.
- Prohibit the introduction of evidence obtained under duress, torture, or cruel, inhuman or degrading treatment, and issue guidelines on the steps judges must take when a defendant alleges torture or ill-treatment, including investigating all credible allegations and taking immediate steps to protect individuals alleging torture or ill-treatment from retaliation.
- Establish an independent monitoring mechanism to visit all places where persons may be deprived of their liberty, including military and national security facilities, and extend an open invitation to international observers such as the International Committee of the Red Cross to visit and inspect detention facilities.
- Ensure that detention conditions comply with the Nelson Mandela Rules.
- Implement legislative reforms to prevent the application of the death penalty to women and girls who have survived gender-based violence, including early and forced marriage as well as rape and sexual assault, and who subsequently engage in criminal conduct against their abusers.
- Commute the sentences of women sentenced to death for killing people who perpetrated gender-based violence against them.
- Provide law enforcement, judges, prosecutors, and defense counsel involved with capital cases with training on gender sensitivity as it relates to criminal procedure and sentencing outcomes.
- Ensure that all women accused of capital crimes have access to free and effective legal representation by attorneys who specialize in death penalty cases, ensure access to counsel at all times, from the start of the investigation through any appeals, and ensure that the defense team has sufficient training and funding to conduct a thorough investigation and to secure relevant expert witnesses, particularly regarding gender-specific defenses.
- Codify gender-specific defenses and mitigation in capital cases, encompassing women's experiences of sexual violence, trauma, poverty, and other gender-based violence.

- Implement measures to ensure that all judicial officers responsible for sentencing in capital cases receive comprehensive training on gender-based discrimination, domestic violence, and tactics of coercive control that may influence or prompt a woman to commit a death-eligible offense.
- Implement safeguards to ensure the safety, privacy, and health of women who are in detention, including access to adequate toilets and sanitation and feminine hygiene products.
- Design prison infrastructure to accommodate women’s specific needs, including their need for privacy.
- Ensure that all detention facilities fully comply with Rule 5 of the Bangkok Rules and Rule 15 of the Nelson Mandela Rules, regarding personal hygiene.
- Require that all prison authorities adopt gender-sensitive policies in relation to women’s detention, based on the Bangkok Rules and the Nelson Mandela Rules, ensuring women’s safety and security pre-trial, during admission to any detention facility, and while incarcerated.
- Allow civil society organizations the opportunity to conduct unannounced, independent visits to all detention facilities where women are held to monitor conditions of detention, including whether facilities comply with the Bangkok Rules and the Nelson Mandela Rules regarding hygiene and sanitation.
- Implement safeguards to ensure that all detention facilities respect the parental visitation rights of minor children.
- Ensure that each woman receives an individualized judicial process and is not charged through association with a male spouse, partner, or family member.
- Provide and publish, on at least an annual basis, transparent information on the number of women, transgender persons, and nonbinary persons sentenced to death and on death row, disaggregated by age, age of dependent children (if any), nationality, race / ethnic group, relationship to the victim, relationship to any codefendants, date of arrest, date of notification of the right to consular notification (if applicable), crime of conviction, date of conviction, and date of execution (if applicable), to facilitate analysis of the demographics of women on death row.