

## Death penalty

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### MECHANISM

Universal Periodic Review

### SESSION

50th Session of the UPR Working Group

### DATE OF REVIEW

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**Summary:** As of August 29, authorities had carried out 29 executions in 2025, up from 25 in all of 2024, 24 in 2023, and 18 in 2022. Authorities have scheduled 11 additional executions before year-end. Approximately 2,272 people are under sentence of death. The President has expressed support for increasing both the number of crimes eligible for the federal death penalty and the use of federal prosecutorial discretion to seek the death penalty. Women in conflict with the law experience gender bias in capital cases, and legal systems fail to accommodate people with cognitive impairments in capital trials. Racial bias also influences outcomes in capital cases.

## Authorities are stepping up executions, using methods amounting to torture.

- Over the past few years, states have stepped up executions, and the Trump Administration has expressed support for expanding the scope and application of the death penalty. A January 2025 Executive Order accused judges and lawmakers of “subverting the law” if they obstructed or failed to implement death sentences.
- All 27 states that retain the death penalty use lethal injection as the primary or exclusive means of execution. The Trump Administration rescinded a memorandum that had concluded that there was significant uncertainty about whether the use of pentobarbital causes unnecessary pain and suffering by causing acute pulmonary edema, which can create the sensation of being waterboarded. Some states such as Alabama are experimenting with execution by nitrogen gas, with witness accounts suggesting the method may cause unnecessary pain and suffering.
- Black people are more likely to be wrongfully convicted and sentenced to death than their white counterparts.

## Women in capital cases experience gender bias.

- There are 44 ciswomen, 6 transwomen, and 1 transman under sentence of death in the United States.
- Nearly all women on death row experienced gender-based violence before they were incarcerated. Although GBV functions as a pathway for women to their death sentences, criminal legal systems fail to view them as victims or survivors, but instead neglect the impact of GBV and punish them for actions that are a direct consequence of their trauma.
- Research shows that gender biases permeate the ways in which women are criminalized and sentenced to die. Defense attorneys fail to present the ways in which GBV has curtailed women’s choices and led them to participate in criminal activity.

- Prosecutors present stereotyped portrayals of women in conflict with the law as hypersexual, bad mothers, and/or manipulative schemers.
- In *Andrew v. White*, the Supreme Court in January 2025 recognized that a prosecutor's introduction of prejudicial, gendered evidence about Brenda White's "provocative" clothing and her past sexual relationships could be so unduly prejudicial as to render her capital trial fundamentally unfair.

### People with intellectual and cognitive disabilities are at risk of execution.

- Legal precedents bar authorities from executing people with severe intellectual disabilities, but states implementing these rules simply use IQ-score cutoffs to determine whether a person can be sentenced to death, and there is no uniform definition of intellectual disability, rendering application of those precedents arbitrary.
- People with Fetal Alcohol Spectrum Disorder (FASD) are at risk of execution because their cognitive impairments manifest in ways that are similar to intellectual disabilities but do not always meet strict clinical criteria.
- Neither state authorities nor defense counsel investigated Carl Lindsey's FASD-related cognitive impairments, so an Ohio court sentenced him to death as if he had full cognitive capacity. Courts have repeatedly denied efforts to vacate his sentence based on mitigating evidence about his FASD.

### Recommendations

- Abolish the death penalty and replace it with penalties that are fair, proportionate, and consistent with international human rights standards.
- Commission an independent scientific review of execution protocols and whether they may cause unnecessary pain and suffering.
- Create incentives for states to combat racial bias in their criminal legal systems, starting with jury selection in capital cases.
- Require all states that retain the death penalty to fully fund a program to provide all defendants in capital cases with qualified legal counsel and adequate funding and staffing to conduct a thorough investigation for both the guilt and penalty phases of trial.
- Issue a directive to all federal courts and state lawmakers providing guidelines for implementation of the Supreme Court's decision in the Brenda Andrew case and ensure that the decision is a baseline requirement incorporated into the training of lawyers.
- Mandate regular trainings for judges, prosecutors, and defense lawyers who handle capital cases on recognizing and addressing intersectional gender stereotypes and gender-based violence.
- Establish legal protections for survivors of gender-based violence to ensure that prosecutors who may seek to criminalize them recognize that they are primarily victims and survivors.
- Adopt a mandatory, standardized evaluation process for all capital defendants to assess cognitive and adaptive functioning using clinically approved methods.
- Consistent with medical best practices, require courts to assess adaptive functioning comprehensively, rather than relying primarily on IQ scores, in determining whether a defendant is exempt from execution.