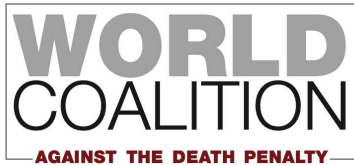


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State of Palestine's Compliance with the International Covenant on Civil and Political Rights: Death Penalty

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

The World Coalition Against the Death Penalty
and

Human Rights and Democratic Participation Center (SHAMS)

a non-governmental organization in special consultative status with ECOSOC

**for the 138th Session of the Human Rights Committee
26 June–28 July 2023**

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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.

Human Rights and Democratic Participation Center (SHAMS) is a Palestinian NGO, founded in 2003 that operates in the West Bank and Gaza Strip. SHAMS holds consultative membership with the United Nations Economic and Social Council (ECOSOC); is a member of the World Coalition against the Death Penalty; and is a member of many local, regional, and international coalitions. SHAMS is active in opposing the death penalty, in addition to its ongoing work on promoting and defending human rights and democracy within the Palestinian community; promoting good governance and human rights within the Palestinian security sector; enhancing women's access to justice; advocating for children's rights and community safety; defending the right to peaceful assembly; and providing legal aid to women and children.

EXECUTIVE SUMMARY

1. The State of Palestine acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights on 18 March 2019.¹ The State is now working to harmonize its domestic legislation as obligated by the Second Optional Protocol and remove the death penalty in its penal code.
2. The State of Palestine, however, has not yet abolished the death penalty. Nor has Palestine instituted the new penal code. Moreover, in addition to the Revolutionary Penal Code, three other laws authorize the death penalty, and Palestine must amend or harmonize these laws as well. Death sentences continue to be an available punishment and courts in the West Bank and Gaza continue to sentence people to death.
3. Authorities in Gaza continue to carry out executions, while authorities in the West Bank have observed a moratorium on executions since 2005. The law stipulates that executions can be carried out only if the President ratifies the death sentence, and the President has not ratified a death sentence since 2005. After the split in power on 14 June 2007 between the Palestinian Authority in the West Bank under President Abbas, and the Hamas movement in Gaza, Hamas has carried out executions in Gaza without the President's requisite signature. Gazan military courts have also conducted trials of civilians, in which they can be sentenced to death.

The State of Palestine fails to uphold its obligations under the International Covenant on Civil and Political Rights

I. Palestine has failed to fulfill its obligation to abolish the death penalty under the Second Optional Protocol, and Palestine continues to sentence people to death. (List of Issues paragraph 7)

4. The Committee, in its List of Issues, requested information on measures that Palestine has taken to establish a formal moratorium on executions, commute all death sentences, and end the practice of military tribunals sentencing civilians to death.²
5. The Committee also requested an update on the status of the draft criminal code. In its Initial Report submitted in 2020, Palestine reported that it is working to abolish the death penalty in its domestic legislation: "The State of Palestine is working to abolish the death penalty from legislative texts, to which end a draft criminal code has been prepared which does not contemplate the death penalty for any offence."³
6. The State of Palestine has officially enshrined the death penalty in four different laws: (1) the Revolutionary Penal Code (1979) (issued by the Palestinian Liberation Organization before

¹ United Nations, "Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty," accessed June 8, 2022, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-12&chapter=4&clang=_en#:~:text=Under%20Article%202%2C%20paragraph%201%20of%20the%20Second%20Optional%20Protocol,time%20of%20ratification%20or%20accession.

² Human Rights Committee, List of issues in relation to the initial report of the State of Palestine, (September 19, 2022), U.N. Doc. CCPR/C/PSE/Q/1, ¶ 7.

³ Human Rights Committee, Initial report submitted by the State of Palestine under article 40 of the Covenant, due in 2015, (August 26, 2021), U.N. Doc. CCPR/C/PSE/1, ¶ 124.

the Palestinian Authority emerged, authorizing the death penalty for 45 crimes, most of which are vaguely defined political crimes); (2) the British Mandate Penal Code of 1936 (applied in the Gaza Strip) (authorizing the death penalty for 15 crimes, some of which are political crimes designed to prevent Palestinians from resisting the British Occupation); (3) the Jordanian Penal Code of 1960 (applied in the West Bank) (an old version of the Jordanian Penal Code, which came into force in the West Bank during Jordan's rule over the West Bank, authorizing the death penalty for 16 crimes, some of which are political); and (4) the amended Jordanian law of explosives (1963).⁴

7. Abolition of the death penalty is complicated by the fact that the Palestinian legal system is not harmonized. These laws are arguably relics of a past era or enacted by a political entity that lacked a mandate to promulgate them.⁵ The Revolutionary Penal Code, under which courts may sentence people to death in the Gaza strip, emerged during the era of the national liberation struggle but not by a legislative authority of a stable civic state. Further, the four laws authorizing the death penalty do not limit the death penalty to the most serious crimes, failing to align with the Article 6 of the ICCPR.
8. Courts continue to hand down death sentences in both the West Bank and the Gaza Strip. West Bank courts last issued death sentences in 2015, when they sentenced two people to death.⁶ In Gaza, courts sentence people to death more frequently, with the most recent being in March 2023.⁷ Amnesty international reports that there are currently at least 238 people on death row.⁸
9. Even though courts continue to sentence people to death, authorities cannot carry out executions unless the President ratifies the death sentence.⁹ The President of Palestine is authorized to stop executions by commuting sentences or granting a pardon.¹⁰ In 2005, President Abbas committed to no longer ratifying any new death sentences. Despite this commitment, in 2005 the President approved five executions, one of which authorities carried out on May 27, 2005. Authorities carried out the remaining four on June 12, 2005. Authorities in the West Bank have not carried out any executions since 2005.

⁴ The Human Rights and Democracy Media Centre/SHAMS, *Information about the Death Penalty in the Palestinian Territories* (2022), 1-2 (hereinafter "SHAMS Information Document"), source on file with the author.

⁵ The Human Rights and Democracy Media Centre/SHAMS, *Information about the Death Penalty in the Palestinian Territories* (2022), 2 (hereinafter "SHAMS Information Document"), source on file with the author.

⁶ Personal Communication with Human Rights and Democracy Media Centre/SHAMS, (25 May, 2023).

⁷ Human Rights and Democracy Media Center- SHAMS: *Issuing three death sentences by the Military Judicial Authority is a Clear Violation of the Palestinian Basic Law*, Press Release, (March 12, 2023) 10/8/2017 (shams-pal.org).

⁸ Amnesty International, *Death sentences and executions 2022* (2023) at 28, available at <https://www.amnesty.org/en/documents/act50/6548/2023/en/>.

⁹ Human Rights Committee, Initial report submitted by the State of Palestine under article 40 of the Covenant, due in 2015, (August 26, 2021), U.N. Doc. CCPR/C/PSE/1, ¶128.

¹⁰ Human Rights Committee, Initial report submitted by the State of Palestine under article 40 of the Covenant, due in 2015, (August 26, 2021), U.N. Doc. CCPR/C/PSE/1, ¶127.

10. Since the 2007 split, however, Hamas has resumed executions.¹¹ Hamas authorities executed five people in 2022.¹² “September 4, 2022, five citizens were executed by the status quo government in [the] Gaza Strip. Two were accused of communication with [a] hostile party and three were accused of murder crimes. . . . In 2021, there was a significant increase in the number of death sentences issued by the military and civilian courts of first instance while [the Palestinian Centre for Human Rights] reported 2 cases of serious breaches in use of death penalty in the Gaza Strip.”¹³
11. In Gaza, there are credible reports of military tribunals sentencing civilians to death without presidential ratification.¹⁴ Civil society organizations have repeatedly called for an end to the use of military tribunals to try civilians and sentence them to death.¹⁵ SHAMS reported that in 2022, courts in Gaza sentenced at least 23 people to death, and courts reaffirmed seven death sentences after appellate review.¹⁶ In January 2023, the Permanent Military Court in Gaza sentenced an individual to death for drug dealing.¹⁷ In March 2023, the Military Judicial Authority sentenced three people to death.¹⁸ The court convicted two of the individuals of communicating with a hostile party in violation of the Revolutionary Penalty Act 1979 and the Criminal Procedures Law (3/ 2001). It convicted the third person of possessing and promoting narcotics. The military court found the defendant to be in violation of Article 1/28 of the Combating Narcotics and Psychotropic Substances Law (7/2013).¹⁹

¹¹ Palestinian Centre for Human Rights, *Annual Report 2021: Human Rights in the occupied Palestinian Territory (oPt)* (Gaza City: 2022) (hereinafter “PCHR Annual Report 2021”), 27,101-08. Also available online at <https://pchrgaza.org/en/annual-report-2021/>.

¹² Human Rights and Democracy Center/SHAMS *Information about the Death Penalty in the Palestinian Territories*. 2023.

¹³ Palestinian Centre for Human Rights, *Annual Report 2021: Human Rights in the occupied Palestinian Territory (oPt)* (Gaza City: 2022) (hereinafter “PCHR Annual Report 2021”), 27,103-08. Also available online at <https://pchrgaza.org/en/annual-report-2021/>.

¹⁴ Palestinian Centre for Human Rights, *Annual Report 2021: Human Rights in the occupied Palestinian Territory (oPt)* (Gaza City: 2022) (hereinafter “PCHR Annual Report 2021”), 27, 119-21. Also available online at <https://pchrgaza.org/en/annual-report-2021/>.

¹⁵ Press Release, The Human Rights and Democracy Media Centre/SHAMS, About the Issuance of a Death Sentence by the Gaza Court of First Instance to a Citizen by Hanging “There is no justice in Capital Punishment” (Sep. 12, 2021); Press Release, The Human Rights and Democracy Media Centre/SHAMS, Issuing a death sentence after only one week of starting trials confirms the absence of fair-trial guarantees, and the transformation of Gaza’s Judiciary system into vengeance tool controlled by the public opinion and its vengeful desires (Dec. 2, 2021); Press Release, The Human Rights and Democracy Media Centre/SHAMS, The Judicial Sector in Gaza Welcomes Ramadan Month with a Death Sentence against a Citizen (Apr. 4, 2022); Press Release, The Human Rights and Democracy Media Centre/SHAMS, The Military Court in Gaza Sentenced to Death by hanging against a Palestinian Civilian in Violation of Law (Apr. 11, 2022).

¹⁶ Human Rights and Democracy Center/SHAMS *Information about the Death Penalty in the Palestinian Territories*, 2023.

¹⁷ Palestinian Center for Human Rights, Death Sentence against a Drug Dealer in Gaza: PCHR Calls Upon the Authorities to End This Inhuman Penalty, Press Release, (March 21, 2023) <https://pchrgaza.org/en/death-sentence-against-a-drug-dealer-in-gaza-pchr-calls-upon-the-authorities-to-end-this-inhuman-penalty/>.

¹⁸ Human Rights and Democracy Media Center- SHAMS: *Issuing three death sentences by the Military Judicial Authority is a Clear Violation of the Palestinian Basic Law*, Press Release, (March 12, 2023) 10/8/2017 (shams-pal.org).

¹⁹ SHAMS Information Document, 1; The Human Rights and Democracy Media Centre/SHAMS, “SHAMS center condemns the issuance of a death sentence by hanging by the military court against a Palestinian citizen,” accessed June 8, 2022, <https://www.shams-pal.org/eng/?p=3709>.

II. Failure to abolish the death penalty also implicates due process rights. (List of Issues paragraph 12 and 18)

12. The Committee in its List of Issues requested information on what measures the State has taken to guarantee, both in law and in practice, the right to counsel for detained persons.²⁰ The Committee also asked the State of Palestine to respond to reports that the President had signed four decrees that may interfere with the right to mount a defense and may raise the threshold for authorities to hold public officials and law enforcement accountable for crimes.²¹
13. In its State Report, Palestine reported that defendants must have counsel in capital cases, and the State of Palestine must appoint a lawyer for defendants who do not have the means to secure their own representation.²² The State noted that even if a person under sentence of death chooses not to appeal the sentence, an appellate court nonetheless reviews the case on appeal.²³ Further, a request for a retrial suspends executions.²⁴
14. Despite these advances, civil society organizations have observed that the application of the death penalty in the State of Palestine often violates the accused's due process rights, in part because of how quickly authorities carry out the execution. Due, in part, to the short window between sentencing and execution, many people under sentence of death are unable to fully realize their due process rights. Further, the use of military tribunals to try civil cases infringes upon civilians' due process rights.
15. Palestinian security services engage in practices that violate the due process rights of civilians in both the West Bank and Gaza Strip, including a "policy of arbitrary arrests, summonses, and detention of Palestinian citizens, without due process of law and in violation of the Palestinian Basic Law (PBL), Code of Criminal Procedure, and Palestine's contractual obligations, including International Covenant on Civil and Political Rights (ICCPR) and Convention against Torture (CAT)."²⁵
16. Palestinian human rights groups are concerned that the trial of the only woman currently under known sentence of death in Palestine, Nahla Abu Anza, lacked the minimum guarantees of a fair trial. Anza killed her husband after he had subjected her to domestic violence, and following her arrest, her family refused to hire her a lawyer, allegedly to avoid paying "blood money" to the husband's family. The court appointed Anza a lawyer who reportedly provided substandard representation.²⁶

²⁰ Human Rights Committee, List of issues in relation to the initial report of the State of Palestine, (September 19, 2022), U.N. Doc. CCPR/C/PSE/Q/1, ¶12.

²¹ Human Rights Committee, List of issues in relation to the initial report of the State of Palestine, (September 19, 2022), U.N. Doc. CCPR/C/PSE/Q/1, ¶17.

²² Human Rights Committee, Initial report submitted by the State of Palestine under article 40 of the Covenant, due in 2015, (August 26, 2021), U.N. Doc. CCPR/C/PSE/1, ¶125.

²³ Human Rights Committee, Initial report submitted by the State of Palestine under article 40 of the Covenant, due in 2015, (August 26, 2021), U.N. Doc. CCPR/C/PSE/1, ¶126.

²⁴ Human Rights Committee, Initial report submitted by the State of Palestine under article 40 of the Covenant, due in 2015, (August 26, 2021), U.N. Doc. CCPR/C/PSE/1, ¶125.

²⁵ PCHR Annual Report 2021, 29.

²⁶ Information on file with author.

17. In a 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 violence²⁷ and manipulative or coercive relationships with male co-defendants.²⁸ Cornell's data indicate that most women under sentence of death have been sentenced to death for the crime of murder, as was Nahla Abu Anza in the State of Palestine.²⁹ These women have overwhelmingly experienced prolonged domestic violence at the hands of a partner, spouse, or another family member, as Nahla Abu Anza apparently did.³⁰ 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.³¹ 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 as mitigating factors during sentencing.³²
18. 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."³³

²⁷ 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). Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

²⁸ 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), 6. 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>.

²⁹ 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>.

³⁰ 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>.

³¹ 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>.

³² 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/>.

³³ 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/>.

III. Torture and ill-treatment persist in detention (List of Issues paragraphs 10 and 13)

19. In its List of Issues, the Committee requested data on investigations of torture of and complaints by people deprived of their liberty.³⁴ The Committee also requested information on any progress toward improving healthcare in detention.³⁵
20. In its State Report, Palestine noted that its new penal code will include a definition of torture that is consistent with the Convention Against Torture.³⁶
21. In both the West Bank and the Gaza Strip, Palestinian authorities have reportedly tortured civilians who have expressed disagreement with the government.³⁷
22. Amnesty International reported on widespread torture in Palestine throughout 2021, including 104 complaints of torture and ill-treatment filed with the Independent Commission for Human Rights (ICHR) against government officials in the West Bank and 104 complaints against government officials in Gaza.³⁸
23. Prosecutors with the ICHR closed an investigation into the torture and custodial death of activist Nizar Banat, finding extensive injuries all over Banat's body. The investigation concluded that the Preventive Security Service violated Banat's constitutional rights, including personal freedom, protection against torture, and prohibition of inhumane and degrading treatment.³⁹ The investigation also found that State authorities did not adequately investigate. Authorities charged 14 members of the force directly involved in the arrest and killing,⁴⁰ but higher-ranking officials, including the deputy director of the Preventive Security Agency in Hebron, were not held accountable.⁴¹ Banat's family has asked the International Criminal Court to open an investigation.⁴²

³⁴ Human Rights Committee, List of issues in relation to the initial report of the State of Palestine, (September 19, 2022), U.N. Doc. CCPR/C/PSE/Q/1, ¶ 10.

³⁵ Human Rights Committee, List of issues in relation to the initial report of the State of Palestine, (September 19, 2022), U.N. Doc. CCPR/C/PSE/Q/1, ¶ 13.

³⁶ Human Rights Committee, Initial report submitted by the State of Palestine under article 40 of the Covenant, due in 2015, (August 26, 2021), U.N. Doc. CCPR/C/PSE/1, ¶ 148.

³⁷ Amnesty International, Amnesty International Report 2021/22: The State of the World's Human Rights, by Amnesty International (London: Amnesty International Ltd, 2022), 290. Also available at <https://www.amnesty.org/en/wp-content/uploads/2022/03/WEBPOL1048702022ENGLISH.pdf>.

³⁸ Amnesty International, Amnesty International Report 2021/22: The State of the World's Human Rights, by Amnesty International (London: Amnesty International Ltd, 2022), 291. Also available at <https://www.amnesty.org/en/wp-content/uploads/2022/03/WEBPOL1048702022ENGLISH.pdf>.

³⁹ 2022 مارس 7، الهيئة المستقلة لحقوق الإنسان ومؤسسة الحق، تقرير تقصي الحقائق المشترك بشأن مقتل الناشط السياسي نزار بنات، 7 مارس 2022، <https://www.ichr.ps/category-1/6039.html>.

⁴⁰ Amnesty International, Amnesty International Report 2021/22: The State of the World's Human Rights, by Amnesty International (London: Amnesty International Ltd, 2022), 291. Also available at <https://www.amnesty.org/en/wp-content/uploads/2022/03/WEBPOL1048702022ENGLISH.pdf>.

⁴¹ 2022 مارس 7، الهيئة المستقلة لحقوق الإنسان ومؤسسة الحق، تقرير تقصي الحقائق المشترك بشأن مقتل الناشط السياسي نزار بنات، 7 مارس 2022، <https://www.ichr.ps/category-1/6039.html>.

⁴² AP News, Jalal Bwaitel, *Palestinian activist's family seeks ICC probe into his death* Associated Press, (December 15, 2022), <https://apnews.com/article/israel-west-bank-international-criminal-court-ramallah-f36a652af1b6c787474faf2a9ca1d65a>.

24. With respect to detention conditions, the Palestinian Centre for Human Rights has reported that several people in Palestinian prisons have suffered declining health, resulting in their custodial death.⁴³ So far in 2023, two people have died in police detention. On 1 May, A.L. died in military police detention after his health condition worsened.⁴⁴ On 20 April, M.S. died while in police detention after officers beat him while interrogating him about illegal drugs.⁴⁵

IV. Suggested recommendations for the Government of the State of Palestine:

25. The coauthors suggest that the Committee make the following recommendations to the Government of Palestine:

- In line with its obligations under the Second Optional Protocol to the ICCPR, abolish the death penalty.
- Finalize and adopt the new penal code which removes the death penalty and updates the definition of torture. Revise the Revolutionary Penal Code of 1979, the British Mandate Penal Code of 1936, the Jordanian Penal Code of 1960, and the amended Jordanian law of explosives of 1963 to fully abolish the death penalty in both the West Bank and Gaza Strip.
- Ensure that authorities in the Gaza Strip immediately end the practice of trying civilians before military courts.
- On at least an annual basis, publish transparent information on the number of men, 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.
- In collaboration with civil society organizations specializing in gender-based violence, provide all judges who have sentencing authority with comprehensive gender-sensitization instruction, including with respect to women and girls accused of crimes who have

⁴³ PCHR Annual Report 2021, 112-13. Palestinians are also housed in Israeli jails, where they reportedly experience “degrading treatment and inhumane conditions from the first moments of their arrest, as they are subjected to mental and physical torture, including physical abuse, sleep deprivation, [and] threats . . . Inside the prison, detainees are subjected to the same treatment, including: solitary confinement, barred of visitation rights, arbitrary transfer, and deprivation of adequate medical treatment.” Ibid., 19, 60-64. Israeli forces have allegedly tortured and mistreated Palestinians in detention, and Israeli courts do not discredit testimony coerced under such conditions, legislatively sanctioned use of solitary confinement is systematically employed in Israeli prisons against Palestinians. Initial State Party Report, ¶¶ 184, 197–99. Israeli officials reportedly hide evidence of their mistreatment of Palestinians in Israeli custody by retaining of the bodies of those who have died in custody and preventing autopsies that could reveal mistreatment as the cause of death. PCHR Annual Report 2021, 61-62.

⁴⁴ Palestinian Center for Human Rights, Second Case of This Year: Palestinian Detainee Died at Military Police Detention, Press Release, (May 1, 2023), <https://pchrgaza.org/en/second-case-of-this-year-palestinian-detainee-died-at-military-police-detention/>.

⁴⁵ Palestinian Center for Human Rights, *PCHR Demands Investigation into Death Circumstances of Detainee in Police Custody in Rafah*, Press Release, (April 20, 2023), <https://pchrgaza.org/en/pchr-demands-investigation-into-death-circumstances-of-detainee-in-police-custody-in-rafah/>.

experienced gender-based violence, focusing on gender-based discrimination, domestic violence, and coercion that may lead women to commit capital offenses.

- 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 funding to conduct a thorough investigation and to secure relevant expert witnesses, particularly regarding gender-specific defenses.
- 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.
- Proceed with presidential and legislative elections, in abeyance since 2010, to restore democratic integrity to the government and safeguard against executive overreaching, especially regarding the independent judiciary.
- Prohibit courts from considering any evidence obtained through torture, except with respect to evidence of the crime of torture itself, and create a mechanism by which defendants may raise the issue of inadmissibility before trial, in order to comply with existing Palestinian criminal procedure. Ensure that all judicial authorities receive adequate training and support to assess such allegations and have the capacity to bar consideration of such evidence.
- Ensure that all persons charged with capital offences are provided with legal counsel free of charge, and ensure that they have access to counsel from the time of charging through any appeals, including during any interrogations.
- Take concrete measures to improve conditions in prisons for all persons, including people on death row, in accordance with the Nelson Mandela Rules and Bangkok Rules, and enact a policy prohibiting the use of solitary confinement as the standard method of detention for persons who might be sentenced to death, consistent with Rule 45 of the Nelson Mandela Rules.
- Establish a system to facilitate regular unannounced visits to all places of detention by national and international monitors, and grant entry and access to all human rights nongovernmental organizations.