

## Rights of people exonerated from death row

**Submitted by:** The Advocates for Human Rights, Witness to Innocence, and the World Coalition Against the Death Penalty

### MECHANISM

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**Summary:** Since 1973, U.S. authorities have exonerated at least 201 people who once faced execution, proof that the death-penalty system still risks killing the innocent. After release, many exonerees struggle with serious physical and mental illness, homelessness, unemployment, and a lack of compensation. Federal and state authorities provide almost no structured support, even though the United States endorsed relevant recommendations in earlier UPR cycles.

## Exonerees do not receive adequate physical or mental health care.

- Authorities release many exonerees with untreated chronic illnesses and no medical insurance coverage.
- Years of isolation under threat of execution cause post-traumatic stress disorder and “death row syndrome,” warranting psychosocial treatment and support upon release.
- Few states include exonerees in existing re-entry health services that they provide to other people leaving prison.
- State laws vary widely, but most jurisdictions exclude exonerees from services available to parolees.

## Exonerees face barriers to employment and earning a livelihood.

- Stigma against people who have been incarcerated persists. Wrongful convictions often remain on criminal records, limiting employment prospects.
- Post-traumatic stress disorder, skills gaps, and systemic discrimination hinder workforce re-entry.
- Authorities rarely provide exonerees with re-entry support, job training, or income supplements.

## Exonerees face housing instability and homelessness.

- Re-entry housing programs commonly exclude exonerees, despite their housing vulnerability.
- Without financial assistance or transitional housing, exonerees can experience homelessness.
- Landlords frequently deny rental applications because of stigma or inaccurate criminal records.

## Laws and policies create barriers to remedies for wrongful convictions.

- Fewer than 40% of all exonerees receive any compensation for their wrongful convictions and death sentences.
- States often impose burdensome proof requirements, such as requiring an exoneree to prove “actual innocence.”
- Compensation can reduce eligibility for public benefits, and government do not credit years lost toward Social Security.

## Recommendations

- Commit to prompt and full implementation of the Human Rights Committee’s 2023 recommendations regarding death row exonerees.
- Enact legislation to mandate that people on death row receive the same healthcare as people in the general prison population.
- Enact legislation to mandate that death row exonerees receive housing, employment, health insurance, and healthcare benefits and services that are at least equal to existing probation and parole programs provided to formerly incarcerated individuals who served prison terms without exoneration.
- Enact legislation to ensure that death row exonerees have access to free legal assistance upon release for seeking financial compensation for wrongful conviction and incarceration, as well as record/expungement relief.
- Enact legislation to ensure that death row exonerees and their family members receive free therapy and counselling.
- Enact legislation to ensure that death row exonerees receive automatic record relief (via expungement or sealing) upon exoneration and release.
- Amend existing legislation to ensure that in any proceeding on a petition or claim for compensation, the government bears the evidentiary burden to prove ineligibility for compensation.
- Amend existing legislation to provide exonerees with social security benefits for the time that the exoneree could have worked while incarcerated and for loss of earning potential due to incarceration.
- Amend legislation to ensure that any compensation that an exoneree is awarded related to unlawful conviction, incarceration, and time on death row does not affect eligibility for income-based state or federal benefits, including access to food stamps.
- Support civil society efforts to sensitize the media regarding coverage of death row exonerees to remove any potential stigmatization.
- On at least an annual basis, publish comprehensive data on services, benefits, and compensation provided to death row exonerees.