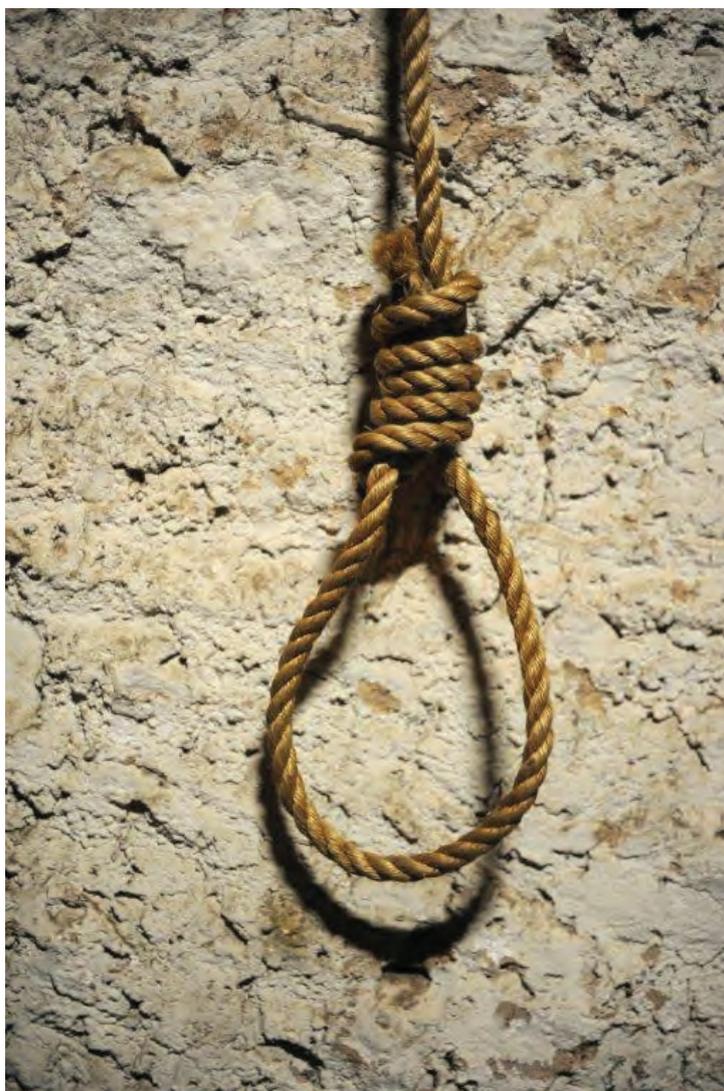


# Towards the abolition of the death penalty and its alternative sanctions in the Middle East and North Africa: Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia and Yemen



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The contents of this document are the sole responsibility of PRI and can in no circumstances be regarded as reflecting the position of the European Union or the Government of the United Kingdom.

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## Acronyms

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<b>ADHR</b>	Arab Organisation for Human Rights
<b>ALDC</b>	Lebanese Association for Civil Rights
<b>AMDH</b>	Moroccan Association for Human Rights
<b>CAT</b>	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CCA</b>	Common Country Assessment
<b>CCSOL</b>	Coalition of Civil Society Organisations in Lebanon
<b>CNPPDH</b>	National Committee for the Protection and Promotion of Human Rights (Algeria)
<b>CRC</b>	Convention on the Rights of the Child
<b>CSDHLF</b>	Higher Committee for Human Rights and Basic Freedoms (Tunisia)
<b>ECOSCO</b>	UN Economic and Social Council
<b>EIDHR</b>	European Instrument for Democracy and Human Rights
<b>FIDH</b>	International Federation for Human Rights
<b>GA</b>	General Assembly
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICJ</b>	International Commission of Jurists
<b>ICRC</b>	International Committee of the Red Cross
<b>IFEX</b>	International Freedom of Expression Exchange
<b>LADDH</b>	Algerian Association for the Defence of Human Rights
<b>LADH</b>	Algerian League of Human Rights
<b>MENA</b>	Middle East and North Africa
<b>NCA</b>	National Constituent Assembly (Tunisia)
<b>NGO</b>	Non-governmental organisation
<b>OHCHR</b>	UN Office for the High Commissioner for Human Rights
<b>OMCT</b>	World Organisation against Torture
<b>OMDH</b>	Moroccan Organisation for Human Rights
<b>OMDP</b>	Moroccan Observatory of Prisons
<b>OPCAT</b>	Optional Protocol to the Convention against Torture
<b>PRI</b>	Penal Reform International
<b>RCD</b>	Constitutional Democratic Assembly (Tunisia)
<b>SPT</b>	Subcommittee on Prevention of Torture
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>UNESCO</b>	UN Educational, Scientific and Cultural Organisation
<b>USA</b>	United States of America
<b>WCADP</b>	World Coalition against the Death Penalty
<b>YODHR</b>	Yemeni Organisation for the Defence of Human Rights

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# Introduction

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The death penalty is the ultimate cruel, inhuman and degrading punishment. It represents an unacceptable denial of human dignity and integrity. It is irrevocable, and where criminal justice systems are open to error or discrimination, the death penalty will inevitably be inflicted on the innocent. In many countries that retain the death penalty there is a wide scope of application which does not meet the minimum safeguards, and prisoners on death row are often detained in conditions which cause physical and/or mental suffering.

The challenges within the criminal justice system, however, do not end with the institution of a moratorium or with the abolition of the death penalty, as the problem of what to do with the most serious offenders remain. Many countries that institute moratoria do not create humane conditions for prisoners held indefinitely on 'death row', or substitute alternative sanctions that amount to torture or cruel, inhuman or degrading punishment, such as life imprisonment without the possibility of parole, solitary confinement for long and indeterminate periods of time, and inadequate basic physical or medical provisions. Punitive conditions of detention and less favourable treatment are prevalent for reprieved death row prisoners. Such practices fall outside international minimum standards, including those established under the EU Guidelines on the Death Penalty.

This research paper focuses on the application of the death penalty and life imprisonment as an alternative sanction in seven countries across the Middle East and North Africa (MENA) region:

1. Peoples' Democratic Republic of Algeria
2. Arab Republic of Egypt
3. Hashemite Kingdom of Jordan
4. Lebanese Republic
5. Kingdom of Morocco
6. Tunisian Republic
7. Republic of Yemen

The aim of this research paper is to provide up-to-date information about the laws and practices relating to the application of the death penalty. It includes an analysis of the alternative sanctions to the death penalty (life and long-term imprisonment) and whether they reflect international human rights standards and norms.

This paper focuses on:

- The legal framework of the death penalty and its alternative sanction (life or long-term imprisonment).
- Implementation of the sentence, including an analysis of fair trial standards.
- Application of the sentence including an analysis of the method of execution, the prison regime and conditions of imprisonment.
- Statistical information on the application of the death penalty/life imprisonment and an analysis of transparency.

It also focuses on the similarities and differences between the national laws and policies of each country which impose or limit the application of the death penalty; highlighting the discrepancies between the provision of the death penalty in law and its implementation in practice; and concludes with detailed and practical recommendations to bring each country into line with international human rights standards and norms.

We hope that this research paper will assist advocacy efforts towards the abolition of the death penalty and the implementation of humane alternative sanctions across the MENA region. We also hope this paper will be of use to researchers, academics, members of the international and donor community, and all other stakeholders involved in penal reform processes including parliamentarians, prison officials and members of the judiciary.

**Taghreed Jaber**  
**PRI Regional Director MENA office**

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## Penal Reform International and the abolition of the death penalty

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Penal Reform International (PRI) has been working on a number of initiatives at the national, regional and global level linked to the abolition of the death penalty for the past 20 years. It has been working in the MENA region since 2006, and has a regional office based in Amman, Jordan. PRI's work on the fight against the death penalty has included organising conferences, study visits, workshops and training sessions, as well as conducting research and advocacy work. PRI is a member of the steering committee of the World Coalition against the Death Penalty (WCADP).

PRI's current programme of work on the abolition of the death penalty aims to challenge society's attitudes positively in relation to the effect and efficacy of the death penalty and to support governments and other stakeholders in progressing towards abolition. It also aims to challenge the unacceptable forms of life imprisonment as an alternative sanction, and to increase human rights safeguards and promote better transparency and accountability in criminal justice reforms.

As part of its programme of work in the MENA region, PRI has established various platforms for debate and dialogue between civil society and government officials. These platforms most notably include:

- Amman conference on 'The death penalty and the right to life': March 2007.
- Alexandria conference on 'A moratorium on the use of the death penalty in the Arab world': May 2008.

- Algiers conference on 'Reforming criminal punishment in Algeria and activating the UN resolutions': January 2009.
- Roundtable at the Fourth World Congress against the Death Penalty held in Geneva: March 2010.
- Alexandria conference on 'Death Penalty: risks, opportunities, proposed tools and strategies': September 2010.
- Various national conferences and roundtables in Algeria, Egypt, Jordan, Lebanon, Morocco and Tunisia, which have resulted in the launching of Arab coalitions and important declarations which constitute a basis of the demands of the Arab death penalty abolition movement.

Foremost among these initiatives is the 2008 Alexandria Declaration, which calls on Arab countries to implement United Nations resolution 62/149 by establishing a moratorium on executions. The Declaration also calls on states to reduce the number of crimes punishable by death, to publish official information on the implementation of this punishment, to respect the safeguards for the protection of the rights of those sentenced to death, and to amend the text of Article 7 of the Arab Charter on Human Rights which leaves open the possibility of executions of juveniles. The Alexandria Declaration was followed up in 2009 by the Algiers Declaration, which also called on Arab states to declare a moratorium on the use of the death penalty, and to take various practical steps towards abolition.

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## Research methodology

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A research questionnaire was designed in late 2010 to assist researchers in identifying relevant information. The research questionnaire was designed by PRI in partnership with Sandra Babcock (Northwestern University, USA) and Dirk van Zyl Smit (Nottingham University, UK). The questionnaire focused on various aspects of law, policy and practice regarding the application of the death penalty and its alternative sanction of life or long-term imprisonment. The research focused on obtaining information and statistics regarding the legal status of the death penalty and its alternative sanction, information about executions, the criminal justice system with regards to fair trial procedures, and the prison conditions and prison regime for those on death row or those serving a life or long-term sentence.

The research was undertaken by PRI in conjunction with a number of lawyers, human rights defenders and specialised researchers working with local civil society institutions in each of the seven countries. Research included field visits and desk-based research.

The researchers looked at primary sources, such as legislation and case law. Interviews were conducted with law professionals such as judges, staff of the relevant attorney general's offices in the target countries, lawyers, prison administrators, as well as

a number of academics, legal experts, legislators, journalists and members of civil society/human rights defenders in all countries. Legal texts and court records were analysed. The researchers also turned to reports by people or organisations with first-hand experience, including inter-governmental organisations such as UN treaty bodies and Special Rapporteurs, as well as reports by international NGOs such as Human Rights Watch, Amnesty International, Death Penalty Worldwide and the World Coalition against the Death Penalty. Reports and articles by journalists and academics were also analysed.

Access to information on the application of the death penalty and its alternative sanction was often unavailable or inaccurate in many of the target countries. Statistical information was not always made available by state bodies, and information provided was not always timely, or lacked clarity. As such, although PRI aimed to undertake an in-depth analysis of legal, policy and practice areas within this research paper, access to certain types of information was sometimes beyond the abilities of the researchers, and therefore gaps in the research remain.

The research was carried out during 2011 and early 2012.

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## Executive Summary

Although the Middle East and North Africa (MENA) is considered a retentionist region (Djibouti is the only Arab country to have abolished the death penalty in law), Algeria, Morocco and Tunisia are abolitionist in practice (meaning that they have not carried out executions for at least the last ten years), and Jordan and Lebanon have not carried out executions since 2007 and 2004, respectively. The only countries to continue to carry out execution on a regular basis from the seven target countries are Egypt and Yemen, which executed at least one and at least 41 people in 2011, respectively.

All seven countries still continue to hand down death sentences. In 2011, Algeria imposed at least 51 death sentences, Egypt at least 123 death sentences, Jordan at least 15 death sentences, Lebanon imposed eight death sentences, Morocco imposed five death sentences and Yemen imposed at least 29 death sentences. Tunisia was the only country to not impose any death sentences in 2011; however they have resumed death sentencing in 2012.

While none of the seven countries have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at abolition of the death penalty, all seven target countries have ratified three of the basic international human rights treaties: the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child (CRC).

The MENA region stands out against positive trends towards abolition at the international level. In December 2010, only Algeria voted in favour of the UN General Assembly resolution calling for a moratorium on the death penalty, which was adopted in December 2010<sup>1</sup> (overall, 109 countries out of the then 192 UN Member States voted in favour of the resolution).

The crimes punishable by death in the MENA region go far beyond the ‘most serious crimes’ standard under Article 6(2) of the ICCPR, and even beyond what has been provided for under Sharia law. Algeria has at least 34 death penalty offences, Egypt at least 33 offences, Jordan at least 27 offences, Lebanon at least 16 offences, Morocco at least 365 offences,

Tunisia at least 35, and Yemen at least 315 death penalty applicable offences. It should be noted that the great majority of cases of execution in all countries are related to intentional crimes with lethal or other extremely grave consequences, such as aggravated murder. However, other offences which would not be considered the ‘most serious crimes’ as required under international law are still resulting in executions, including acts of political oppression, terrorism or espionage, or drug-related offences, as well as for robbery, kidnapping, rape or arson, and various military offences that do not result in casualties. Yemen also maintains the death penalty for apostasy and adultery. Egypt, Jordan and Yemen retain mandatory death sentences.

All seven countries prohibit the death penalty for those who were under the age of 18 years at the time of the offence being committed. However, as some countries do not have a national system of birth registration and certification (such as Yemen), it is often up to the judge to identify the age of the accused, leading to situations where those claiming to be under the age of 18 are sentenced to death and executed.

Pregnant women are not exempt from execution across the region; execution is only delayed until after the pregnant woman has delivered her child, which is not less than ten weeks (Lebanon) or three months (Egypt and Jordan), or more than two years (Morocco and Yemen). The laws of Algeria and Tunisia do not include a definite period of stay of execution for a pregnant woman after delivery.

All seven countries provide some kind of exemption from the death sentence for those who were mentally ill at the time of committing the offence. However these laws are lacking in clarity and detail, and in some circumstances, do not exempt those from execution who have become mentally disabled after the offence was committed.

Although the researchers have not been able to conclusively evaluate the exact number of prisoners on death row as no official statistics are published by the governments of the seven countries, researchers were able to estimate that there are approximately 766 inmates on death row in Algeria, 149 in Egypt, 95 in Jordan, 55 in Lebanon, 103 in Morocco, two

<sup>1</sup> UN GA resolution 65/206 (2010): 109 in favour, 41 against, and 35 abstentions.

in Tunisia, and at least 15 inmates on death row in Yemen. However in practice it is likely that this number is much higher.

While Egypt and Yemen have made no moves towards reducing or restricting the application of the death penalty in law or in practice, and there have been no political statements indicating that they are in any way considering abolishing it from their statute books, Algeria, Jordan, Lebanon, Morocco and Tunisia have taken notable steps towards abolition of the death penalty, and have created space for debate and dialogue on the question of the death penalty within their respective parliaments.

Algeria has taken legal steps over the last decade to reduce the number of death penalty applicable offences on its statute books, and two abolition bills were tabled in parliament in 2006 and in 2008. It is known that at least 415 persons sentenced to death have had their death sentences commuted to life imprisonment in Algeria since 2001. Jordan has also taken legal steps over the last decade to reduce the number of death penalty applicable offences on its statute books. In Lebanon, three bills have been tabled in parliament calling for abolition of the death penalty (in 2004, 2006 and 2008). In Morocco, an abolition bill was tabled in parliament in 2006, and at least 71 death sentences have been commuted by the King since 2005. Following the revolution in January 2011, the Temporary Tunisian Government made initial moves to work towards abolition by publically setting out plans to ratify a number of human rights instruments and treaties, including the Second Optional Protocol to the ICCPR. The draft Tunisian Constitution, which was submitted by the Higher Political Reform Commission (which has merged with the Revolutionary Committee to Protect Revolution Gains), includes a reference to the abolition of the death penalty, and on 14 January 2012, all 122 death row inmates in Tunisia had their sentences commuted to life imprisonment. However, while these steps demonstrate a willingness to debate the abolition of the death penalty, in Algeria, Morocco and Tunisia, where executions have not been carried out for nearly a decade, the process has not gone beyond a de facto moratoria and should now be followed by concrete legislative steps.

Aside from Yemen, the alternative sanction to the death penalty across the region is life imprisonment with no maximum length of time and varying

minimum periods that must be served before parole may be possible. In Algeria, Egypt, Jordan and Tunisia the minimum periods of imprisonment are 15–20 years. Lebanese law requires that prisoners serve a minimum period of 10 years, and the proposed reduction of the sentence is not less than 10 years and not more than 20 years. Morocco requires that a prisoner serve at least two-thirds of their sentence before being considered for conditional release. Yemen does not have a life sentence; the ultimate and maximum term of imprisonment is 10 to 25 years.

A harsh and discriminatory prison regime for both death row and life and long-term prisoners reinforces its punitive nature in the region, and raises severe concerns about inhuman and degrading punishment. Serious problems include overcrowding, inadequate living conditions, unsanitary facilities, lack of appropriate medical facilities (including mental health facilities), and inadequate nutrition or clean water, which all constitute a failure to meet international minimum standards. Visitation facilities are also often restrictive, and other out-of-cell activities, such as employment or education, are severely limited. For example, Tunisia denied those on death row contact with their families for more than 15 years. However, following the revolution a measure was put in place to recognise the right of those on death row to receive visits from their relatives.

The recent political changes within the region, which have come to be known as the ‘Arab spring’, have provided a golden opportunity to discuss and debate human rights and criminal justice reforms, through upcoming constitutional and legislative reform processes. The effect of the Arab spring has brought many new faces and generations to the political table, and there is no clear position regarding the death penalty for these new decision-makers. In Tunisia, the newly elected National Constitutional Assembly adopted a provisional constitution on 10 December 2011, which will allow the country to form a new government. It is hoped that this new government will embrace its new democratic principles and take steps to reform the criminal justice and penal system. In states such as Algeria, Jordan, Lebanon and Morocco, which have seen less turbulence, the international and domestic political pressure for reform and the lessons learned in Egypt and Tunisia might encourage the authorities to open the door for collaboration with human rights organisations, and

to take steps towards safeguarding human rights in their criminal justice systems. Morocco, for example, amended its Constitution in July 2011 and confirmed its commitment to human rights.

However, Egypt and Yemen are moving further away from taking the next steps towards abolition. The political uprisings have in some regards had a negative impact in these countries related to the implementation of human rights, with both countries reviving arguments and justifications for the retention of the death penalty. The election of a majority Muslim Brotherhood government in Egypt has sent a strong message that Egypt will move further away from secularism and move towards an Islamic state, effectively closing its doors to international human rights standards and norms. This political situation also raises the concern that the application of the death penalty will be broadened under the name of Sharia law. With new governments and continuing political turmoil, there is a fear that executions for political crimes will also increase.

The process of abolishing the death penalty in the MENA region is going through a difficult but transitory period. However, this requires a review of the strategies, tactics and means employed to achieve this goal. For a long time, abolitionist efforts were focused on the role of the political authority and its ability to abolish the death penalty through amending national legislation. Now, a new focus aims to address broader questions of democracy, good governance and a respect for human rights, particularly in the field of the administration of justice, and a focus on influencing the general public, who have shown remarkable ability to change their political systems.

PRI hopes that this report will provide analysis and recommendations on the various political, legal and practical issues to be addressed in each of the seven countries regarding the abolition of the death penalty and humane alternative sanctions to it. It is hoped that this report will assist governments within the region in implementing a more holistic approach to penal reform which focuses on rehabilitation and the respect for human dignity, rather than a punitive approach to punishment.

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## Chapter one: General overview of the application of the death penalty

**Table 1: Basic country information**

	Geographical region	Type of government	Official language	Population (in million)	Religion
<b>People's Democratic Republic of Algeria</b>	Northern Africa	Republic	Arabic, French and Amazigue <sup>2</sup>	36.6	Muslim
<b>Arab Republic of Egypt</b>	Northern Africa	Republic	Arabic	83.5	Muslim
<b>Hashemite Kingdom of Jordan</b>	Western Asia	Parliamentary-monarchy	Arabic and English	6.12	Muslim
<b>Lebanese Republic</b>	Western Asia	Republic	Arabic and French	4.6	Secular
<b>Kingdom of Morocco</b>	Northern Africa	Parliamentary-monarchy	Arabic, French and Amazigue <sup>3</sup>	31.7	Muslim
<b>Tunisian Republic</b>	Northern Africa	Republic	Arabic and French	10.55	Muslim
<b>Republic of Yemen</b>	Western Asia	Republic	Arabic and English	23	Muslim

The total population of the seven target countries is approximately 196 million. This represents over half of the population of all Arab countries in Western Asia and North Africa.

The legal systems of the seven countries are derived mainly from the French civil law system (derived mainly from the Napoleonic Code) and Islamic law, aside from Morocco which also has courts based on Jewish traditions, and Yemen, whose legal system is based on Islamic law, Turkish law and English common law.

During the research period Egypt, Tunisia and Yemen went through radical political changes, coupled with

legal changes that are expected to have considerable bearing on their criminal justice and penal systems, including on the enforcement of the death penalty and its alternative sanctions. In states such as Algeria, Jordan and Morocco, which have seen less turbulence, hopefully the international and domestic political pressure for reform and the lessons learned in Egypt, Tunisia and Yemen will actively encourage other Arab regimes to open the door for collaboration with human rights organisations, and take the next steps towards safeguarding human rights in their criminal justice systems. However, it is too soon to tell what these political and legal changes will be at the time of publication.

**Table 2: Basic information on the status of the death penalty**

	People's Democratic Republic of Algeria	Arab Republic of Egypt	Hashemite Kingdom of Jordan	Lebanese Republic	Kingdom of Morocco	Tunisian Republic	Republic of Yemen
<b>Status</b>	Official moratorium <sup>4</sup> – 18 years	Retentionist	De facto moratorium – 5 years	De facto moratorium <sup>5</sup> – 8 years	De facto moratorium – 18 years	De facto moratorium – 20 years	Retentionist

<sup>2</sup> Amazigue refers to the traditional Berber languages which are spoken by large populations of Morocco and Algeria, and by smaller populations in Libya, Tunisia, eastern Mali, western and northern Niger, northern Burkina Faso, Mauritania, and the Egyptian Siwa Oasis. Large Berber-speaking migrant communities have lived in Western Europe since the 1950s. In 2001, Berber became a national language of Algeria in the constitution.

<sup>3</sup> In 2011, Berber became an official language of Morocco, guaranteed in the new Moroccan constitution.

<sup>4</sup> Former President Liamine Zeroual declared a moratorium on executions in December 1993, which still prevails.

<sup>5</sup> Lebanon had a de facto moratorium since 1998, which was broken when executions resumed in 2004, however no executions have been carried out since 1994.

<b>Method of Execution</b>	Shooting by firing squad.	Hanging <sup>6</sup> (civilians). Shooting <sup>7</sup> (military).	Hanging. <sup>8</sup>	Hanging <sup>9</sup> (civilian). Shooting (military).	Shooting. <sup>10</sup>	Hanging <sup>11</sup> (civilians). Shooting <sup>12</sup> (military).	Shooting <sup>13</sup> , stoning <sup>14</sup> , and beheading <sup>15</sup> .
<b>Approximate number of people on death row</b>	766	149 (including 31 women)	95 (including 8 women)	55	103	2	15
<b>Number of death sentences 2011<sup>16</sup></b>	At least 51	At least 123	At least 15	8	5	0	At least 29
<b>Number of death sentences 2010<sup>17</sup></b>	At least 130	185	9	At least 12	4	At least 22	At least 27
<b>Date of last known execution</b>	September 1993	2011	April 2007	2004	1993	1991	2011
<b>Number of executions 2011<sup>18</sup></b>	0	At least 1	0	0	0	0	At least 41
<b>Number of executions 2010<sup>19</sup></b>	0	4	0	0	0	0	At least 53

Hanging and shooting by firing squad are the most common methods of execution in the seven target countries. Yemen is the only country which retains execution by stoning and beheading. In Yemen, the firing squad method is often employed on the grounds that it is the quickest way to death. A forensic doctor shows the executioner the position of the heart before the firing is done.

It should be noted that the moratorium on executions in five of the seven countries is based on political willpower, rather than legal amendments. There is currently no legal basis that supports moving towards abolition in any of the countries. Nor are there any legal guarantees to prevent a return to executions. In fact Lebanon resumed executions in 1994 after a de facto moratorium for a period of ten years.

6 Article 13 of the Egyptian Penal Code.

7 In practice, firing squad operates in Egypt only in a state of war.

8 Article 17 of the Jordanian Penal Code.

9 Article 43 of the Lebanese Penal Code.

10 Article 19 of the Moroccan Penal Code.

11 Article 7 of the Tunisian Penal Code.

12 Article 45 of the Code of Military Justice of Tunisia.

13 Article 485 of Yemen Republican Decree Concerning the Criminal Procedures.

14 Article 487 of Yemen Republican Decree Concerning the Criminal Procedures, and Article 38 of Yemen Republican Decree Concerning Crimes and Penalties.

15 Article 485 of Yemen Republican Decree Concerning the Criminal Procedures.

16 Information obtained from *Death Sentences and Executions 2011*, Amnesty International, March 2012, ACT 50/001/2012.

17 Information obtained from *Death Sentences and Executions 2010*, Amnesty International, March 2011, ACT 50/001/2011.

18 Information obtained from *Death Sentences and Executions 2011*, Amnesty International, March 2012, ACT 50/001/2012.

19 Information obtained from *Death Sentences and Executions 2010*, Amnesty International, March 2011, ACT 50/001/2011.

There is a considerable lack of statistical information about the death penalty in the target countries that continue to enforce it (Egypt and Yemen) and those who only recently suspended it (Jordan), making it almost impossible to obtain clear information on the number of death sentences issued, the number of

people on death row and the number of executions carried out. Many of the statistical figures in this publication are based on reports published by civil society organisations and NGOs, articles by the local media, and information gathered from official records or government officials if available.

**Table 3: International commitments relevant to the death penalty (including date of ratification or accession if relevant).**

	People's Democratic Republic of Algeria	Arab Republic of Egypt	Hashemite Kingdom of Jordan	Lebanese Republic	Kingdom of Morocco	Tunisian Republic	Republic of Yemen
<b>International Covenant on Civil and Political Rights (ICCPR)</b>	Yes: 1989	Yes: 1981	Yes: 1976	Yes: 1972	Yes: 1979	Yes: 1969	Yes: 1987
<b>First Optional Protocol to the ICCPR</b>	Yes: 1989	No	No	No	No	Yes: 2011	No
<b>Second Optional Protocol to the ICCPR</b>	No	No	No	No	No	No	No
<b>Convention against Torture (CAT)</b>	Yes: 1989	Yes: 1986	Yes: 1988	Yes: 2001	Yes: 1996	Yes: 1988	Yes: 1991
<b>Optional Protocol to CAT (OPCAT)</b>	No	No	No	Yes: 2008	No	Yes: 2011	No
<b>Convention on the Rights of the Child (CRC)</b>	Yes: 1993	Yes: 1990	Yes: 1991	Yes: 1991	Yes: 1993	Yes: 1992	Yes: 1991
<b>Rome Statute to the International Criminal Court</b>	No	No	Yes: 2002	No	No	Yes: 2011	No
<b>African Charter on Human and Peoples' Rights</b>	Yes	Yes	N/A	N/A	N/A	Yes	N/A
<b>Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa</b>	Signed, but not ratified	No	N/A	N/A	N/A	No	N/A
<b>African Charter on the Rights and Welfare of the Child</b>	Yes	Yes	N/A	N/A	N/A	Signed, but not ratified	N/A

<b>Voting history on 2007 UN GA moratorium resolution</b>	In favour (co-sponsored resolution)	Against (and signed note verbale of disassociation)	Against (and signed note verbale of disassociation)	Abstention	Abstention	Absent	Against (and signed note verbale of disassociation)
<b>Voting history on 2008 UN GA moratorium resolution</b>	In favour (co-sponsored resolution)	Against (and signed note verbale of disassociation)	Against (and signed note verbale of disassociation)	Abstention	Abstention	Absent	Against (and signed note verbale of disassociation)
<b>Voting history on 2010 UN GA moratorium resolution</b>	In favour (co-sponsored resolution)	Against (and signed note verbale of disassociation)	Abstention	Abstention	Abstention	Absent	Against (and signed note verbale of disassociation)

All seven target countries have ratified three of the basic international human rights treaties: the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child (CRC). However, despite these ratifications, these treaties have not been implemented systematically into national laws, judicial procedures or executive measures across the MENA region.

None of the countries have ratified the Second Optional Protocol to the ICCPR aimed at abolition of the death penalty. However, On 1 February 2011, the Temporary Tunisian government decided to endorse the Second Optional Protocol to the ICCPR, however it has yet to take steps towards ratification and implementation of this treaty. It should be noted that following the 2011 political revolution in Tunisia, the government ratified the First Optional Protocol to the ICCPR, the Optional Protocol to CAT, and the Rome Statute to the International Criminal Court. This

is particularly significant, demonstrating that Tunisia is taking on a human rights reformist approach, and suggests that ratification of the Second Optional Protocol to the ICCPR might be a possibility in the near future.

Only Algeria has voted in favour of the UN General Assembly moratorium resolution; however, it is noticeable that Algeria also co-sponsored the resolution, demonstrating a real commitment to the call for a moratorium. Morocco and Lebanon have consistently abstained from voting on the resolution, and Egypt and Yemen have consistently voted against it as well as signing a Note Verbale of disassociation to the resolution, which places on record their objection to a moratorium. The 2010 Note Verbale of disassociation was initiated by Egypt. However, it is important to note that in 2010 Jordan not only changed its position from voting against the resolution to abstaining from voting, they also did not sign the 2010 Note Verbale, demonstrating a changing attitude towards the implementation of a moratorium on executions.

## Chapter two: Application of the death penalty in law

**Table 4: Constitutional references to the death penalty**

<b>People's Democratic Republic of Algeria</b>	The Algerian Constitution does not make any specific reference to the death penalty. However the Constitution does enshrine a right to physical integrity, without describing any exceptions. Article 34 of the Constitution reads 'The State guarantees the inviolability of human beings. Any form of physical or moral violence and any assault on dignity are prohibited.'
<b>Arab Republic of Egypt</b>	The Egyptian Constitution does not make any specific reference to the death penalty. However, Article 2 of the Constitution makes abolition of the death penalty for crimes applicable under Islamic jurisprudence more difficult. This was clarified by the Supreme Constitutional Court in 1980, which ruled that '... no legislative text may be issued under it [the Constitution] which contradicts the Islamic rulings that are both absolutely authentic and definitive in their import.
<b>Hashemite Kingdom of Jordan</b>	The Jordanian Constitution makes a specific reference to the death penalty in Article 39: 'No death sentence may be carried out unless ratified by the King. Every such sentence shall be submitted to him by the Council of Ministers along with the Council's views on it.'
<b>Lebanese Republic</b>	The Lebanese Constitution does not make any specific reference to the death penalty. However, Preamble (b) of the Constitution indicates that Lebanon shall govern consistently with its Covenants through the United Nations. It is important to note that some of those Covenants which Lebanon has ratified restrict the application of the death penalty.
<b>Kingdom of Morocco</b>	The Moroccan Constitution does not make any specific reference to the death penalty.
<b>Tunisian Republic</b>	The Tunisian Constitution does not make any specific reference to the death penalty. However, under Article 5 of the Constitution, the 'inviolability of the human person' is guaranteed.
<b>Republic of Yemen</b>	The Yemeni Constitution provides that no death sentence may be executed without the President's endorsement (Article 48). Article 6 of the Constitution also expressly adopts international human rights treaties, documents and principles that protect human rights as part of Yemeni law. It is important to note that some of those treaties which Yemen has ratified restrict the application of the death penalty.

Aside from Egypt, there are no constitutional barriers to the abolition the death penalty in the target countries. Furthermore, as Egypt and Tunisia are currently undergoing constitutional review processes following their political revolutions in 2011, there is a golden opportunity to insert an article into their new constitutions that prohibits the application of the death penalty, or at least in the case of Egypt, remove the constitutional barrier to abolition.

In those countries whose constitutions make no reference to the death penalty, it may be feasible to question the legitimacy of its continued application. This may be done on the grounds that the death penalty violates certain well established principles of the constitution outlined in the texts that speak of the right to life and physical safety.

### Section one: Criminal offences punishable by death

The legislation in the seven target countries prescribes the death penalty for a large number of crimes, often going beyond the 'most serious crimes' standard provided for in international law (Article 6(2) of the ICCPR, which all seven countries have ratified). Many of the texts that stipulate the death penalty as a punishment lack the necessary accuracy as to the required elements of the offence.

It should be noted that although the researchers undertook a thorough review of all legislation available, in some cases (in particular in Morocco and Yemen), researchers were unable to undertake a thorough audit of all offences punishable by death according to national legislation, and therefore, were only able to provide information on what legislation was available.

## 1. Offences punishable by death in the People's Democratic Republic of Algeria

According to the information available to researchers, Algeria has at least 34 articles in two laws that prescribe death penalty applicable offences.

1. Aggravated murder: Articles 148, 258, 260–263, 269, 271, 316, 318 of the Penal Code. This includes:
  - Killing parents or grandparents (Articles 258, 261 of the Penal Code).
  - Poisoning (Articles 260, 261 of the Penal Code).
  - Murder of a child of less than 16 years of age through abusive behaviour (Articles 269, 271 of the Penal Code).
  - Murder of a child or an incapacitated person through abandonment (Articles 316, 318 of the Penal Code).
  - Murder of a duty judge or public official (Article 148 of the Penal Code).
  - Murder committed before, during or after another felony (Article 263 of the Penal Code).
  - Murder committed in order to prepare, facilitate or execute an offence or felony, or committed in order to ensure the escape or impunity of those who committed the offence (Article 263 of the Penal Code).
2. Intentional beating or wounding that leads to death, if the perpetrator is the father or mother of the victim or one of their grandparents, or another person who has authority over the child or takes care of it: Article 272 of the Penal Code.
3. Violent assault on a judge or an official when such violence intentionally leads to death: Article 184 of the Penal Code.
4. Castration that leads to death: Article 274 of the Penal Code.
5. Arson (or destruction using explosive devices) of buildings, vehicles or harvests that leads to the death of one person or several persons: Articles 399, 400 of the Penal Code.
6. Perjury and intentionally giving misleading or false information which leads to a death sentence: Articles 232, 237 and 238 of the Penal Code.
7. Treason, attempted treason, and provocation or offer to commit treason, committed by any Algerian person or a military or maritime person in service of Algeria in time of peace or war: Articles 61, 62, 63 and 64 of the Penal Code.
8. Spying/espionage: Article 64 of the Penal Code.
9. Attack intended to overthrow or change the regime: Article 77 of the Penal Code.
10. Forming armed forces or endeavouring to form such forces without having an order or permission by the legitimate authority: Article 80 of the Penal Code.
11. Assuming a military command without any right to do so: Article 81 of the Penal Code.
12. Attack intended to cause killing or destruction in one area or more: Article 84 of the Penal Code.
13. Intentional destruction of military equipment, which results in death: Article 290 of the Code of Military Justice.
14. Heading an armed gang or assuming a position of command within it with the intention of jeopardising state security: Article 86 of the Penal Code.
15. The illegal possession, import, export, production, or use of explosive substances or their components: Article 87 of the Penal Code.
16. The use of arms during rebellion: Article 89 of the Penal Code.
17. Leading and organising rebellion or intentionally supplying it with arms: Article 90 of the Penal Code.
18. Destruction or attempted destruction, using explosive devices, of any public roads, other roads, tanks, bridges, commercial or industrial buildings or port and airport buildings, or any infrastructure of production place: Articles 401 and 403 of the Penal Code.

19. The use of violence and threats in order to gain control of an aeroplane carrying passengers and be in command of it: Article 417 of the Penal Code.

## 2. Offences punishable by death in the Arab Republic of Egypt

According to the information available to researchers, Egypt has at least 33 articles in five laws that prescribe death penalty applicable offences.

1. Aggravated murder (including being an accessory to murder): Articles 230–234 of the Penal Code.
  - Premeditation and/or lying in wait (Articles 231 and 232 of the Penal Code).
  - Murder by poisoning, even if it not premeditated (Articles 233 of the Penal Code).
  - Murder without premeditation, if coupled with another offence (Article 234 of the Penal Code).
2. Assault on any law-enforcing officer if it results in death: Article 40 of Law No. 122.
  - Anyone who assaults any public servant or employee engaged in the enforcement of this law, if the assault leads to the death of the said person, when the assault is because of such enforcement, or anyone who resists such officer by force or violence during or because of his carrying out his duties.
3. Arson leading to death: Article 257 of the Law on Crimes and Offences against Individual People.
4. Perjury if it leads to the death of the person against whom the testimony is given: Article 295 of the Penal Code.
5. Kidnap not leading to death but aggravated by rape: Article 290 of the Penal Code.
6. Brigandage: Article 89 of the Penal Code.
  - Anyone who forms or holds leadership or a position of leadership of a gang with the intention of taking land by force or plundering land or taking away things that are the property of the government or a group of people, or resists with arms the public authority engaged in law-enforcement.
7. Acts of terrorism resulting in death: Article 86, 88, 102 and 168 of the Penal Code.
  - Any member of any society, association, organisation, group or gang who intentionally resorts to terrorism to compel a person to join any of them, or to prevent him from leaving it, if the action leads to the death of the person concerned (Article 86 of the Penal Code). It is the same whether the ‘forcing’ is exerted by man, machine or anything in the broad sense of the term. Threats may also take the form of threatening harm to the victim or to someone else, such as someone he loves.
  - Crimes of hijacking means of air, land or sea transport that lead to the death of one person or more (Article 88 of the Penal Code). The law does not differentiate between hijacked means of transport as to whether they are owned by the state, individual persons or private companies.
  - The crime of assault against a law-enforcement officer while he is performing his duty concerning crimes of terrorism<sup>20</sup>, and if it leads to death (Article 88 of the Penal Code).
  - Hostage taking (Article 88 of the Penal Code). Anyone who arrests, detains or holds as hostage anyone, other than in the cases stated in laws and regulations, in order to bring pressure to bear on the authorities in the conduct of their work or to obtain any benefit or gain, if such action leads to the death of a person.
  - Use of explosives (Article 102(C) of the Penal Code). Anyone who uses, or sets upon the use, of explosives in a way that exposes people’s lives to danger, and if the explosion causes the death of one person or more.
  - Anyone who intentionally exposes means of land, sea or air transport to danger or stops its movement that leads to the death of one person or more (Article 168 of the Penal Code).
8. Acts of terrorism not resulting in death: Article 86 and 87 of the Penal Code.

<sup>20</sup> This includes any public employee whose job requires him to do something related to the enforcement of the provisions for crimes of terrorism, including police officers generally, judicial officers, employees at the Attorney General’s office, members of the judiciary, prison employees, including civilians, and members of the Ministry of Interior.

- Forming a society, organisation, establishment, group or gang that resorts to terrorism in achieving its aims (Article 86 of the Penal Code).
  - Anyone who supplies a society, organisation, establishment, group or gang with arms, ammunition, explosives, equipment, machines, money or information, knowing what it will help them to achieve its objectives of acts of terrorism (Article 86 of the Penal Code).
  - Anyone who forms an armed group, assumes its leadership or holds a position of leadership in it and tries to overthrow the government by force, change the state constitution or its republican system or the form of government (Article 87 of the Penal Code).
9. Occupying government buildings by an armed gang: Article 90 of the Penal Code.
- Anyone who forms an armed gang and attempts to occupy by force any part of public buildings or those assigned to government offices or public facilities or institutions serving the public. The material condition of this crime is met by the actual use of force, even if this is by using explosives or launching an attack by any means or using a firearm or making a threat to use it.
10. Possession and/or dealing in narcotics not resulting in death: Articles 33 and 34 of Law No. 182 of 1960 as amended by Law No. 122 of 1989.
- Importing, exporting, producing<sup>21</sup>, manufacturing<sup>22</sup>, extracting<sup>23</sup> narcotic substances<sup>24</sup>, including selling, buying, exchanging, or acting as an intermediary in any of the aforementioned actions, whether the intermediary works for compensation of not or comes into contact with the narcotic substance or not.
  - Anyone who forms, even outside the country, a gang or participates in running it or joins it, if its purpose includes dealing or trading in narcotic substances or offering them for use or any of the aforementioned criminal acts.
  - Anyone who owns, possesses, buys, sells, delivers, transports or offers for use a narcotic substance, with the intention of trading, or trades in such substance in any form, except in the situations permitted by law.
  - Has a licence to possess a narcotic substance for use for a particular purpose and dispenses with it in anyway other than that particular purpose.
  - Manages or provides a place for the use of narcotic substances for remuneration.
- NB: These offences are punishable by death if coupled with the following aggravating circumstances:
- ◇ If in committing any such offence the offender uses a person who is less than 21 years of age, or if he uses anyone of his parents, grandparents, offspring, spouse, or anyone under his care, or who he is bringing up, or over whom he has the actual authority of supervision and guidance.
  - ◇ If the offender is a public servant or employee assigned the task of implementing this law, or working in combating drug abuse, or in the control of drugs and their possession, or has anything to do with drugs whatsoever.
  - ◇ If, in the commitment of such offences or facilitating them, the offender uses the authority granted to him by virtue of his

21 'Production' refers to separating opium, coca leaves and cannabis from their plants. It also means producing a narcotic substance that has not been in existence through agriculture or manufacture, or producing a narcotic substance that is different from all the ingredients used to make it.

22 'Manufacture' refers to all the processes other than production which are involved in making the narcotic. They include purification and transforming narcotics into other narcotics. Manufacture includes mixing substances to make other substances that are narcotic and mind-influencing material.

23 'Extraction' refers to separating the narcotic essence or the ingredient of that essence, or a part thereof, without involving any manufacture or transformation in the true meaning of the word.

24 The plants which are forbidden to grow are listed in Table 5 of Law No. 122, and include:

- Cannabis, whatever name it may be given, such as hashish, kamanjah, banjo, etc.
- All types of opium poppy.
- Coca.
- All types of khat, such as amphetamine.

office, work or the immunity given to him by the constitution or the law.

- ◇ If the offence occurs in a place of worship, an institute of education and its service facilities, club, park, treatment centre, social institution, syndicate, camp, prison or in the close proximity of any such place.
- ◇ If the offender offers, gives or sells narcotic substance to anyone who has not reached 21 years of age, or pressurises him to use it by any method of compulsion, cheating, encouragement, temptation or facilitation.
- ◇ If the narcotic substance used in the offence is cocaine or heroin.
- ◇ If the offender has been previously sentenced for committing any of the crimes stated in this Article (34) or the preceding Article (33).

11. The crime of pressurising others by force or cheating into using cocaine or heroin: Article 34 of Law No. 122.

- Anyone who pushes another person by any means of compulsion or cheating to use cocaine or heroin.

12. Possession of arms, ammunition, explosives with the purpose of using them in an action that disturbs public security or public peace, or for the purpose of undermining the government, the principles of the constitution, the basic systems of society, national unity or social peace: Article 26(2) of the Law of Arms and Ammunition No 394 of 1954.

13. High Treason: Articles 77, 78, 81, 87, 91 and 92 of the Penal Code.

- Committing actions that are detrimental to the independence of the country and/or the security of its land (Article 77 of the Penal Code).
- Joining the armed forces of a country which is in a state of war with Egypt, even if the act causes no harm to Egypt or presents no danger to it (Article 77(a) of the Penal Code).

The person joining the enemy forces must be Egyptian.

- The crime of inciting soldiers in the time of war to join the service of any foreign country or facilitates this for them and anyone who deliberately interferes in any way in gathering soldiers, men, funds, supplies, equipment or management of any such act on behalf of a country that is in a state of war with Egypt (Article 78(b) of the Penal Code).
- Deliberate breach of a supply or works contract if such breach aims to undermine the defence of the country or the operations of the military forces (Article 81 of the Penal Code).
- Anyone who interferes in a scheme to shake the loyalty of the armed forces or to weaken their morale or the morale of the nation or its will of resistance, in order to serve the enemy (Article 87(a) of the Penal Code).
- Anyone who facilitates for the enemy entry into the country, or hands over to the enemy cities, forts, structures, positions, ports, stores, arsenals, boats, planes, means of transport, weapons, ammunitions, military equipment, supplies, foods or other items that have been prepared for defence, or can be used for such purpose, or serves the enemy by communicating news or acts as a guide for the enemy (Article 87(c) of the Penal Code).
- Anyone who, for a criminal purpose, assumes the command of a division, portion of the army, portion of the fleet, a military boat, a military plane, a military post, port or city, without having been given such command by the government or without a legitimate reason (Article 91 of the Penal Code).
- Anyone who has the authority to give orders in the armed forces or the police and who orders them not to comply with government orders, if that is to serve a criminal purpose, and if the crime results in the non-compliance with government orders (Article 92 of the Penal Code).

14. Communication with foreign countries and disclosure of defence secrets: Articles 77 and 80 of the Penal Code.

- Anyone who works<sup>25</sup> with a foreign country or communicates<sup>26</sup> with it or with someone who works for it in order to undertake hostile action<sup>27</sup> against Egypt (Article 77(b) of the Penal Code).
- Anyone who works with a foreign country or communicates with it or with someone who works for it in order to help it in its war operations or to undermine the war operations of Egypt incurs the death penalty (Article 77(c) of the Penal Code).
- Anyone who hands over to a foreign country or to a person working for it, or discloses to it or him in any way or form or means, a secret of the defence of the country, or manages to obtain such a secret for the purpose of handing or disclosing it to a foreign country or a person working for it (Article 80 of the Penal Code).

15. Military offences:<sup>28</sup> Law of Military Provisions.

- Crimes involving the enemy: Articles 130 and 82 of the Law of Military Provisions.
  - ◇ Anyone committing the act of abandoning or handing over a garrison, post, position or station, or inciting someone else to do that.
  - ◇ Anyone committing the act of throwing his arms, ammunition, war material or equipment in front of the enemy.
  - ◇ Facilitating entry into the country for the enemy, or handing over to the enemy cities, forts, structures, positions, ports, stores, factories, boats, planes, means of transport, weapons, ammunitions, war materials, supplies, foods, medicines or other items

that have been prepared, or may be used, for defence, without having exhausted all the means of defence available to him and without doing all that duty and honour require him to do.

- ◇ Handing over to the enemy or to a person working for it, or disclosing to it or him in any way or form or means, a secret of the defence of the country, or managing to obtain such a secret for the purpose of handing or disclosing it to a foreign country or a person working for it. The same applies to anyone who destroys for the benefit of the enemy something that is considered a secret of defence or renders it unsuitable for beneficial use.
- ◇ Handing over to the enemy the soldiers under his command, or supplying the enemy with arms, ammunition or food supplies.
- ◇ Corresponding with the enemy or communicating news to it by way of treason, or by contacting the enemy in person or through someone else in any way whatsoever.
- ◇ Sending the truce banner or surrender to the enemy, or raising such banner by way of treason or cowardice and without having legal jurisdiction or express orders to do so.
- ◇ Spreading news by word of mouth, in writing, by signal or in any other way to cause panic or disorder among the armed forces, or using words or signals leading to that during or before a battle.
- ◇ Misbehaviour in front of the enemy in a way which reveals cowardice, or inciting others to do so.

25 'Work' means such actions or activities undertaken by the offender towards the foreign country in order to commit an illegal action punishable by the law, whether the offender actually commits such an action or not.

26 'Communication' means the types of agreement that take place between the foreign country and the offender, or between the offender and a representative of the foreign country, whether such communication is the result of an action by the said country or by the offender himself, and whether such communication is explicit or implicit. If the offender agrees with a foreign country to photograph the positions of air defence, the fortifications of the armed forces, or to send it information on such matters, whether coded or written with invisible ink, the crime of communication is complete, even though what has been agreed is not carried out.

27 The Supreme Court of State Security defines 'hostile action' as 'any action that is injurious to the serenity and good relations between Egypt and foreign countries, or is harmful to the existing state of peace with them.'

28 The military crimes for which the Legislator prescribes the death penalty are varied. These are stated in Law No 25 of 1966 and its amendments through the promulgation of the Law of Military Provisions. The Law of Military Provisions is a penal law with a special status. Its text defines the crimes it addresses and the court procedures to be followed by the military courts. Any case that is not addressed by a text in this law is subject to the general laws. A military crime is committed only by a military person. The military status is a necessary condition for it to occur, but there is nothing to prevent a civilian person being party to a military crime. Such definition of military crime is not within the jurisdiction of military courts.

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- ◇ Taking any action to deliberately impede the progress, movement or victory of the armed forces or any part thereof.
  - ◇ Anyone who learns of any of the crimes mentioned in this Article or other Articles in the same chapter and does not hasten to inform the authorities incurs the same penalty mentioned (Article 82).
  - Crimes related to captivity of Egyptian soldiers and ill-treatment of the wounded: Articles 134 of the Law of Military Provisions.
    - ◇ Falling into captivity as a result of failure to taking the necessary precautions or because of his deliberate disobedience or negligence of his duties.
    - ◇ Being captured by the enemy and regaining his freedom on condition that he would not carry arms in future.
    - ◇ Falling into captivity and being given the option of returning to his homeland but refuses to do so, or being able to return but stays away.
    - ◇ Having fallen in captivity, willingly joins the enemy armed forces, or willingly takes any action to serve or help the enemy, or discloses to the enemy information related to the safety and security of the armed forces.
    - ◇ Extending protection by himself or by others to a prisoner or an exiled subject of the enemy, or greeting such a person, or facilitating his escape and fails to hand him over to the relevant authorities.
  - Crimes related to enemy soldiers: Article 135 of the Law of Military Provisions.
    - ◇ Any enemy captive who has been re-arrested, or arrested having violated his pledges and taken arms against Egypt.
  - Stealing from military personnel who are dead, wounded or ill, even if they are enemy soldiers, in the area of military operations: Article 136 of the Law of Military Provisions.
  - Crimes of sedition and disobedience: Article 138 of the Law of Military Provisions.
    - ◇ Anyone who causes sedition within the armed forces, or conspires with others to cause sedition.
    - ◇ Working to tempt a member of the armed forces to cause sedition, or persuading him to join it.
    - ◇ Sedition within the armed forces.
    - ◇ Being present during sedition within the armed forces without doing his best to end it.
    - ◇ Being aware of the presence of sedition or intent to stir sedition within the armed forces and failing to immediately inform his commander of the same.
    - ◇ Crimes of disobedience with the aim of overthrowing the state: Article 138a of the Law of Military Provisions.
    - ◇ Anyone who commits a deed that aims to disobey the President of the Republic, or overthrow or change the economic or social systems of the state, or oppose the general policy followed by the state in either the internal or external field, or agreeing with others to do so.
    - ◇ Anyone who promotes or encourages in any way within the armed forces any of the actions referred to in the previous Clause or fails to inform of such promotion or encouragement.
  - Crimes of disobedience of service and guard duties: Article 139 of the Law of Military Provisions.
    - ◇ Anyone in a state of drunkenness when he is required to fulfil a service duty in the battlefield.
    - ◇ His falling asleep during a service, watch or guard duty in the battlefield.
    - ◇ Anyone leaving his service or post before being duly charged, or without an order by his commanding officer in the battlefield.
    - ◇ Abandoning a position or unit under the pretext of evacuating wounded soldiers, or taking prisoners, or looting or gathering war gains in the battlefield.
    - ◇ Anyone disclosing, by way of treason, a watchword, code or cipher to someone who is not supposed to know it, or communicating it, with the intent of treason or misguidance, in a way other than what was given to him in the battlefield.
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- ◇ Firing firearms or using light signals, words or other means that purposely lead to failure or falsely announcing attack, whether this takes place during battle, in the time of movement, in the field or at any other time in the battlefield.
  - Looting, deliberate loss and spoiling at the time of service in the battlefield: Article 141 of the Law of Military Provisions.
  - Abuse of power at the time of service in the battlefield: Article 148 of the Law of Military Provisions.
    - ◇ Assault of a person bringing supplies or equipment for the forces.
    - ◇ Delaying without justification the supplies or equipment sent for the forces, or directing the same without justification to his own force or unit, in opposition to the orders.
  - Insubordination: Article 151 of the Law of Military Provisions.
    - ◇ Disobeying a legal order issued to him by his commanding officer personally at the time of his being on duty in a way that shows a deliberate refusal of authority, whether such order is given to him verbally, in writing, by signal or other ways, or inciting others to do the same.
  - Crimes of desertion and absence at the time of service in the battlefield: Article 154 of the Law of Military Provisions. This includes persuading, or seeking to persuade someone who is subject to the provisions of this law, or enabling or seeking to enable such a person to desert service in the armed forces.
- those who abet or commit a crime or those who are accessory to it, or to prevent their punishment.
- If the victim is the criminal's parent or grandparent.
2. Rape of a child that does not lead to death: Article 292/2 of the Penal Law No. 16 of 1960.
    - If the rape was of a girl who is under 15 years of age.
  3. Terrorism: Articles 148 and 149 of the Penal Law No. 16 of 1960.
    - If the action results in the death of a human being.
    - If the action leads to the total or partial destruction of a building in which there is one person or more than one (Article 148(4)(B)).
    - If the action is committed with the use of explosives or burning material or poisonous, combustible, epidemic, germ, chemical or radioactive products (Article 148(4)(C)).
    - Anyone who detains a person or holds a person as hostage to blackmail any governmental or private body in any way, or to force it to do or refrain from doing any particular thing, shall be punished by death if the action leads to anyone's death (Article 149(2)).
  4. Drug dealing that leads to death: Article 21(c) of the Law on Drugs and Mind-Affecting Substances.
    - If drug dealing leads to the death of any employee.
  5. Drug dealing that does not lead to death: Article 10 of the Law on Drugs and Mind-Affecting Substances and its amendment No. 11 of 1988
    - If in committing the offence he or she collaborates with any international group dealing with drugs or mind-affecting substances whether by smuggling such substances or in any other way; or if at the time of the committing the crime he or she is a party to such a group or working for it or collaborating with it; or if the crime committed is part of the work of that group or part of an international operation to smuggle or deal in such drugs and mind-affecting substances.

### 3. Offences punishable by death in the Hashemite Kingdom of Jordan

According to the information available to researchers, Jordan has at least 27 articles in five laws that prescribe death penalty applicable offences.

1. Aggravated murder: Articles 328 and 329 of the Penal Law No. 16 of 1960.
  - If committed with premeditation (murder).
  - If committed in order to prepare, facilitate or commit a crime, or to facilitate the escape of

- If the crime committed is associated with another international crime, including the smuggling of arms or money, or the forging of currency; or if the crime is part of the actions of an international gang that commits international crimes and whose operations, totally or partially, cover more than one country, or is committed by criminals belonging to more than one country.
6. Crimes against public safety, criminal gangs: Article 158 Penal Law No. 16 of 1960.
- Any group of three or more people who go about the streets and rural areas as armed groups with the intention of looting from passersby and assaulting people or property, or committing any other act of robbery, and who commits kills or inflicts torture on the victims or commits barbaric action against them.
7. Crimes on public roads and transport: Article 381 Penal Law No. 16 of 1960.
- If an attack on public roads and transport leads to the death of a human being.
8. High Treason: Articles 110 to 113 of the Penal Law No. 16 of 1960.
- Any Jordanian who carries arms against the state with the enemy (Article 110/1).
  - Any Jordanian who provides information to a foreign country or makes contacts with it to encourage it to launch aggression against the state or to facilitate such aggression, and his action leads to actual results (Article 111).
  - Any Jordanian who provides information to the enemy or makes contacts with the enemy to provide any sort of help to enable its forces to achieve victory against the state (Article 112).
  - Any Jordanian who commits any action intended to impede national defence by causing damage to buildings, factories, ships, aeroplanes, machines, ammunition, provisions, means of transport or generally anything of military nature or made for the use of the army or its forces, and if such action occurs at the time of war, or when war is expected to break out, or if it leads to the death of any person (Article 113).
9. Spying: Articles 14 to 16 of the Law of Protecting the Secrets and Documents of the State No. 50 of 1971.
- Anyone who enters or attempts to enter a restricted area to obtain protected secrets, articles, documents or information that must remain secret for state security shall be punished by life imprisonment with hard labour, if such attempt is made for the benefit of an enemy country (Article 14).
  - Whoever steals such secrets, articles, documents or information for the benefit of an enemy country (Article 15).
  - Whoever comes into the possession or gets to know any protected secret, information or document in the course of his employment or responsible position or after leaving his employment or position for any reason and communicates the same without legitimate reason for the benefit of an enemy country (Article 16).
10. Military crimes not leading to death: Articles 10, 13 and 36 to 38 of the Military Penal Law No. 58 of 2006.
- Anyone who causes rebellion in the armed forces or in the armed forces of an ally country, or joins such a rebellion in the armed forces, or conspires with another person to cause such rebellion, or tries to persuade any person in the referred to forces to join any rebellion (Article 10(a)).
  - If disobedience occurs during confrontation with the enemy or rebel forces, or if it means refusal to attack them resulting in substantial damage (Article 13(d)).
  - Anyone who within the area of military operations takes away the possessions of a wounded or sick or dead military person and commits violence against a wounded, sick or dead military person which aggravates his condition in order to take away his possessions (Article 36).
  - Anyone who surrenders to the enemy any position, vehicle, military machine, fort, place, police station or post which he is required to guard or defend; uses any means to force any commander or other person to abandon any position, vehicle or military machine for the

enemy; throws away his arms, ammunition or other equipment in a disgraceful way in front of the enemy or the rebels or the attackers; supplies the enemy with arms, ammunition, means of communication or provisions, or gives shelter to an enemy who is not a prisoner; or helps the enemy to achieve its goals or takes during the war any action that endangers the operations of the armed forces or any unit of the forces of an ally country (Article 37).

- Anyone who, during a war, and with the intention of helping the enemy or endangering the armed forces or the forces of an ally country, communicates a watchword, password, or answering signal; informs the enemy of the positions of the armed forces or the positions of allied forces, or misinforms such forces so as to take a wrong route; or causes panic among units of the armed forces, or causes them to take wrong moves, or impedes the grouping of scattered soldiers (Article 38(a)).
- Anyone who surrenders to the enemy or for its benefit the soldiers under his command, or the position he commands, or weapons, ammunition or provisions belonging to the army, or maps of military positions or plans of military operations (Article 39).

11. Whoever recruits within the Kingdom of Jordan and without government approval soldiers to fight for the benefit of an enemy country: Article 120 Penal Law No. 16 of 1960.

12. Crimes against internal state security: Articles 135, 136 and 137 Penal Law No. 16 of 1960.

- Anyone who makes an assault against the life or freedom of His Majesty the King (Article 135).
- Anyone who makes an assault against the life or freedom of Her Majesty the Queen or the Crown Prince or a member of the Regency Council (Article 135).
- Anyone who tries to change the state constitution by illegitimate means (Article 136).
- Any action committed with the purpose of staging an armed rebellion against the constitutional authority, and if such armed rebellion is staged (Article 137).

13. Sedition: Article 142 Penal Law No. 16 of 1960.

- If an assault takes place that aims to cause civil war or sectarian fighting by arming Jordanians or by causing them to take arms against one another, or by encouraging killing and looting in one or more areas.

14. War Crimes: Article 41 of the Military Penal Law No. 58 of 2006.

- If there was intentional killing of civilians and prisoners of war.
- Random assault against civilian population or civilian property, knowing that such assault is likely to cause heavy losses of life and injuries to civilians or damage to civilian property.
- Attacks against engineering works or structures that contain military personnel and/or dangerous material, knowing that such attack is likely to cause heavy losses of life or injuries to civilian personnel or damage to civilian property.

#### 4. Offences punishable by death in the Lebanese Republic

According to the information available to researchers, Lebanon has at least 16 articles in one law (the Penal Code) that prescribe death penalty applicable offences.

1. Aggravated murder: Articles 549 and 673 of the Penal Code.

- If committed in pursuance to a crime, or to cover up a crime, or against an officer enforcing narcotics laws, or against direct ascendants or descendants with cruelty.

2. Murder: Article 549 of the Penal Code.

3. Acts of terrorism that result in death: Articles 314, 315 and 643 of the Penal Code.

4. Acts of terrorism that do not result in death: Articles 314, 315 and 643 of the Penal Code.

5. Complete or partial destruction of a building containing one or more persons: Article 315 of the Penal Code.

6. Gang-robbery or gang-assault if killing is committed in pursuance of the criminal activity: Article 336 of the Penal Code.
7. Gang-robbery involving torture: Article 336 of the Penal Code.
8. Arson against certain types of structures, or sabotage or communications, transportation or industrial facilities which results in death: Articles 591 and 599 of the Penal Code.
9. Espionage: Articles 282, 284, 257 of the Penal Code.
10. Treason: Articles 273–276, and 308 of the Penal Code.
  - Bearing arms against Lebanon or behalf of the enemy; interfering with munitions/supplies of the army during wartime or threat of war; or participating in manoeuvres with, or passing information to the enemy, or to a foreign power for purposes of hostilities (Articles 273 to 276 of the Penal Code).
  - Successful sedition for the purposes of starting civil war, sectarian or religious strife, or promoting massacres or pillage (Article 308 of the Penal Code).
3. Assault on a member of the Royal Family: Article 167 of the Penal Code.
4. Aggravating murder: Article 392 of the Penal Code.
5. Murder coupled with torture or inhumane acts: Article 399 of the Penal Code.
6. Arson if leading to death: Article 584 of the Penal Code.
7. Deliberate killing: Article 393 of the Penal Code.
8. Deliberate violence leading to death: Article 267/5 of the Penal Code.
9. Deliberate killing of an offspring: Article 396 of the Penal Code.
10. Killing a child: Articles 392 and 393 of the Penal Code.
11. Exposing a child or a disabled person to a risk leading to his death: Articles 392, 393 and 463 of the Penal Code.
12. Abuse of a child leading to its death: Articles 410 and 411(5) of the Penal Code.
13. The crime of emasculation leading to death: Article 412 of the Penal Code.
14. Kidnap of a minor leading to death: Article 474 of the Penal Code.
15. Stopping or impeding traffic leading to death: Article 591 of the Penal Code.
16. Leading a judge or a juror to sentence an innocent person to death: Article 253 of the Penal Code.
17. False testimony leading to the execution of an innocent person: Article 369 of the Penal Code.
18. Conspiring with a military entity: Article 235 of the Penal Code.
19. Undermining state security: Articles 201, 202 and 203 of the Penal Code.

## 5. Offences punishable by death in the Kingdom of Morocco

Researchers were unable to undertake a thorough evaluation of all offences punishable by death according to Moroccan legislation. A 2007 analysis of 29 of Morocco's laws indicated that Morocco has 365 death penalty applicable offences.<sup>29</sup> However, researchers were only able to access three of those laws, which contain 34 different articles that prescribe death penalty applicable offences.

1. Assault on the King: Article 163 of the Penal Code.
2. Assault on the Crown Prince: Article 165 of the Penal Code.

<sup>29</sup> Nadia Ben Heydak, *The Death Penalty: Moroccan legislation and the demands of the rights movement*, Studies on Death Penalty and the Rights to Life in the Arab World, Penal Reform International and the Amman Centre for Human Rights Studies, 2007, pp. 11–19.

20. Acts of terrorism: Articles 282–1 of the Law of Combating Terrorism.

- Includes offences defined in the Penal Code when they are committed as part of individual or collective plans aiming to undermine law and order through the use of terror and violence.
- Importing or selling dangerous equipment that may lead to death.
- The Law applies to every conspirator in a terrorist action.

21. Desertion from the army: Articles 144 and 145 of the Military Justice Law.

22. Encouraging desertion from the army: Article 151 of the Military Justice Law.

23. Violence against a wounded soldier: Article 164 of the Military Justice Law.

24. Burning and/or damaging military institutions or interests: Articles 171 and 172 of the Military Justice Law.

25. Causing a soldier to be psychologically unfit to fulfil his task against the enemy: Article 179 of the Military Justice Law.

26. Handing over a soldier to the enemy or leaving the post of service: Article 181 of the Military Justice Law.

27. Conspiracy against orders: Article 184 of the Military Justice Law.

28. Military espionage: Article 185 of the Military Justice Law.

29. Inciting soldiers to join enemy ranks: Article 187 of the Military Justice Law.

## 6. Offences punishable by death in the Tunisian Republic

According to the information available to researchers, Tunisia has at least 35 articles in six laws that prescribe death penalty applicable offences.

1. Aggravated murder: Articles 201, 203 and 204 of the Penal Code of 1913.

- Premeditated murder (Article 201 of the Penal Code).

- If a close relative (parent or a grandparent of any degree) is killed (Article 203 of the Penal Code).

- If a murder is committed following or accompanying the committing of a crime punishable by imprisonment and the purpose of the killing is to prepare for the other crime or to facilitate it or to help the criminals or their accessories to escape or avoid punishment (Article 204 of the Penal Code).

2. Imprisoning, arresting or detaining any person without legal warrant, if such action results in or leads to death: Article 251 of the Penal Code).

3. Arson that results in death: Article 307 of the Penal Code.

4. Illegally taking an organ necessary for life from a living person for the purpose of transplant, even with the consent of the person concerned, when death results from such action: Article 17 of Law No. 22 of 1991.

5. Kidnapping that results in the death of a person: Article 240 of the Penal Code.

6. Holding a public servant by arms if it results in their death: Article 251 of the Penal Code.

7. Rape of an adult by violence, or arms, or threatening to use arms, not resulting in death: Article 227 of the Penal Code.

8. Rape of a child (under the age of ten years) not resulting in death: Article 227 of the Penal Code.

9. Arson not leading to death: Article 76 of the Penal Code is concerned with the burning or destruction by the use of explosives of buildings or stores of military ammunitions or other state owned buildings.

10. Robbery not leading to death: Article 74 of the Penal Code.

- If committed by grouping people and supplying groups with arms, or leading groups to loot some public or private property, or taking over real property and movable property or spoiling

them, or fighting state forces when they resist the perpetrators of such attacks and confront them.

11. Making an attempt on the life of the head of state: Article 63 of the Penal Code.
12. An attack which intends to change the state or cause the population to attack each other with arms, causing chaos, killings and looting in the Tunisian homeland: Article 72 of the Penal Code.
13. Acts of terrorism which result in death: Article 53–2 of Law No. 74 of 1998, and Law No. 84 of 2005.
  - Deliberate damage of railways or causing disrepair or placing articles or doing some other action that causes the derailment of coaches and leads to the death of a person (Article 53–2 of Law No. 74 of 1998).
  - Deliberate exposure of shipping or aircraft to danger leading to death (Law No. 84 of 2005).
14. Acts of terrorism which do not result in death: Articles 93 and 94 of the Maritime Penal Code, and Article 126 of the Penal Code.
  - Taking over a ship by the use of violence against the will of its commander or pilot and handing it over to the enemy by any crew member (Articles 93 and 94 of the Maritime Penal Code issued under Law No. 28 of 1997).
  - Violent assault against a judge sitting in court, using arms or threatening to use arms (Article 126 of the Penal Code under Law No. 9 of 1985).
15. High treason: Articles 60 of the Penal Code.
16. Spying or high treason: Articles 60 of the Penal Code, and Article 121 of the Law of Military Prosecution and Punishments.
  - Any foreigner who spies (Article 60 of the Penal Code).
  - Anyone who spies for an enemy (Article 121 of the Law of Military Prosecution and Punishments).
17. Military crimes not resulting in death: Article 69, 70, 74, 79, 99, 104, 109, 111, 113, 115, 116, 117, 118, 119 122, and 123 of the Law of Military Prosecution and Punishments of 1957.
  - Military person defecting to the enemy (Article 69(1)).
  - Defection of two or more military personnel after having agreed to defect (Article 70(6)).
  - Inciting or encouraging others to defect (Article 74).
  - Refusal by a military person to obey orders to attack the enemy or the rebels (Article 79(e)).
  - Assaulting with great violence a wounded, sick or dead military person in an area of military operations leading to aggravation of their health condition (Article 99(2)).
  - Deliberate burning or destruction or damaging buildings, structures, warehouses, water courses, railways, lines, air bases, ships, boats, vehicles or any immovable thing belonging to the army and used for national defence (Article 104).
  - Abandoning guard before the task is completed, when this takes place in the enemy's view (Article 109(3)).
  - Abandoning position in the enemy's view (Article 111(3)).
  - A military person making himself unsuitable for service when he is in the enemy's view (Article 111(2)).
  - Surrendering a position to the enemy by a commander or a governor without having exhausted all available means of defence (Article 115).
  - Surrender of a unit by a commander in the battlefield when this leads to stopping the fighting, or without having done all that his duty and honour require of him before making contact with the enemy (Article 116(1)).
  - Using arms against Tunisia by a Tunisian military person or one who has been in service with the Tunisian army (Article 117(1)).
  - Violating a pledge for the second time and holding arms by a captive who has been twice in captivity (Article 117(2)).
  - A military person who surrenders to the enemy, or for the enemy's benefit, the soldiers under

his command, the position assigned to him, arms belonging to the army, ammunition, provisions, maps of military positions, factories, ports, plants, passwords, or secrets of military operations, campaigns or negotiations (Article 118(1)).

- Contacting the enemy by a military person to facilitate the enemy's operations (Article 118(2)).
- Participation by a military person in conspiracies aimed to pressurise the decisions of the responsible military commander (Article 118(3)).
- Communicating secrets, special signals, alerts or secret means during war or in an area which has been declared under siege, for the purpose of helping the enemy or causing harm to the army or the forces of allied countries (Article 119(1)).
- Distorting news and orders concerning service at the time of confronting the enemy in war or in an area which has been declared under siege for the purpose of helping the enemy or causing harm to the army or the forces of allied countries (Article 119(2)).
- Informing the enemy of the positions of the armed forces or the forces of allied countries, or misguiding such forces so as to go the wrong way during war or in an area which has been declared under siege, for the purpose of helping the enemy or causing harm to the army or the forces of allied countries (Article 119(3)).
- Causing panic among any of the Tunisian forces, or causing them to make wrong moves or to impede the gathering of scattered soldiers during war or in an area which has been declared under siege, for the purpose of helping the enemy or causing harm to the army or the forces of allied countries (Article 119(4)).
- Letting the enemy enter in disguise into a military position or establishment or a military mess hall, barracks, or camp, or army store (Article 122).
- Tunisian recruiting himself or another person for service in a country which is in a state of war with Tunisia, or joining rebels (Article 123).

## 7. Offences punishable by death in the Republic of Yemen

Researchers were unable to undertake a thorough evaluation of all offences punishable by death according to Yemeni legislation. A recent first-time analysis of 28 of the 41 articles across five Yemeni laws which provide for the death penalty has shown that there are at least 315 offences punishable by death in Yemen. These include:

1. Aggravated killing: Article 234 of the Law of Crimes and Punishments.
  - The murder must have been committed in a particularly brutal way, in the furtherance of another crime, of a pregnant woman, of a public servant, or if the offender is of 'bad character'.
2. Simple murder: Article 234 of the Law of Crimes and Punishments.
3. Acts of terrorism that lead to death: Article 129 of the Law of Crimes and Punishments.
4. Acts of terrorism that do not lead to death: Article 129 of the Law of Crimes and Punishments.
5. Rape of an adult not resulting in death: Articles 263 and 264 of the Law of Crimes and Punishments (where that includes kidnapping in conjunction with adultery or homosexual acts, the Law requires execution by stoning to death).
6. Rape of a child not resulting in death: Articles 263 and 264 of the Law of Crime and Punishments (where that includes kidnapping in conjunction with adultery or homosexual acts, the Law requires execution by stoning to death).
7. Looting not resulting in death (participation in a gang to steal private property): Article 1 of the Law against Kidnap and Armed Robbery.
8. Kidnapping resulting in death: Article 249 of Law No. 12 of 1994.
9. Kidnapping in conjunction with adultery or homosexual act: Articles 249 and 250 of Law No. 12 of 1994.

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10. Drug trafficking resulting in death (murdering or killing drug enforcement personnel): Articles 35, 41 and 42 of the Law against Illegal Trading in, and Use of Narcotics and Mind-Affecting Substances.
  11. Drug trafficking not resulting in death (importing, exporting or manufacturing drugs with the intent to traffic): Article 33 of the Law against Illegal Trading in, and Use of Narcotics and Mind-Affecting Substances.
  12. Possession of narcotics (with the purpose of trafficking): Article 34 of the Law against Illegal Trading in, and Use of Narcotics and Mind-Affecting Substances.
  13. Adultery: Articles 263 and 264 of the Law of Crimes and Punishments.
  14. Apostasy: Article 259 of the Law of Crimes and Punishments.
  15. Consenting sexual relations between adults of the same sex (sodomy): Articles 263 and 264 of the Law of Crimes and Punishments.
  16. Treason: Article 15 of the Law of Military Crimes and Punishments.
    - Acts aimed at undermining the independence, unity or territorial integrity of the State.
    - Acts aimed at undermining the defence of the State.
    - Assisting the enemy.
    - Inciting or participating in the aforementioned.
  17. Spying: Article 121 of the Law of Crimes and Punishments and Article 14 of the Law of Military Crimes and Punishments.
  18. Participation in armed gang activity against the government, law enforcement or people, when resulting in death: Articles 113, 132, 134 of the Law of Military Crimes and Punishments.
  19. Resistance to military superiors (by military personnel), resulting in death: Article 226 of the Law of Crimes and Punishments.
  20. Recidivist prostituting of one's wife or daughters; a wife who consents to the recidivist prostitution of her daughters: Article 280 of the Law of Crimes and Punishments.
  21. Perjury, when resulting in the execution of an innocent person: Article 179 of the Law of Crimes and Punishments.
  22. Destruction of property resulting in death: Article 321 of the Law of Crimes and Punishments.
  23. Banditry (putting people in public ways, places, structures or transports in fear of life or honour for any illegal purpose) if resulting in both robbery and death: Articles 306–307(iii), (iv), and 309 of the Law of Crimes and Punishments.
  24. Military offences not leading to death: Article 128 of the Law of Crimes and Punishments, and Article 15 of the Law of Military Crimes and Punishments.
    - Cowardice, desertion or voluntary surrender in the field by personnel or surrender or abandonment of hostilities by any commander prior to the exhaustion of all means of resistance.
  25. Article 125 of the Law of Crimes and Punishments is of such phraseology that it opens the way to extending the death penalty without restriction to:
    - Anyone who commits an act intending to undermine the independence of the Republic.
    - Anyone who commits an act intending to undermine national unity.
    - Anyone who commits an act intending to undermine the security of the land of the country.
- NB: It should be noted that the Yemeni Legislator has been excessive in prescribing the death penalty. Some legal texts have more than one meaning, which means that they may allow more than one punishment for the same offence. Furthermore, although Yemen is an Islamic state, several of these laws are in contradiction with Sharia law.
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**Table 5: Criminal offences punishable by a mandatory death sentence**

<b>People's Democratic Republic of Algeria</b>	Algeria does not have a mandatory death penalty. Article 53 of the Penal Code provides that mitigating circumstances can reduce a death sentence to a minimum jail term of ten years.
<b>Arab Republic of Egypt</b>	Article 17 of the Egyptian Penal Code provides that 'if the conditions of the crime...necessitates the judge's leniency, the penalty may be changed...' from a death sentence to imprisonment. However there are a number of offences which specifically exclude the application of Article 17, and therefore prohibit the court from sentencing to a lesser punishment: <ol style="list-style-type: none"> <li>1. Aggravated murder: Articles 230–234 of the Penal Code.</li> <li>2. Trafficking in narcotics: Articles 33, 34 and 38 of the Law against Narcotics.</li> <li>3. Using explosives leading to the death of one person or more: Article 102e of the Penal Code.</li> </ol>
<b>Hashemite Kingdom of Jordan</b>	Jordan retains a mandatory death sentence for the following offences: <ol style="list-style-type: none"> <li>1. Rape of a girl under 15 years of age: Article 292 of the Penal Code.</li> <li>2. Spying: Articles 111–113 of the Penal Code and Article 15 of Law of Protecting State Documents and Secrets.</li> <li>3. Insubordination during confrontation with the enemy or rebels: Article 10 of the Military Penal Code.</li> </ol>
<b>Lebanese Republic</b>	Lebanon does not have a mandatory death penalty. In 2001 the legislature abolished the mandatory death penalty in Law No. 338/2001, which repealed the mandatory nature of the death penalty provided in Law No. 302/1994. The Lebanese courts often acknowledge extenuating circumstances and instead issue life sentences in lieu of death sentences.
<b>Kingdom of Morocco</b>	Morocco does not have a mandatory death penalty. Articles 146 and 147 of the Penal Code provide that mitigating circumstances permit the court to sentence the offender to life imprisonment or imprisonment for 20 to 30 years instead of being sentenced to death.
<b>Tunisian Republic</b>	Tunisia does not have a mandatory death penalty. When courts find mitigating circumstances, they have the power to impose a sentence of imprisonment in lieu of the death penalty (Article 53 of the Penal Code).
<b>Republic of Yemen</b>	All criminal offences that carry the death penalty in Yemen are mandatory. However, the punishment for Qesas offences (retribution crimes such as murder), in accordance with Islamic Sharia law, permits the aggrieved party or their family members to pardon the offender, and therefore avoid the death sentence.

**Table 6: Type of offences that individuals have been convicted of and executed for since 1989**

<b>People's Democratic Republic of Algeria</b>	<ul style="list-style-type: none"> <li>• Aggravated murder.</li> <li>• Act of terrorism resulting in death.</li> </ul>
<b>Arab Republic of Egypt</b>	<ul style="list-style-type: none"> <li>• Aggravated murder.</li> <li>• Arson resulting in death.</li> <li>• Drug trafficking.</li> <li>• Acts of terrorism.</li> <li>• Rape, kidnap and threats.</li> </ul>
<b>Hashemite Kingdom of Jordan</b>	<ul style="list-style-type: none"> <li>• Aggravated murder.</li> <li>• Rape and murder of a minor.</li> <li>• Conspiracy to carry out acts of terrorism.</li> <li>• Carrying out acts of terrorism resulting in the death of a person(s).</li> </ul>
<b>Lebanese Republic</b>	<ul style="list-style-type: none"> <li>• Aggravated murder.</li> <li>• Acts of terrorism resulting in death.</li> </ul>
<b>Kingdom of Morocco</b>	<ul style="list-style-type: none"> <li>• Rape.</li> </ul>

<b>Tunisian Republic</b>	<ul style="list-style-type: none"> <li>• Aggravated murder.</li> <li>• Acts of terrorism resulting in death.</li> </ul>
<b>Republic of Yemen</b>	<ul style="list-style-type: none"> <li>• Murder.</li> <li>• Acts of terrorism resulting in death.</li> <li>• Rape of a minor.</li> <li>• Kidnap.</li> <li>• Drug trafficking.</li> <li>• Drug possession.</li> <li>• Adultery.</li> <li>• High treason.</li> </ul>

It should be noted that the great majority of cases of execution in all countries are related to intentional crimes with lethal or other extremely grave consequences, such as aggravated murder. However, other offences which would not be considered the 'most serious crimes' as required under international law, such as drug offences, rape, kidnap and adultery continue to result in executions.

In Egypt, Jordan and Yemen it is difficult to accurately ascertain the exact number of executions during the period of the study, and the type of offences for which individuals were executed, because of a lack of data published by the governments in question.

**Table 7: Categories of people prohibited from execution**

	<b>Juveniles under the age of 18 years</b>	<b>Pregnant women</b>	<b>Mentally disabled</b>
<b>People's Democratic Republic of Algeria</b>	Minors under 18 years of age at the time of the offence being committed are exempt from the death penalty (Article 443 of the Penal Code).	Pregnant women are exempt from execution until 24 months after the child is delivered (Article 155 of the Code of Algeria for the Organisation of Prisons and the Social Reintegration of Prisoners).	<ul style="list-style-type: none"> <li>• No death sentence may be given to a person who was mentally ill at the time of the offence (Article 47 of the Penal Code).</li> <li>• A person who suffers a mental illness after the crime is placed in a specially suited institution (Article 155 of the Code of Algeria for the Organisation of Prisons and the Social Reintegration of Prisoners).</li> </ul>
<b>Arab Republic of Egypt</b>	Minors under 18 years of age at the time of the offence being committed are exempt from the death penalty (Articles 111 and 112 of the Law of the Child, No 12 of 1996).	Pregnant women are exempt from execution until two months after the child is delivered (Article 476 of the Criminal Procedure Code).	<p>Article 61 of the Penal Code as amended by Law No. 71 of 2009:</p> <ul style="list-style-type: none"> <li>• Psychological or mental disorder that leads to loss of understanding or loss of will negates criminal responsibility.</li> <li>• Psychological or mental disorder that leads to diminished understanding or will does not negate criminal responsibility. The court shall take this circumstance into consideration when determining the sentence.</li> <li>• If the disorder occurs after the crime and during the consideration of the case, the proceedings against the concerned person are suspended until he has recovered.</li> <li>• If the disorder occurs after the decision of the court, it does not stop enforcement.</li> </ul>

<b>Hashemite Kingdom of Jordan</b>	Minors under 18 years of age at the time of the offence being committed are exempt from the death penalty (Law of Minors No 24 of 1968).	Pregnant women are exempt from execution until three months after the child is delivered (Article 358 of the Code of Criminal Procedure).	<p>Article 92 of the Penal Code:</p> <ul style="list-style-type: none"> <li>• No one who is psychologically or mentally ill may be sentenced to death. The criterion for this is that he could not realise the nature of his action at the time of the crime.</li> <li>• Mental ability is taken into account regarding decisions of the death penalty at all stages of the trial, including at the time of sentence and execution.</li> </ul> <p>Article 29 of the Penal Code provides that a death sentence shall be suspended in the case of a mentally incapacitated person; however, if a medical committee determines that the person has recovered, that person may be executed.</p>
<b>Lebanese Republic</b>	Minors under 18 years of age at the time of the offence being committed are exempt from the death penalty (Article 238 of the Penal Code and Article 15 of the Law of Protection of Minors Guilty of Illegal Action or Exposed to Danger, No. 422 of 2002).	Pregnant women are exempt from execution until 10 weeks after the child is delivered (Article 14 of the Penal Code).	<ul style="list-style-type: none"> <li>• Article 231 of the Penal Code exempts from punishment anyone who is in a state of insanity that causes him loss of awareness and will.</li> <li>• Article 233 of the Penal Code stipulates that the punishment should be replaced or reduced in the case of anyone who, at the time of the crime, was suffering from a hereditary or acquired mental deficiency.</li> <li>• Article 235 of the Penal Code exempts from punishment anyone who was, at the time of the crime, suffering a case of poisoning through alcohol or drugs not resulting from his own action.</li> </ul>
<b>Kingdom of Morocco</b>	Minors under 18 years of age at the time of the offence being committed are exempt from the death penalty (Article 139 of the Penal Code).	Pregnant women are exempt from execution until two years after the child is delivered. (Article 262 of the Law of the Criminal Procedures.)	A person is not considered accountable if he was, at the time of the commission of a crime, in a state that makes it impossible for him to understand or exercise his will, due to mental disturbance. The defendant may be committed to a psychiatric institution for the duration of the illness (Articles 78, 79 and 135 of the Penal Code).
<b>Tunisian Republic</b>	Minors under 18 years of age at the time of the offence being committed are exempt from the death penalty (Article 43 of the Penal Code).	Pregnant women are exempt from execution until after the child is delivered (without specifying a time limit) (Article 9 of the Penal Code).	A person who is mentally ill at the time of committing the offence is exempt from the death sentence (Article 38 of the Penal Code).

<b>Republic of Yemen</b>	<p>Minors under 18 years of age at the time of the offence being committed are exempt from the death penalty (Article 31 of the Penal Code).</p> <p>In practice individuals who commit death eligible offences while under the age of 18 may still face execution, due to a lack of proper records for determining the age of the offender at the time of the offence.<sup>30</sup></p>	<p>Pregnant women are exempt from execution until two years after the child is delivered, unless someone else is found to care for the child (Article 485 of the Law of Punishment Procedures).</p>	<p>Mentally ill persons may be found incapable of standing trial; additionally, they may be committed to an institution if a court determines that they cannot be held criminally liable for a serious offence (Article 105 of the Decree concerning Criminal Procedures).</p>
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All seven countries prohibit the death penalty for those who were under the age of 18 years at the time of the offence being committed. However, as some countries do not have a national system of birth registration and certification (such as Yemen), it is often up to the judge to identify the age of the accused, leading to situations where those claiming to be under the age of 18 are sentenced to death and executed.

A pregnant woman is not exempt from an execution; it is only delayed until after she has delivered her child, which is not less than ten weeks in Lebanon, three months in Egypt and Jordan, and more than two years in Morocco and Yemen. The laws of Algeria and Tunisia do not include a definite period of stay of execution for a pregnant woman after delivery.

All seven countries provide some kind of exemption from the death sentence for those who were mentally ill at the time of committing the offence; however, these laws are lacking in clarity and detail, and in some circumstances, do not exempt those from execution who have become mentally disabled after the offence was committed.

## Section two: Notable changes to the application of the death penalty

### 1. People's Democratic Republic of Algeria

Since 2001, there have been successive amendments to the Algerian Criminal Code which have abolished the death penalty for numerous offences including:

- Article 114 of the Penal Code: incitement to undermine law and order.
- Articles 197 and 198 of the Penal Code: forgery of currency or bonds, stocks and payment orders.
- Articles 293 and 293 of the Penal Code: inflicting torture on a person who is kidnapped, arrested or detained, or holding such a person to demand ransom.
- Articles 351, 382, 395, 396, 406, 408 and 432 of the Penal Code: armed robbery; arson; the placement on a public road of articles that cause traffic disruption; giving anyone food or medicinal

<sup>30</sup> A recent report prepared by the Coordination Committee of National Non-Governmental Organizations Concerned with Children's Rights identified 138 minors exposed to the death penalty in Yemen (November 2010).

material that has gone bad and its consumption causes illness or disability.

- Article 119 of the Penal Code: embezzlement or theft of public funds.
- Article 325: kidnapping of a minor that leads to death.

However, in 2002, the scope of the death penalty was expanded when a state of emergency was established and anti-terrorism decrees were adopted.

Many steps have been taken politically on the question of abolition of the death penalty in Algeria. Within the framework of the reconciliation policy launched by Abdelaziz Bouteflika, who became President on 15 April 1999, his Justice Minister, Tayeb Belaïz, announced on 26 June 2004 that the death penalty would be removed from Algerian legislation. In October 2005 Algeria's Prime Minister, Ahmen Ouyahia, declared that he would support the abolition of the death penalty. In March 2006, the President pardoned 200 prisoners sentenced to death and a draft law on abolition of the death penalty was put before Parliament, but was however rejected. In December 2008, the government tabled a second abolition bill in parliament on the basis of Algeria's obligations in respect to international treaties. In June 2009, the proposal was rejected on the basis on security considerations related in particular to the fight against terrorism and organised crime, as well as arguments that public opinion still favoured the death penalty.

## 2. Arab Republic of Egypt

Egyptian legislators have made no moves towards reducing or restricting the application of the death penalty, and there have been no political statements indicating that Egypt is in any way considering abolishing it from its statute books. In fact, over the last two decades a number of new death penalty applicable offences have been introduced into Egyptian legislation for drug offences and acts of terrorism.

## 3. Hashemite Kingdom of Jordan

During the last decade the number of death penalty applicable offences has been reduced in all five laws that include punishment by death. However, this positive action is undermined by other steps taken to broaden the number of death penalty applicable offences linked to acts of terrorism.

In October 2001, following the attacks in the USA, the Jordanian Penal Code was modified for the first time to introduced changes to the Penal Code expanding the definition of 'terrorism', introducing numerous loosely-defined offences, restricting freedom of expression and the press, and expanding the scope of offences punishable by the death penalty and life imprisonment. The new Law Amending the Penal Code (Provisional Law No. 54, 2001) which was hastily promulgated through a provisional royal decree in the absence of Parliament, became effective on 2 October 2001, immediately after approval by King Abdallah bin Hussein of Jordan.<sup>31</sup>

In September 2005, Zuheir Khatib was executed in Swaqa prison for murder. Five years earlier, Bilal Moussa had been sentenced to death for the same murder after confessing under torture. This case raised considerable public interest in the death penalty, and the debate took on such a scale that on 16 November 2005 King Abdallah of Jordan told the daily Italian newspaper *Corriere della Serra* (not reported in the Jordanian national media) that 'Jordan could soon become the first abolitionist country in the Middle East'.<sup>32</sup>

In August 2006 an important law was adopted which abolished the death penalty for the offences of possession, manufacture, sale and transportation of illegal explosives, the obstruction of law enforcement operations and certain crimes connected to drugs, thereby reducing the number of death penalty applicable offences. However, the Terrorism Prevention Act, which came into force on 1 November 2006, gave an extensive definition of 'terrorist activities'.

31 Amnesty International, *Jordan: security measures violate human rights*, 5 February 2002, MDE 16/001/2002

32 Amnesty International, *Death Penalty Bulletin*, January 2006, ACT 53/001/2006.

In 2009, Jordan reported to the Human Rights Council that a review of the Criminal Code was being conducted with the aim of eliminating the death penalty.<sup>33</sup>

In 2010, amendments were made to the Jordanian Penal Code to eliminate the death penalty for arson and for crimes against the constitutional authorities through armed rebellion; however the amendments did not pass.

#### 4. Lebanese Republic

In 2001 the mandatory death penalty was abolished.

In July 2004, following the resumption of executions after a six year de facto moratorium, a draft abolitionist law was prepared by a number of MPs; however, it was not adopted following a disagreement over alternative punishments.<sup>34</sup>

On 24 February 2006, the death penalty issue was again debated in Lebanon within the framework of consideration of alternatives to the death penalty, inspired by French and Canadian experiences. A new draft law was prepared by six deputies, and members of the Parliamentary Human Rights Commission. However the war between Israel and Hezbollah during the summer of 2006 prevented this draft from making headway.

The Minister of Justice, Ibrahim Najjar, submitted a bill to Parliament in October 2008 which aimed at abolishing the death penalty and replacing it with life imprisonment and penal servitude (forced labour). He launched a broad awareness campaign and invited all political parties to convene meetings on the subject. However, the bill was not successful due to divergent views on the subject.

#### 5. Kingdom of Morocco

Following the terrorist attack in Casablanca which killed 45 people on 16 May 2003, the Law against Terrorism (Law No. 03–03 on Combating Terrorism of 28 May 2003) was approved by the Legislative Assembly. The new law increased the number of

crimes subject to the death penalty to the point where lawyers do not agree about the exact number of death penalty applicable offences, and where the requirements of each offence are unclear.

In December 2004, the Ministry of justice organised a colloquium on criminal policy reform, which concluded that the number of death penalty applicable offences should progressively be reduced, and recommended that unanimity be required in order for judges to issue a death sentence.

On 26 May 2006, the Democratic Forces Front party (Front des Forces Democratiques) introduced an abolition bill before the parliamentary assembly, and the Minister of Justice publically declared his support for the bill. However, the bill was not successful, with a number of Islamic political groups opposing the bill on religious grounds.

#### 6. Tunisian Republic

In March 2008, 25 MPs presented a bill for the abolition of the death penalty. Unfortunately the bill was rejected by the Constitutional Democratic Assembly (RCD), the majority party.

Following the revolution in January 2011, the Temporary Tunisian Government made initial moves to work towards abolition by publically setting out plans in February 2011 to ratify a number of human rights instruments and treaties, including the Second Optional Protocol to the ICCPR. However, no actual steps have been taken to achieve this. It seems that the government has decided not to take this step, but to wait for a new government to decide on how to take abolition forward. However, there is a strong human rights movement in Tunisia, including a number of progressive Parliamentarians. The draft Tunisian Constitution, which was submitted by the Higher Political Reform Commission (which has merged with the Revolutionary Committee to Protect Revolution Gains), includes a reference to abolition of the death penalty.

On 14 January 2012, all 122 individuals on death row had their sentences commuted to life imprisonment.

<sup>33</sup> National report submitted in accordance with paragraph 15(A) of the annex to Human Rights Council resolution 5/1, 9 February 2009, A/HRC/WG.6/4/JOR/1, p. 5.

<sup>34</sup> Leila Heitoun, 'Draft law to end death penalty gets mixed review', *The Daily Star*, 10 July 2004.

## 7. Republic of Yemen

Yemeni legislators have made no moves towards reducing or restricting the application of the death penalty, and there have been no political statements indicating that Yemen is in any way considering abolishing it from its statute books. In fact a number of questionable legislative amendments have been made in recent years to expand the application of the death penalty.

Special courts were established in 2000 by Republican Decree of 1999 of the Specialised Criminal Court as a branch of appeal, in accordance with a decision by the Minister of Justice. Its jurisdiction has been extended so as to include serious crimes against the Republic and most cases involving the death penalty or life imprisonment, including the following offences:

1. Offence of *Hirabah* ('waging war against the Muslim state').
2. Offence of kidnapping foreigners, and sea and air piracy.
3. Offence of causing damage or destruction, and setting fire or explosives to oil pipes, oil facilities and other economic structures and facilities of public utility.

4. Offence of stealing public and private means of transport carried out by organised armed groups, or by one or more individuals using force.
5. Offence of participating with a gang to attack lands and property owned by the state or citizens.
6. Offence of assaulting members of the judicial system and the crimes of kidnapping any of them or any member of their families.

Article 150 of the Yemeni Constitution provides that 'No special courts may be established in any circumstances'. These new special courts have caused great controversy among members of the criminal justice system, academics and activists, who believe that this deprives people of their right to be tried fairly as the Special Courts are known to not extend full rights to the accused.<sup>35</sup> The Yemeni Lawyers' Syndicate has boycotted this court in protest against its procedures. Furthermore, the UN Committee against Torture has also raised concerns regarding the establishment of the Specialised Criminal Court and at reports that international norms of fair trial are not upheld by this Court.<sup>36</sup>

<sup>35</sup> US Department of State, 2009 Human Rights Report: Yemen, Denial of Fair Public Trial, 11 March 2010.

<sup>36</sup> UN Committee against Torture, *Consideration of reports submitted by States parties under Article 19 of the Convention, Concluding observations of the Committee against Torture: Yemen*, 25 May 2010, CAT/C/YEM/CO/2/Rev.1, para. 17.

## Chapter three: Alternative sanctions to the death penalty

**Table 8: The ultimate and maximum punishment after the death penalty**

<b>People's Democratic Republic of Algeria</b>	<p>Life imprisonment.</p> <p>Although there is no maximum length of time, the minimum period that must be served is 15 years' imprisonment (Article 134 of the Law of Prisons). The court has the ability to increase this minimum period to 20 years (Article 60 of the Penal Law).</p>
<b>Arab Republic of Egypt</b>	<p>Life imprisonment.</p> <p>Although the law does not specify a maximum limit, the minimum sentence that must be served is 15 years' imprisonment if parole is granted, or 20 years if the prisoner is eligible for conditional release. The view has been expressed in some quarters that the courts should be given the power to prevent persons convicted of serious crimes from being paroled or from being granted a conditional release, as this would encourage them to hand down fewer death sentences, given that deprivation of liberty would serve its real purpose of acting as a deterrent.<sup>37</sup></p> <p>If a person is given several sentences for different offences, they are served consecutively and not concurrently.</p>
<b>Hashemite Kingdom of Jordan</b>	<p>Hard labour or life imprisonment.</p> <p>Although the law does not specify a maximum limit, the minimum period that must be served is 20 years' imprisonment.</p>
<b>Lebanese Republic</b>	<p>Hard labour for life or life imprisonment.</p> <p>Law No. 463/2002 sets out general provisions for the early release of prisoners. A prisoner may apply for early release if he/she has served a minimum of 10 years' imprisonment, and the proposed reduction of the sentence is not less than 10 years and not more than 20 years.</p>
<b>Kingdom of Morocco</b>	<p>Life imprisonment.</p> <p>Article 622 of the Law of Criminal Procedures allows for early release if a prisoner has served at least two-thirds of their sentence, so long as they have sufficiently proved that they have reformed their conduct. In practice it would appear that this rule would still prohibit a lifer from conditional release, because, as the life sentence does not have maximum limit, it is impossible to assess the where the two-third mark would lie.</p>
<b>Tunisian Republic</b>	<p>Life imprisonment.</p> <p>The minimum number of years that must be served by a person with a life sentence before he can be released is 15 years (Article 354 of the Law of Criminal Procedures).</p>
<b>Republic of Yemen</b>	<p>Long-term imprisonment (10 to 25 years imprisonment).</p> <p>Article 39 of the Law of Crimes and Punishments No. 12 of 1994 provides that: 'Imprisonment shall be for not less than 24 hours and not more than 10 years, unless the law states otherwise.' Thus, the maximum term of imprisonment is ten years. However, some exceptions are introduced, allowing the maximum imprisonment to be 15 years for a crime that carries the death sentence but has some extenuating circumstances, in accordance with Article 109 of the Penal Code. The Presidential Order promulgating Law No 24 of 1998 dealing with crimes of kidnap and armed robbery does not mention life imprisonment, but increases the maximum sentence of imprisonment to 25 years.</p>

<sup>37</sup> National Report (Egypt) submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1, 16 November 2009, A/HRC/WG.6/7/EGY/1, p. 7.

## Section one: Offences punishable by life or long-term imprisonment

### 1. People's Democratic Republic of Algeria

Life imprisonment is a mandatory offence in Algeria for:

1. Aggravated killing.
2. Acts of terrorism resulting in death.

Life imprisonment is a discretionary offence in Algeria for:

3. Murder.
4. Non-aggravated killing.
5. Acts of terrorism not resulting in death.
6. Rape of an adult.
7. Rape of a child.
8. Drug trafficking resulting in death.
9. Drug trafficking not resulting in death.
10. High treason.
11. Spying.
12. Military offences not resulting in death.

### 2. Arab Republic of Egypt

Life imprisonment is a mandatory offence in Egypt for:

1. Aggravated killing.
2. Acts of terrorism resulting in death.
3. Acts of terrorism not resulting in death.
4. Rape of a child.
5. Armed robbery.
6. Mugging.
7. Drug trafficking resulting in death.
8. High treason.
9. Spying.

Life imprisonment is a discretionary offence in Egypt for:

10. Murder.
11. Non-aggravated killing.
12. Rape of an adult.
13. Kidnap.
14. Drug trafficking not resulting in death.
15. Military offences not resulting in death.

### 3. Hashemite Kingdom of Jordan

Life imprisonment is a mandatory offence in Jordan for:

1. Aggravated killing.
2. Acts of terrorism resulting in death.
3. Rape of a child.

Life imprisonment is a discretionary offence in Jordan for:

4. Murder.
5. Non-aggravated killing.
6. Acts of terrorism not resulting in death.
7. Mugging.
8. Military offences not resulting in death.

### 4. Lebanese Republic

Life imprisonment is a mandatory offence in Lebanon for:

1. Murder.
2. Dangerous killing.
3. Acts of terrorism resulting in death.
4. Acts of terrorism not resulting in death.
5. Rape of a child.
6. Armed robbery.
7. Arson.
8. Mugging.
9. Drug trafficking resulting in death.
10. Drug trafficking not resulting in death.
11. Economic offences not resulting in death.

12. Apostasy.
13. High treason.
14. Spying.
15. Military offences not resulting in death.

Life imprisonment is a discretionary offence in Lebanon for:

16. Non-aggravated killing.
17. Rape of an adult.
18. Kidnap.
19. Possession of drugs.
20. Adultery.

## 5. Kingdom of Morocco

The researchers were unable to identify which offences in Morocco were life sentence applicable.

## 6. Tunisian Republic

Life imprisonment is a mandatory offence in Tunisia for:

1. Aggravated killing.
2. Rape of a child.

Life imprisonment is a discretionary offence in Tunisia for:

3. Murder.
4. Acts of terrorism resulting in death.
5. Acts of terrorism not resulting in death.
6. Rape of an adult.
7. Drug trafficking resulting in death.
8. High treason.
9. Spying.

## 7. Republic of Yemen

Life imprisonment is a mandatory offence in Yemen for:

1. Acts of terrorism resulting in death.
2. Armed robbery.
3. Mugging.
4. Drug trafficking resulting in death.
5. Drug trafficking not resulting in death.
6. Possession of drugs.

Life imprisonment is a discretionary offence in Yemen for:

7. Economic offences not resulting in death.
8. Adultery.
9. Apostasy.
10. High treason.
11. Spying.
12. Military offences not resulting in death.

**Table 9: Categories of people prohibited from being sentenced to life or long-term imprisonment**

<b>People's Democratic Republic of Algeria</b>	<ul style="list-style-type: none"> <li>Juveniles under the age of 18 at the time of the offence.</li> <li>A person who at the time of committing the offence or during the trial suffers from a mental disability. The court makes its decision on the basis of a psychiatric report.</li> </ul>
<b>Arab Republic of Egypt</b>	<ul style="list-style-type: none"> <li>Juveniles under the age of 18 at the time of the offence (Article 111 of the Law of the Child No. 12 of 1996, as amended by Law No. 126 of 2008).</li> <li>A person suffering from a life-threatening disease (Article 486 of the Law of Criminal Procedures).</li> <li>A person with a mental disability (Article 487 of the Law of Criminal Procedures states). If a person suffers mental disorder, the enforcement of the punishment must be delayed until he has recovered. The Attorney General may issue an order to place him in a mental health institution. In this case, the time the person spends in the mental health institution is subtracted from the term of punishment.</li> </ul>
<b>Hashemite Kingdom of Jordan</b>	<ul style="list-style-type: none"> <li>Juveniles under the age of 18 at the time of the offence.</li> <li>A person with a mental disability.</li> </ul>
<b>Lebanese Republic</b>	<ul style="list-style-type: none"> <li>Juveniles under the age of 18 at the time of the offence.</li> <li>A person with a mental disability, if the offender suffered such a disability at the time of committing the offence (Article 231 of the Penal Code). If a person was suffering from a hereditary or acquired mental disorder at the time of the offence, the punishment is substituted or reduced (Article 233 of the Penal Code). If a person was in a state of alcohol or drug poisoning through no fault of his own at the time of the offence, the law exempts them from punishment (Article 235 of the Penal Code). The court makes its ruling based on a report by a specialised doctor appointed by the court.</li> </ul>
<b>Kingdom of Morocco</b>	<ul style="list-style-type: none"> <li>Juveniles under the age of 18 at the time of the offence (Articles 473 and 474 of the Penal Code).</li> </ul>
<b>Tunisian Republic</b>	<ul style="list-style-type: none"> <li>A person who at the time of committing the offence or during the trial suffers mental disability. The court makes its decision on the basis of a psychiatric report.</li> </ul>
<b>Republic of Yemen</b>	<ul style="list-style-type: none"> <li>Yemen does not have a life sentence, therefore the judge determines the suitable discretionary punishment between the maximum and minimum limits set for the offence (Article 109 of the Penal Code). In doing so, the judge takes into account all the extenuating and aggravating circumstances, particularly the degree of responsibility, the motives behind the offence, the seriousness of the criminal act and its circumstances, the offender's past criminal record, their personal status (sex, age and health), their subsequent action after the offence, their relationship with the victim and whether he/she has compensated the victim or their heirs.</li> </ul>

## Chapter four: Application of the death penalty and life imprisonment in practice

**Table 10: Fair trial procedures**

<b>1. People's Democratic Republic of Algeria</b>	
<b>Length of detention without charge</b>	12 days. This can be extended repeatedly when people are arrested on suspicion of acts of terrorism. Furthermore, Algerian law does not guarantee the right to legal counsel during the period of remand in custody
<b>Presumption of innocence</b>	Article 45 of the Constitution guarantees every accused person the right to be presumed innocent until proven guilty.
<b>Right to adequate legal assistance</b>	Article 212 of the Law of Criminal Procedures guarantees the right to legal assistance. Legal representation is compulsory for those accused of a death penalty or life sentence applicable offence. If a lawyer has not been appointed, the President of the Court shall appoint a lawyer for the defendant as part of legal aid, through the Legal Aid Ordinance. Legal aid also extends to the appeal process. A lawyer appointed as part of legal aid is chosen by the Lawyers' Association of Algeria. The lawyer enjoys the same authority and privileges as a lawyer appointed by the defendant.
<b>Trial procedure</b>	Death-or life-eligible offences are tried by the Criminal Tribunals where three judges and two jurors sit (Article 248 and 258 of the Penal Code), or by a Military Tribunal where the bench is composed of one judge and two military 'assessors' of equal or greater rank (Articles 5–7 and 25 of the Code of Military Justice).
<b>Right to a public hearing</b>	All sessions of the criminal courts are open to the public and the media, unless the court decides to hold a session <i>in camera</i> for reasons related to risks to public order or social morality (Article 285 of the Law of Criminal Procedures). Judicial decisions are published in specialised magazines.
<b>Right to an interpreter</b>	Article 298 of the Law of Criminal Procedures guarantees the assistance of an interpreter at all stages of the case, if necessary.
<b>Independence of the judiciary</b>	Article 138 of the Constitution guarantees the independence of the judiciary. Its independence is also reaffirmed in other texts, such as the Principal Law of the Judicial System and the Law of the Supreme Council of Justice.
<b>Right to appeal</b>	Every person tried by the Criminal Tribunal or the Military Tribunal has the right to appeal their sentence, including those sentenced to death or life imprisonment (Article 500 of the Law of Criminal Procedures). An appeal may be submitted by the defendant or his lawyer, or by the Attorney General, to the Court of Appeal within eight full days of the sentence being issued. A sentence may be appealed to the Supreme Court on matters of law only. If the Supreme Court overturns a decision, the accused will be retried by another court, or by a different bench of the same court. If an appeal has been submitted, a death sentence can not be executed until the appeal has been considered (Article 499 of the Law of Criminal Procedures).
<b>Military justice system</b>	There is a separate military judicial system concerning military crimes and punishments which has the jurisdiction to sentence people to death or life imprisonment. All actions by military courts are subject to appeal by the Supreme Court.
<b>2. Arab Republic of Egypt</b>	
<b>Length of detention without charge</b>	According to Egyptian law, a person accused of an offence can be detained for 15 days pending investigation (Article 142(1) of the Penal Code). However, a judge may extend this period following a hearing of both the Attorney General and the accused. Article 143 of the Penal Code provides that the total period of detention pending investigation may not exceed five months.
<b>Presumption of innocence</b>	Article 67 of the Constitution guarantees every accused person the right to be presumed innocent until proven guilty.

<b>Right to adequate legal assistance</b>	Article 69 of the Constitution guarantees the right to legal assistance. Article 69(2) requires the state to find suitable means of assisting the poor with the means of legal defence. While the law does not specifically guarantee the right to legal assistance at the pre-trial stage, including when the accused is being questioned, and the Court of Appeal has ruled that statements made by the accused without the presence of a lawyer can still be admitted into court <sup>38</sup> , the Supreme Court has ruled that the Constitutional safeguard of Article 69 should be extended to the pre-trial stages of the case. Article 125 of the Law of Criminal Procedures provides that a lawyer must be present with the accused during an investigation. Article 124 of the Law of Criminal Procedures made it unlawful for the investigator of an offence which carries a mandatory sentence of imprisonment to interrogate the accused without first calling his lawyer to attend. However, the Article continues by saying this may be compromised in a 'case where the arrest was made at the time of the crime and there is need to speed up action for fear of the loss of evidence, as the investigator states on record'.
<b>Trial procedure</b>	A death sentence may only be pronounced by a criminal court (Article 10 of the Penal Code) following a fair trial in which the accused was afforded all means of a defence.  The Egyptian legal system does not provide for trial by jury. However, Article 381/2 of the Law of Criminal Procedures provides that the Criminal Court can only pronounce a sentence of death by a unanimous decision of its four members.  Before it issues such a sentence, the court must refer the case to the Mufti of the Republic, sending him the documents of the case. If the court has not received the Mufti's view during the ten days that follow sending him the documents, the court may give its verdict on the case. If the court issues its death sentence without sending the documents to the Mufti, or before he has given his view within the ten day period, its verdict is invalid. However, the court is not required to do anything more than that. It is not bound to await the Mufti's view for longer than ten days, and his view is not binding. The court is not required to uphold the Mufti's view if it is contrary to its decision. Nor is the court required to state the Mufti's view in its sentence (Article 381(3) of the Law of Criminal Procedure).
<b>Independence of the judiciary</b>	Article 66 of the Constitution guarantees that judges are independent and, in their administration of justice, are subject to no authority other than the law, no interference being permitted in judicial affairs.
<b>Right to appeal</b>	Cases may be appealed to the Court of Appeals, and from there, to the Court of Cassation. All death sentences must be referred to the Court of Cassation by the Office of the Attorney General, even if the condemned person does not appeal (Article 46 of the Law No. 57 of 1959). The Attorney General must submit a memorandum explaining the justification for the sentence to the Court of Cassation. However, appeals are limited and can only concern points of law. The Appeal Court is not authorised to rule on elements of fact. <sup>39</sup> According to Article 30 of Law 57 of 1959 (as amended by Law 106 of 1962) death sentences can be appealed against before the Appeal Court on the following three grounds:  1. Where the verdict is based on a violation, misapplication, or misinterpretation of the law. 2. Where the verdict is invalid. 3. Where procedural irregularities had an impact on the verdict.  The Supreme Constitutional Court might be able to hear a petition of appeal on a constitutional issue, disputes over jurisdiction, conflicting judgements, or divergence from the accepted implementation of the laws.  The Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism has noted that Egypt has improved the appeals process afforded to those tried for terror crimes by its military courts, but also that the Emergency State Security Courts (where any crime can be tried) remained courts of first and only instance, thus rendering the guarantee of a fair trial a nullity. <sup>40</sup>

38 Appeal 1/5/1961 Appeal Rulings S 12, No 95, p. 513.

39 Amnesty International, *Egypt: increasing use of the death penalty*, 12 June 2002, MDE 12/017/2002, p. 7.

40 A/HRC/13/37/Add.2, 14 October 2009.

<b>Military justice system</b>	<p>There is a separate military judicial system in Egypt, under Law No 25 of 1966, as amended by Law No 16 of 2007, which deals with cases involving military personnel. It has jurisdiction to sentence people to death or life imprisonment.</p> <p>Article 3 of Law No. 25 states: that ‘Military judges are independent, subject to no authority in their judgements other than the law. Officers of the Military Justice, other than a member of the Military Attorney’s Office in the rank of first lieutenant, cannot be dismissed except through disciplinary procedures in accordance with Law No. 232 of 1959 governing the conditions of service and promotion of officers of the armed forces. They execute the same duties as judges and members of the Attorney General’s Office stated in the Law of the Judicial Authority’.</p> <p>The last amendment to the Law of Military Provisions No. 16 of 2007 established a high court for military appeals. Article 43 provides that ‘the high court of military appeals is situated in Cairo and composed of the President of the Military Justice and a sufficient number of his deputies and military judges of the minimum rank of colonel. It is composed of a number of branches, each headed by the President of the Court or one of his deputies with a minimum rank of Brigadier. Sentences are issued by five military judges.’ The rules and procedures related to appeals under the Law No. 57 of 1959 concerning cases and procedures of appeals submitted to the Court of Appeal are applicable to the military high court, provided that they are not in conflict with the provisions of the law. The verdicts issued by this court are final.</p>
<b>3. Hashemite Kingdom of Jordan</b>	
<b>Length of detention without charge</b>	According to Jordanian law, a person accused of an offence can be detained for 15 days pending investigation, which can be extended for as long as six months by a judge.
<b>Presumption of innocence</b>	Jordanian law guarantees that every accused person has the right to be presumed innocent until proven guilty (Code of Criminal Procedure No. 9 of 1961).
<b>Right to adequate legal assistance</b>	Jordanian law guarantees the right to a legal defence. For those accused of an offence that carries a death sentence or life imprisonment, a defence lawyer is compulsory (Article 208/1 of the Law of Criminal Procedure). If proceedings are carried out in such cases without the presence of a defence lawyer, the proceedings can be ruled invalid. If the defendant does not have the resources to appoint a lawyer, the appropriate court is required to appoint a lawyer to defend him, which is paid for by the state. Such a lawyer is either a volunteer or appointed through the Jordanian Lawyers’ Syndicate, who are specialised criminal lawyers. In most cases, they are highly competent and specialised in such cases. In selecting them, the Jordanian Lawyers’ Syndicate takes care to ensure that they are independent from both parties to the case and the court. Once a lawyer is assigned to act for the defendant, he is given all facilities to pursue his defence as outlined in the law, including meeting his client, visiting him in his place of detention, questioning the witnesses and calling in witnesses, submitting evidence, as well as making all legal defences whether related to formalities or the substance of the case, as the rights of defence require. In practice, the appointment of a lawyer in cases carrying the death penalty applies to all stages of the case, including appeal.
<b>Trial procedure</b>	The Jordanian judicial system does not provide for trial by jury. Sentences of death are issued by the High Criminal Court (which has jurisdiction for the offences of murder, attempted murder and rape) and consists of a panel of three judges, or before the Court of State Security for all other offences, which consists of a panel of judges that includes military judges appointed by the Prime Minister.
<b>Right to a public hearing</b>	The courts are open to the media, the public and/or independent observers, except for the trial of minors which are held <i>in camera</i> . The sentences are not available for public perusal. Only relatives of the sentenced person, the defence lawyer, the media, or those who want to undertake studies or research may access the sentence. In all cases, access to the sentence must be agreed by the judicial and administrative person concerned.
<b>Right to an interpreter</b>	In practice, an interpreter is appointed and paid by the state at all stages and through all procedures of a case. Nevertheless, sometimes a suitable interpreter is unavailable.

<b>Independence of the judiciary</b>	Although the independence of the judiciary is legally guaranteed in Jordan, there have been some observations and criticism levelled at the Court of State Security, particularly its lack of independence, since it is part of the military judicial system, which is under the general command of the Jordanian armed forces, an executive department. In its formation and the appointment of its judges, the Court of State Security is not subject to either the Law of the Independence of the Judicial Authority or the Law of the Formation of Regular Courts, despite the fact that its rulings may be appealed before the Court of Appeal.
<b>Right to appeal</b>	Sentences of death handed down by the Criminal Court or the Court of State Security are subjected to compulsory appeal before the Court of Appeal. The Court of Appeal consists of a panel of at least three judges. Cases can then be appealed to the Court of Cassation, which convenes a panel of at least five judges. Sentences issued by the Court of State Security can also be appealed to the Court of Cassation. It is the duty of the Attorney General to refer all death sentences for appeal. No death sentence is implemented until it has completed all stages of appeal and been ratified by the King. Life sentences can be appeals to the Court of Appeal.
<b>Military justice system</b>	There is a separate military judicial system which deals with cases involving military personnel. It has the jurisdiction to sentence people to death or life imprisonment. The military courts apply the Military Penal Code as well as the Penal Code for crimes committed by military personnel. Sentences issued by the military courts may be subject to appeal in military appeal courts whose decisions may be revoked by the Supreme Court of Appeal.
<b>4. Lebanese Republic</b>	
<b>Length of detention without charge</b>	Article 108 of the Law of Criminal Procedures does not set a maximum period of detention pending investigation in cases of murder, drugs and aggression against state security (all of which may carry the death penalty or life imprisonment).
<b>Presumption of innocence</b>	According to the law, every defendant is innocent until proven guilty. However in practice, the investigation often begins with the opposite assumption, particularly in cases involving spying.
<b>Right to adequate legal assistance</b>	According to the law, the right to a legal defence is guaranteed. Free legal assistance is available for indigent defendants, but is not funded by the state. Legal aid is provided by volunteer lawyers, or through the committee of legal aid funded by the Lawyers' Syndicate (bar association), which appoints lawyers at the request of the court. Volunteer lawyers are not paid any fees. They receive a nominal amount for transport. This leads, in many cases, to a lack of due care. Lawyers are allowed to meet their clients prior to trial in special rooms (glass or iron barriers between them, where they speak through a fixed telephone line). Although the law allows the defence lawyer to cross examine witnesses, the law does not allow the lawyers to contact witnesses outside the courtroom.
<b>Trial procedure</b>	The Lebanese judicial system does not include trial by jury. Death sentences are issued by judges.
<b>Right to a public hearing</b>	Courtrooms are open to the public and the media, except trials of minors and cases which the court decides, either by itself or upon request, to conduct <i>in camera</i> in the interest of public order or social morality (Article 249 of the Law of Criminal Procedures). All verdicts are declared in a public session. Sentences are available to the public, and can be accessed through the courts.
<b>Right to an interpreter</b>	Courts are required to appoint an interpreter for a defendant who does not speak Arabic, so as to ensure communication between the judge and the defendant at all stages of the case. The interpreter is placed under oath to carry out his task in all honesty. Moreover, if the defendant is deaf or dumb and does not write, the court is required to seek help by a person who can communicate with him by sign language  (Article 254 of the Law of Criminal Procedures).
<b>Independence of the judiciary</b>	The laws contain several texts asserting the independence and impartiality of the judicial system. However, bribery and political pressures are common concerns.

<b>Right to appeal</b>	Sentences issued by criminal courts are subject to appeal before the Court of Appeal (Articles 171 and 328 of the Law of Criminal Procedures), which consists of a panel of three judges. A decision of the Appeal Court can be appealed to the Court of Cassation (Supreme Court). Sentences issued by the permanent Military Court may be appealed before the Military Court of Appeal (Article 71 of the Law of Military Justice and Article 171 of the Law of Criminal Procedures), which consists of a panel of three military judges (predominately soldiers who do not necessarily have any legal training). The decision of the Military Court of Appeal can not be appealed. An appeal must be submitted within 15 days of the issue of the sentence (Article 316 of the Law of Criminal Procedures and Article 80 of the Law of Military Justice). Death sentences are not implemented until the appeal has been fully considered.
<b>Military justice system</b>	There is a separate military judicial system according to the Law of Military Justice No 24 of 13 April 1968 which deals with crimes by and against military personnel and crimes against state security. It has the jurisdiction to sentence people to death or life imprisonment. The military courts consist of five judges, including four who are soldiers and not necessarily legally trained. The UN Human Rights Committee expressed in its review of Lebanon in 1997 concerns 'about the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians. It is also concerned about the procedures followed by these military courts, as well as the lack of supervision of the military courts' procedures and verdicts by the ordinary courts.' <sup>41</sup>
<b>5. Kingdom of Morocco</b>	
<b>Presumption of innocence</b>	Moroccan law guarantees that every accused person has the right to be presumed innocent until proven guilty (Article 1 of the Law of Criminal Procedure).
<b>Right to adequate legal assistance</b>	The right to legal assistance is guaranteed in Morocco (Articles 316 of the Law of Criminal Procedure). Legal aid is available for indigent defendants at all stages of the case.  Article 73 of the Law of Criminal Procedure provides that the accused's lawyer also has the right to attend the interrogation. He also has the right to request a medical examination of his client and to present documents or written evidence on his behalf. He may also apply for his release on bail by financial or personal guarantees, if the matter is concerned with follow up on a crime.  Article 421 of the Law of Criminal Procedures provides that the defendant's lawyer has the right to contact his client freely. He may have access to all contents of the case file and obtain at his expense copies of its documents.
<b>Trial procedure</b>	The Moroccan judicial system does not include trial by jury. Death sentences are issued by judges.
<b>Right to a public hearing</b>	Court rooms are open to the media, the public and observers. However sentences are not made publically available.
<b>Right to an interpreter</b>	A defendant who does not speak the language used by the court (Arabic) is entitled to receive free assistance through an interpreter (Article 317 of the Law of Criminal Procedure). The defendant, the Attorney General, or the officer in charge of civil rights may reject the interpreter at the time of his appointment, explaining the reasons for their rejection. The court decides on the rejection request; its decision is not subject to appeal. If the defendant is deaf or dumb, the process of the trial must be altered in such a way that enables him to follow the trial satisfactorily.
<b>Independence of the judiciary</b>	The Law of Criminal Procedure guarantees independence and impartiality of the judiciary; however that is not always the case, especially in cases concerning freedom of expression.
<b>Right to appeal</b>	Morocco guarantees the right to appeal a death or life sentence (Article 457 of the Law of Criminal Procedure) to the Criminal Appeal Chamber. This Chamber is formed of a President of Chamber and four Counsels who had not taken part in considering the case. The appeal is heard in the presence of a representative of the Attorney General, and with the help of the Clerk to the Court. An appeal should be submitted within ten days of a sentence being handed down. The death penalty will not be implemented while an appeal is pending.

41 UN Human Rights Committee, *Concluding Observations: Lebanon*, 5 May 1997, CCPR/C/79/Add.78.

<b>6. Tunisian Republic</b>	
<b>Presumption of innocence</b>	Tunisian law guarantees that every accused person has the right to be presumed innocent until proven guilty.
<b>Right to adequate legal assistance</b>	Article 141 of the Law of Criminal Procedures states that the appointment of a lawyer in capital cases or cases where a life sentence may be imposed is obligatory. If the defendant has not appointed a lawyer to defend him or herself, the court must appoint a lawyer for him. The lawyers appointed are independent. However, it is known that in political cases under the previous regime, it was customary to curtail the activity of the defence lawyer.
<b>Trial procedure</b>	The Tunisian judicial system does not include trial by jury. Death sentences must be issued by a majority of four judges (Article 162 of the Law of Legal Procedures).
<b>Right to a public hearing</b>	The courts are open to the media, the public and/or independent observers. Some verdicts are published in specialised legal publications, but most of them are stored in courts' archives which are accessible to the public.
<b>Right to an interpreter</b>	A defendant who does not speak Arabic must be provided with an interpreter free of charge (Article 66 of the Law of Criminal Procedures). This is done in practice right from the beginning of investigations.
<b>Independence of the judiciary</b>	According to the national report submitted in 2012 to the UN Human Rights Council in relation to its Universal Periodic Review, the Tunisian government states that the existing legal provisions regulating the juridical, administrative and financial aspects of the judiciary do not provide the necessary guarantees to establish an independent judiciary in accordance with accepted international standards and criteria. Article 22 of constituent law no. 6/2011 (16 December 2011) on the provisional organisation of public authorities, stipulates that the National Constituent Assembly (NCA) shall be charged with enacting basic laws to reorganise the judiciary, restructure the juridical, administrative and financial aspects of the higher judicial councils, and define the principles of and reform the judicial system in accordance with international standards of judicial independence. Concerted efforts are being made by public authorities, in consultation with the judiciary, political parties and components of civil society, to draft new legal provisions to ensure the real independence of the judiciary in order to protect the rights of litigants and the freedoms of the individual. <sup>42</sup>
<b>Right to appeal</b>	Sentences of death or life imprisonment are subjected to appeal before the Court of Appeal (Article 223 of the Law of Legal Procedures). The review of death sentences is mandatory. The Public Prosecutor is required to transfer the files to the Court of Appeal and later to the Court of Cassation if the decision of the tribunal of first instance is upheld (Article 223 of the Penal Procedures Code). The Court of Appeal has made it mandatory to give a person sentenced to death a psychiatric examination in order to confirm his sound health and his legal responsibility. A decision of the Court of Appeal can be appealed to the Court of Cassation on matters of law only. The Court of Cassation gives priority to death penalty cases. If the Court of Cassation overturns the Court of Appeal's decision, the accused will be retried by another court of appeal or the same one, with different judges. Defendants can appeal the decisions of the military tribunals before the Military Court of Cassation. The death penalty will not be implemented while an appeal is pending.
<b>Military justice system</b>	A separate military judicial system deals with military personnel charged with offences that may incur the death penalty or life imprisonment.

<sup>42</sup> National report (Tunisia) submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 30 March 2012, A/HRC/WG.6/13/TUN/1, paras. 47, 49 and 50.

<b>7. Republic of Yemen</b>	
<b>Presumption of innocence</b>	Yemeni law guarantees that every accused person has the right to be presumed innocent until proven guilty.
<b>Right to adequate legal assistance</b>	According to Article 9 of the Law of Criminal Procedures the right to a legal defence is guaranteed. The state provides indigent defendants with lawyers to defend themselves from among a group of approved lawyers. The lawyer, whether appointed by the court or the defendant, has the right to cross examine witnesses and confirm their testimonies in accordance with Article 170 of the Law of Criminal Procedures. A lawyer also has the right to make or present all requests, answers, defences, documents and final presentations. He has the right of reply to all claims and requests made by the Attorney General or the other party. The lawyer also has the right to meet their clients at court during the proceedings, and before or after the trial in the court room. They also have the right to visit them in prison during the normal visiting times announced by the prison officer.
<b>Trial procedure</b>	There are no jury trials in Yemen and, reportedly, a criminal case can be tried before a single judge. <sup>43</sup>
<b>Right to a public hearing</b>	Hearings are open to the public unless the court decides to hold some or all sessions <i>in camera</i> , and so long as the court room can accommodate the members of the public wishing to attend (Article 263 of the Law of Procedures). In the exceptional courts, State Security courts, the media are required to have special permits to attend and such permits are rarely, if ever, given. In all cases, the sentence must be announced in a public session; however, members of the public may not obtain a copy of the sentence unless they have some specific interest or capacity in the case.
<b>Right to an interpreter</b>	Article 335 of the Law of Procedures provides that the court must provide an interpreter if the defendant or any witness does not speak Arabic. The defendant or the Attorney General may request the dismissal of the interpreter, provided they explain their reasons (Article 336 of the Law of Procedures). The interpreter may not be chosen from among the witnesses or members of the court considering the case. In practice, most defendants tried in provincial capitals are given interpreters; however, where a trial is conducted in a remote location, interpreters are not always provided in practice.
<b>Independence of the judiciary</b>	<p>Despite the fact that Yemeni Law asserts the independence of the courts and has placed them under judicial inspection by the Ministry of Justice, the Supreme Court and the Supreme Judicial Council, which is the highest judicial authority in Yemen, there remain some concerns about the independence of both the courts of first instance and the appeal courts. In particular, the executive authority remains in control of the administration of the judicial authority, including salaries, appointments, transfer and privileges, which compromises the independence and impartiality of the courts.</p> <p>The UN Committee against Torture<sup>44</sup> has expressed some concerns at the reported lack of efficiency and independence of the judiciary, despite the existence of constitutional guarantees and the measures taken to reform the judicial branch, including in the context of the national strategy for the modernisation and development of the judiciary (2005–2015). In this respect, the Committee has been concerned at reports of interference by the executive and lack of security of tenure of judges.</p>

43 US Department of State, 2009 Human Rights Report: Yemen, Denial of Fair Public Trial, 11 March 2010.

44 UN Committee against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention, Concluding observations of the UN Committee against Torture: Yemen, 25 May 2010, CAT/C/YEM/CO/2/Rev.1, para. 17.

<b>Right to appeal</b>	All death or long-term sentences in Yemen are subject to appeal by the Court of Appeal. The appeals court may consider questions of law and fact. Article 421 of the Law of Procedures provides that an appeal must be submitted to the clerk to the court that has issued the sentence or the appeal court within 15 days of the date of the sentence. If a sentence that is subject to appeal is given in absentia, the period allowing an appeal to be submitted starts on the date when he gives himself up or his arrest. Decisions of the appeals court may be appealed to the Supreme Court, which considers only questions of procedure, jurisdiction, law and law as applied to the facts as established by the lower courts. In all death sentences, whether issued by the court of first instance or those confirmed by the Court of Appeal, must be referred to the Supreme Court by the Attorney General, coupled with a memorandum explaining why the Attorney General continues to request the death sentence. This review is compulsory whether or not the parties appeal the initial decision (Article 434 of the Law of Procedures). The death penalty will not be implemented while an appeal is pending (Article 470 of the Law of Procedures).
<b>Military justice system</b>	There is a separate military judicial system according to Law No 21 of 1998 concerning military crimes and punishments. It has the jurisdiction to sentence people to death or life imprisonment.

**Table 11: Procedures for clemency**

<b>1. People's Democratic Republic of Algeria</b>	<p>The President has the power to grant pardons and commutations (Article 77(9) of the Constitution). No execution may take place until a request for a pardon has been refused (Article 155 of the Code on the Organisation of Prisons and the Social Reintegration of Prisoners), but a death-sentenced person may only be notified of the rejection of a clemency request at the time the execution is to take place (Article 156 of the Code on the Organisation of Prisons and the Social Reintegration of Prisoners).</p> <p>In its report to the UN Human Rights Committee, Algeria stated that 'in recent years, hundreds of people given a final death sentence have had their sentence commuted to life imprisonment'.<sup>45</sup></p> <p>In 2001, 215 persons sentenced to death had their sentences commuted to life imprisonment, and 15 of them had their sentence reduced to 20 years' imprisonment because they were elderly.<sup>46</sup> In March 2006, the President pardoned 200 prisoners sentenced to death.<sup>47</sup></p>
<b>2. Arab Republic of Egypt</b>	<p>Article 149 of the Constitution grants the President of the Republic the right to pardon, commute or reduce a sentence. Article 470 of the Law of Criminal Procedures provides that when a death sentence has become final, all documents of the case must be immediately referred to the President of the Republic, or whoever the President assigns to the task, through the Minister of Justice. The President of the Republic or his assignee may exercise clemency and issue a pardon or a reduction of the sentence. The President may also permit the sentence to become confirmed by expressing no position within 14 days of receiving the final sentence for consideration.</p> <p>It is not known how many people have been granted clemency or a pardon in Egypt for a death penalty applicable offence.</p>

<sup>45</sup> UN Human Rights Committee, *Examination of Reports Submitted by States Parties under Article 40 of The Covenant*, Third periodic report, Algeria, 7 November 2006, CCPR/C/DZA/3, para. 269.

<sup>46</sup> UN Committee against Torture (CAT), *Consideration of reports submitted by states' parties under Article 19 of the Convention against Torture: Algeria*, 10 February 2006, CAT/C/DZA/3, para. 79.

<sup>47</sup> Mona Chamass, *Fighting against the death penalty in the Arab world*, World Coalition against the Death Penalty, February 2010, p. 9.

<p><b>3. Hashemite Kingdom of Jordan</b></p>	<p>The legislature can issue a ‘general pardon’ which erases the criminality of the act (Article 50 of the Penal Code). The King may issue a ‘special pardon’. In all cases, the Attorney General presents his observations on the appeal for clemency together with the legal point of view. A pardon application is reviewed by a Council of Ministers, and any pardon must include the Council’s recommendation (Article 51 of the Penal Code). Submitting an application for clemency does not automatically halt an execution. The application must be submitted before the King ratifies the death warrant. If granted, clemency is a ‘special pardon’, which includes either a reduction or suspension of the punishment.</p> <p>For military personnel and sentences given by military courts, the army Commander-in-Chief has the authority to reduce punishment or issue a partial or total pardon.</p> <p>It is not known how many people have been granted clemency or a pardon in Jordan for a death penalty applicable offence.</p>
<p><b>4. Lebanese Republic</b></p>	<p>Anyone who has been sentenced to death may apply for a special pardon, which can only be granted by the President.</p> <p>It is not known how many people have been granted clemency or a pardon in Lebanon for a death penalty applicable offence.</p>
<p><b>5. Kingdom of Morocco</b></p>	<p>Clemency pleas are automatically submitted by the Office of the Public Prosecutor. No person sentenced to death may be executed before his or her clemency request has been denied. The prerogative of clemency is exercised by the King (Article 34 of the Constitution and Article 53 of the Penal Code). The King receives an advisory opinion prepared by a clemency committee, which is composed of the Minister of Justice, the Head of the Royal Office, the Chief Justice of the Supreme Court, the Chief Prosecutor, the Director for Criminal Matters and Clemency, and the Director of Prisons (Article 10 of the Moroccan Royal Decree on Clemency). Appeals can be submitted by the prisoner or their family.</p> <p>Pardons are often linked to national or religious celebrations. In 2005, on the 50th anniversary of Morocco’s independence, the King commuted 25 death sentences. In 2008, just after the birth of the King’s daughter, he commuted 14 death sentences. In July 2009, to celebrate the tenth anniversary of his accession to the throne, the King commuted 32 death sentences.</p>
<p><b>6. Tunisian Republic</b></p>	<p>Clemency may be granted in Tunisia in two ways: through a special pardon and a general pardon. Both are mentioned in the Tunisian Constitution, which was suspended on 3 March 2011 to prepare a new constitution. The general pardon is granted by the parliament. The special pardon is granted by the President of the Republic. All death sentences must be automatically sent by the Public Prosecutor to the President for approval, who may grant a pardon or commute the sentence based on the advice given by the Minister of Justice and the Board of Pardons. The special pardon is used more often in practice. If a pardon is granted, the death sentence is generally commuted to life imprisonment. No execution can take place before a clemency plea has been denied.</p> <p>Under the military judicial system, no execution can be carried out before a clemency plea is brought before the head of state by the Defence Minister (Article 43 of the Code of Military Justice).</p> <p>In 2005, for the 49th anniversary of the country’s independence, president Ben Ali pardoned some detainees, including three prisoners who had been sentenced to death and saw their sentenced commuted to life imprisonment. On 14 January 2012, all 122 death row inmates had their sentences commuted to life imprisonment.</p>
<p><b>7. Republic of Yemen</b></p>	<p>According to Article 79 of the Penal Code, a death sentence is not enforced unless it is ratified by the President. According to Article 480 of the Law of Criminal Procedures the President can replace the death sentence with another punishment, such as life imprisonment, or pardon the sentenced person. However, for retributive punishments (such as for murder), the prerogative of mercy might be vested in the victim’s family, not the executive (Articles 48, 50–51 of the Decree Concerning Crimes and Penalties).</p> <p>It is not known how many people have been granted clemency or a pardon in Yemen for a death penalty applicable offence.</p>

## Chapter five: Implementation of the death penalty and life imprisonment

**Table 12: Prison regime and conditions**

<b>1. People's Democratic Republic of Algeria</b>	
<b>Number of prisoners on death row</b>	Exact statistics on the number of prisoners on death row in Algeria is unavailable; however researchers were able to estimate that there were approximately 766 death row inmates in 2011, including at least three foreign nationals (Moroccan, French/Algerian and Malian) and 19 women.
<b>Number of life sentenced prisoners</b>	The number of life sentenced prisoners in Algeria is unknown; however it is known that there are at least 23 foreigners serving life sentences; from Morocco, Mali, Nigeria, Sahara, Tunisia and French/Algeria.
<b>Where are death row / lifer inmates housed?</b>	Under Algerian law, death-sentenced prisoners are incarcerated in rehabilitation establishments, together with dangerous prisoners and inmates sentenced to more than five years' imprisonment (Article 28(1)(3) of the Code on the Organisation of Prisons and the Social Reintegration of Prisoners), where they are supposed to be held in high security wings (Article 152 of the Code on the Organisation of Prisons and the Social Reintegration of Prisoners). The law provides that death-sentenced prisoners are to be incarcerated in individual cells for their first five years in prison. Lifers are required to be incarcerated in individual cells for the first three years of their sentence. Afterwards they may share cells with other death-or life-sentenced prisoners during the daytime (Article 153 of the Code on the Organisation of Prisons and the Social Reintegration of Prisoners). Women sentenced to death are kept in the separate women's sections of the different penal institutions (Article 28 of the Law of Rehabilitation).
<b>Basic living conditions</b>	Prisons in Algeria are considered to be clean and meet the basic standards for living conditions required under international law. Each cell includes a toilet and water supply. Cleaning materials are provided. Article 153 of the Law of Rehabilitation requires that prisoners receive sufficient and nutritionally balanced food and drinking water.
<b>Access to medical care</b>	Medical treatment is available to prisoners at health facilities affiliated to the prison or, if necessary, in general hospitals. Psychological care can be undertaken by psychiatrists working for the penal institutions (Articles 58 and 91 of the Law of Rehabilitation).
<b>Rehabilitation and social reintegration programmes</b>	Prisoners sentenced to death or life imprisonment are entitled to receive education of all stages, to contact their families through letters, to receive visitors, have regular exercise, and have contact with the outside world through newspapers and television. Article 66 of the Law of Rehabilitation provides that every prisoner has the right to perform his religious practices and to be visited by a religious scholar or priest of his own faith. Those sentenced to life may pursue professional training.
<b>Monitoring of prisons</b>	The prisons in Algeria may be independently inspected and monitored by judges, as well as through visits by NGOs.
<b>Execution</b>	Executions in Algeria are not held in public. The execution is attended by the President of the judicial court that gave the sentence, a representative of the Attorney General's office, a representative of the Ministry of Interior, the lawyer of the sentenced person, the governor of the penal institution, the clerk of judicial records, a minister of religion and a medical doctor. The family of the executed person is informed after the execution has taken place, and they are informed of the place of burial.

<p><b>Conditional release for those sentenced to life or long-term imprisonment</b></p>	<p>To apply for conditional release, an application must be submitted to the Judge of Punishment Enforcement. The Judge opens a file for the applicant and refers the application to the Committee of Punishment Administration for comments. The file is then submitted to the Minister of Justice for decision (Articles 142 and 143 of the Law of Prisons). An assessment of the prisoner's readiness to reintegrate in society, his good conduct and remorse are undertaken (Articles 134 and 140 of the Law of Prisons).</p> <p>Those sentenced to life are prepared for release through the following activities:</p> <ul style="list-style-type: none"> <li>• Gradual enforcement of sentences, individual cells in the first three years before mixing with other prisoners.</li> <li>• Educational and vocational training.</li> <li>• Employment of personal skills in a beneficial ways.</li> <li>• Provision of in mental and physical healthcare.</li> <li>• Rehabilitation programmes for alcohol and drug addiction, if required.</li> <li>• Sport and entertainment activities.</li> </ul> <p>If released, there is a period of monitoring which extends for at least five years.</p>
<p><b>2. Arab Republic of Egypt</b></p>	
<p><b>Number of prisoners on death row</b></p>	<p>Exact statistics on the number of prisoners on death row are unavailable; however researchers were able to estimate that there were approximately 149 death row inmates in 2009, of which 31 are women.</p>
<p><b>Number of life sentenced prisoners</b></p>	<p>According to the latest available figures in Egypt (1995–2007), the total number of people sentenced to life imprisonment was 5,581 including 3,184 men and 2,397 women.</p>
<p><b>Where are death row / lifer inmates housed?</b></p>	<p>Reports indicate the Egypt is secretive about where death sentenced prisoners are held prior to confirmation of their sentence. When a death sentence is confirmed and execution is pending, a death-sentenced male is transferred to Itsi'naf prison (and a female may be transferred to a prison in Giza), where executions take place.</p>
<p><b>Basic living conditions</b></p>	<p>Little information is known about the basic living conditions of those on death row or serving a life sentence. The conditions often differ from one prison to another. In some prisons those sentenced to death or life are kept separate from the rest of the prison population as they are placed on a more restrictive regime, whereas in other prisons death row or life-sentenced prisoners may mix with the rest of the prison inmates. In some prisons they are housed in individual cells; in others they are in shared cells. Generally, prisons in Egypt have a number of problems, most notably overcrowding, a lack of appropriate health care, lack of ventilation, and inadequate nutrition and clean water.</p>
<p><b>Rehabilitation and social reintegration programmes</b></p>	<p>Article 71 of Law No. 396 provides that those sentenced to death or life may receive visits from representatives of their religion.</p>

<p><b>Monitoring of prisons</b></p>	<p>The Egyptian legislator has attempted to establish a number of bureaus and departments to monitor prisons and follow up on the implementation of legislations concerned with the rights of prisoners. This has included the establishment of the Bureau of International Cooperation, Sentence Enforcement and Welfare of Prisoners. This Bureau was established by decision No. 1884 of 1999 by the Attorney General (19 November 1999). Another example is the establishment of the Department of Human Rights in the Prisons Sector by Order No. 12814 of 2005 by the Minister of Interior. This Department is under the Directorate of Research and Planning in the Prisons Sector, and it receives complaints made by prisoners and the general public regarding human rights.</p> <p>The Office of the Public Prosecutor inspects prisons and custodial facilities in order to ensure compliance with orders issued by the Prosecutor-General. Inspections may be carried out by investigating judges in cases under their purview and by the courts. The Office also makes sure that no one is imprisoned or detained illegally and that different categories of prisoners, including children, are held in separate quarters and are afforded the treatment appropriate for their category. The Office of the Public Prosecutor has identified a number of irregularities during prison inspections, including overcrowding in prisons, lack of sufficient or suitable furniture and mattresses for prisoners, poor hygiene in some cases and inadequate ventilation.<sup>48</sup> According to the Government, measures are being taken to reduce the number of prisoners to levels consistent with the capacities of facilities and to create a programme of prisoner reform and welfare, together with support for prisoners' rights. These measures include: making more use of parole for prisoners with a record of good behaviour who have already served a portion of their prison sentence; promoting reconciliation processes, as an alternative to prison, to deal with minor offences; curbing the use of pre-trial detention; employing alternatives to imprisonment; and releasing prisoners on health grounds when no treatment is available at prison hospitals.</p>
<p><b>Execution</b></p>	<p>According to Article 473 of the Law of Criminal Procedures (and Article 65 of the Law of Prison Organisation), executions are carried out inside the prison, or in another confined place, by written request of the Attorney General. As this Article limits the places of execution to inside the prison or a confined place, it means that the execution is not carried out in public.<sup>49</sup> Executions are not to be carried out on official holidays or holidays related to the sentenced prisoner (Article 69 of the Law of Prison Organisation). Prisoners sentenced to death have the right to see their relatives the day before the execution takes place (Article 472 of the Law of Criminal Procedures and Article 70 of the Law of Prison Organisation). The law requires the prison to inform the prisoner of this right.</p> <p>Article 474 of the Law of Criminal Procedures (and Article 66 of the Law of Prison Organisation) provides that an execution must be attended by an assistant to the Attorney General, the prison governor, and the prison's doctor or another doctor. No one else may attend the execution except by special permission. However, a permission to attend must always be granted to the lawyer of the person sentenced to death. The precise wording of the sentence of death and the charge for which the sentence was given must be read out to the person sentenced, at the place of execution and in the hearing of those present. If the sentenced person wishes to make a statement, the assistant to the Attorney General shall officially write it down. When the execution has been completed, the Attorney General's assistant must issue a document, attaching the doctor's certificate of death and the time of death.</p> <p>The family of the person sentenced to death has the right to receive the body of the body and to bury it. They must put in a request to the prison for the body, and that request must be agreed to by the prison management. If no family member requests the body of the executed person, the prison management will bury the body at its own cost (Article 477 of the Law of Criminal Procedures and Article 72 of the Law of Prison Organisation).</p>
<p><b>Conditional release for those sentenced to life or long-term imprisonment</b></p>	<p>Conditional release is by order of the Director General of Prisons, and in line with the rules of the internal regulations.</p>

<sup>48</sup> National Report (Egypt) submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1, 16 November 2009, A/HRC/WG.6/7/EGY/1, p. 12

<sup>49</sup> Recently, a member of parliament proposed a bill requiring the execution of criminals found guilty of raping females to be made in public and to be shown on television. This bill was supported by religious scholars, but opposed by legal experts and human rights activists.

<b>3. Hashemite Kingdom of Jordan</b>	
<b>Number of prisoners on death row</b>	There are 95 death row inmates in Jordan, including 16 foreign nationals (2 Iraqis / 1 American / 3 Syrians / 4 Palestinians / 4 Egyptians / 2 Bengalis) and eight women.
<b>Number of life sentenced prisoners</b>	Unknown.
<b>Where are death row / lifer inmates housed?</b>	<p>All those who have received a death sentence are housed in al-Suwaqa Centre of Reform and Rehabilitation in the town of al-Qatranah. In most cases, those sentenced to death are not separated from the other prisoners. However, two weeks prior to their execution they are placed in solitary confinement. Women under sentence of death are held at the Women's Centre for Correction and Rehabilitation in Juwaida prison.</p> <p>Prisoners sentenced to life imprisonment are held in all prison facilities with other prisoners serving long or short-term sentences, and share cells with other prisoners.</p>
<b>Basic living conditions</b>	Prisoners who are sentenced to death or life imprisonment have all the rights and facilities given to other prisoners. Prisons in Jordan lack adequate food, water, healthcare, sanitation and visitation facilities. Conditions for women are generally better than those for men.
<b>Access to medical care</b>	Physical and mental healthcare needs of prisoners are not fully provided for. According to the national report submitted to the UN Human Rights Council for Jordan's Universal Periodic Review in 2009 <sup>50</sup> , all prisoners have been vaccinated against hepatitis at a total cost to the Ministry of Health of JD 47,000. Some psychological care is provided for death row inmates.
<b>Rehabilitation and social reintegration programmes</b>	<p>A number of prisoners have been allowed to carry on with their education. Work is permitted within the limited opportunities available in some prisons (this can include manual work, animal husbandry and horticultural activities). Social interaction, such as family visits and contact with the outside world, is permitted for all prisoners. Inmates are allowed physical exercise within the available prison facilities.</p> <p>According to its national report submitted to the UN Human Rights Council in relation to Jordan's Universal Periodic Review in 2009<sup>51</sup>, prison libraries were supplied with foreign language titles for foreign prisoners, in addition to new books. Prisoners pursuing higher studies are allowed to have books and reference sources brought into prison and to prepare for their studies.</p>
<b>Monitoring of prisons</b>	Conditions in prisons and conditions of prisoners may be independently monitored by the National Centre for Human Rights and a number of national and international civil society organisations (International Committee of the Red Cross, the National Centre for Human Rights, Human Rights Watch, civil society institutions, members of the Public Prosecution department and judges). Judicial inspections of detention and reform centres have been stepped up to ensure that no one is being detained there illegally and to verify the treatment afforded to prisoners. <sup>52</sup>
<b>Execution</b>	<p>Executions take place at the al-Suwaqah Centre for Reform and Rehabilitation in the 'Execution Theatre'. Executions are not carried out in public, but are carried out in the presence of a special committee of six persons: the Attorney General at the High Criminal Court if the sentence was passed by a civilian court or the Military Attorney General if the sentence was passed by a military court or a court of State Security, or his representative; the Officer of the area; the Director of the Centre for Reform and Rehabilitation; the Forensic Medical Officer; the Mufti of the area or a religious preacher of the same faith as the person to be executed; and the Clerk to the Court.</p> <p>The family is informed after the execution. They are given the body for burial if they request it. If not, the body is buried by the prison at its own cost, and the family will be informed of the place of burial.</p>

50 National report (Jordan) submitted in accordance with paragraph 15(A) of the annex to Human Rights Council Resolution 5/1, 9 February 2009, A/HRC/WG.6/4/JOR/1, p. 11.

51 Ibid, p. 11.

52 Ibid, p. 8.

<p><b>Conditional release for those sentenced to life or long-term imprisonment</b></p>	<p>There are no guidelines or official requirements to be taken into consideration for approving a request for early release of a prisoner. It is subject to the discretion of the prison management and the Minister of Interior.</p> <p>The Directorate of Reformation and Rehabilitation Centres has started a programme to prepare prisoners with long sentences for release. The programme is called <i>Tahyi'ah</i> which means preparation. Started in November 2009, this programme aims to prepare inmates who have spent a long time in prison for the post-release period. It focuses on this group of inmates to prepare them psychologically, socially and health-wise to re-join their families and make a new start in life. It also aims to reduce the psychological effects of imprisonment as much as possible. The programme includes the following course: education, psychological guidance, social guidance, religious guidance, full medical examination, financial assistance, visitations and phone calls to the inmate's family, and group therapy. The programme was started at the Umm al-Loulou Reformation and Rehabilitation Centre, and is still being gradually implemented in other centres. As such it is still in the experimental stage, and has not been applied systematically for lifers. The programme was set up in accordance with Article 4 of the Law of Reformation and Rehabilitation Centres of 2004.</p>
<p><b>4. Lebanese Republic</b></p>	
<p><b>Number of prisoners on death row</b></p>	<p>Exact statistics on the number of prisoners on death row is unavailable, however researchers were able to estimate that there are approximately 55 death row inmates in 2011,<sup>53</sup> including at least 12 foreign nationals (from Bangladesh, Egypt, Syria, Mauritania and Sri Lanka) and one woman.</p>
<p><b>Number of life sentenced prisoners</b></p>	<p>In Lebanon, according to the General Directorate of Public Security in October 2010, there were 71 people serving a life sentence, including two women.</p>
<p><b>Where are death row / lifer inmates housed?</b></p>	<p>Prisoners on death row and those serving a life sentence are either housed in Building A of the Rumiyyah prison (near Beirut), or in the Tripoli prison. Women are likely to be held in separate facilities in Tripoli prison.</p>
<p><b>Basic living conditions</b></p>	<p>Due to problems of overcrowding in all Lebanese prisons (Rumiyyah prison is believed to be at double its capacity), those sentenced to death or life imprisonment are not placed in individual cells, unless as a disciplinary measure. The food provided by the prison service is generally of low quality. Most prisoners rely for food on what their visitors bring them. Additionally, a sum of money may be deposited for the prisoner with the cafeteria of the prison, so that the prisoner can buy food from it. Generally services provided for prisoners are poor.</p> <p>Other problems, often linked to prison overcrowding, include unsanitary conditions, lack of bedding, serious restrictions of daily exercise, inadequate visitation facilities, and inadequate medical and mental health facilities.</p> <p>According to Lebanon's official report submitted to the Human Rights Council for its Universal Periodic Review in 2010, the executive branch is attending to the problems of overcrowding, and has established a ministerial committee to find solutions to the situation.<sup>54</sup> New measures are also apparently being developed to improve and promote humane living conditions in Rumiyyah prison. Primarily, these include the distribution of a booklet setting out the rights and duties of detainees and convicts.</p>
<p><b>Rehabilitation and social reintegration programmes</b></p>	<p>A small library is available in Rumiyyah prison. There are workshops in the buildings which prisoners can work in. The objects they produce are sold through organisations with the profit going directly to the prisoners. Although those sentenced to death can have visits with their family, Rumiyyah prison is the only prison which provides facilities for prisoners to meet their family without barriers between them. There is no gym in the prison, but the prisoners are permitted to walk in the internal prison yard. Religious needs are satisfactorily met, as religious scholars and priests are allowed to visit the prison and meet with the prisoners.</p>

53 Death Penalty Worldwide database: Lebanon, [www.deathpenaltyworldwide.org](http://www.deathpenaltyworldwide.org), accessed 1 March 2012.

54 National report (Lebanon) submitted in accordance with paragraph 15(A) of the annex to Human Rights Council Resolution 5/1, 23 August 2010, A/HRC/WG.6/9/LBN/1, para. 34.

<b>Monitoring of prisons</b>	Prison inspections can be undertaken by judges, and the International Committee of the Red Cross. <sup>55</sup>
<b>Execution</b>	<p>The decree of enforcement of the sentence specifies the place of execution. This may include the prison yard, a square in the city, the location of the crime, or another place. The execution may be in public or not, as determined by the decree of enforcement.</p> <p>According to Article 421 of the Rules of Criminal Trials, the execution should be attended at a minimum by the President of the Court that gave the sentence. If he cannot attend, the President of the Court of Appeal appoints a judge to attend. It is also attended by the Attorney General at the court that gave the sentence or one of his assistants; a judge from the civilian court of the first degree in the area of the execution; the clerk to the court that gave the sentence, the lawyer of the sentenced person; a religious priest of the same denomination as the person to be executed; the prison governor; the Commander of the Judicial Police in Beirut or a person he appoints to deputise for him, or the commander of the gendarme in the area of the place of execution or whoever deputises for him; and the prison doctor or a forensic medical officer in the area.</p> <p>The family of the executed person are informed about the execution beforehand, and normally they are given the body to bury.</p>
<b>Conditional release for those sentenced to life or long-term imprisonment</b>	<p>The procedure requires the prisoner to submit an application to a special committee who assesses whether the prisoner is a person of good character and conduct and that, in light of his psychological, mental, physical health and social conditions, his release would not represent a danger to himself or others. The Committee makes its comments before referring the application to a special appeal court in Beirut. The court gives a ruling on the application according to the case in question.</p> <p>In most cases, life-sentenced prisoners are not properly prepared for release.</p>
<b>5. Kingdom of Morocco</b>	
<b>Number of prisoners on death row</b>	There are approximately 103 death row inmates in Morocco including three foreigners (an Algerian holding French nationality, a Moroccan with French nationality, and an Algerian).
<b>Number of life sentenced prisoners</b>	Morocco had, as of 2009, approximately 3,500 prisoners serving a life sentence, including 170 women.
<b>Where are death row / lifer inmates housed?</b>	<p>Article 142 of Law No. 98/23 provides that once a death sentence has been issued, the prisoner must be transferred to a special wing of a detention centre. In practice, the special wing is at the Kenitra Central Prison, approximately 130 km north of Casablanca.</p> <p>There are no dedicated facilities for death-sentenced women, who are housed together with other detainees in prisons across the country.</p> <p>People sentenced to life imprisonment are held in prisons run by the General Directorate of Prisons. They are placed in prisons known for holding prisoners with long prison sentences, such as the central prison at Kenitra and the local prison at Asfi.</p>

55 Ibid, para. 39.

<p><b>Basic living conditions</b></p>	<p>Moroccan law provides a special detention regime for death row inmates (Articles 142–145 of the Decree Implementing the Law on the Organisation of Penitentiary Institutions). Immediately after sentencing, death-sentenced prisoners are transferred to specially designed facilities, where they must be detained in individual cells. However, with the increase in numbers of those on death row, each cell, which used to house one individual, now holds 3–4 prisoners. The prison is managed by the General Management of Prisons which is under the First Ministry (originally it was under the Ministry of Justice).</p> <p>In practice, prison conditions for death row inmates are a long way from meeting international standards. The last major study on death row conditions, conducted in April 2005 by the Observatory of Moroccan Prisons (Observatoire marocain des prisons), concluded that death row inmates lived in unacceptable conditions. Reports indicate that prisons are unsanitary, allow abusive treatment, do not provide adequate nourishment, do not provide adequate medical treatment, and suffer from extreme overcrowding.</p> <p>The general conditions in the prison apply to all prisoners, including those sentenced to death. Chapter 13 of the Law No. 98/23 provides that detained people should be given varied food, but in practice, the food is poor in quality and quantity. It should be mentioned that the families of the prisoners bear the burden of feeding them by bringing food into the prison when they visit. Food cannot be sent in the post. Prisoners who are poor or not visited by their families suffer from inadequate nutrition.</p> <p>Lifers serve their sentence in the same basic living conditions as other categories of prisoner. People sentenced to life imprisonment suffer from the problems common to Moroccan prisons: poor conditions and overcrowding.</p>
<p><b>Access to medical care</b></p>	<p>Chapter 13 of the Law No. 98/23 that regulates prisons provides a number of safeguards in regard to health. However, reports and visits to prisons confirm that the number of health personnel (doctors and nurses) is insufficient. The same is the case with medicines.</p> <p>The mental health of death row prisoners is required to be closely monitored to prevent attempts at escape, suicide, or violence against others.</p>
<p><b>Rehabilitation and social reintegration programmes</b></p>	<p>Article 143 of Law No. 98/23 provides that all people sentenced to death must be given special attention in order to monitor their psychological conditions, and ensure that they do not attempt escape, suicide or cause harm to others. The law prohibits revealing to a death row inmate that his judicial appeal has been denied, purportedly in order to spare him emotional suffering.</p> <p>Death row inmates may be allowed to enter into some occupation after consultation with the medical doctor and the social supervisor and after taking the necessary security measures. Programmes of education are not available to people sentenced to death. Education may be available to lifers, but only a small number of prisoners benefit from it. Recreation is provided in a yard in the wing of the prison for all prisoners.</p> <p>Article 144 of Law No. 98/23 provides that prisoners sentenced to death or lifer may receive visits from their family members. It should be noted that there has been a positive improvement regarding family visits for those sentenced to death. There are now facilities available for prisoners to have direct contact (without a separating window).</p> <p>Persons sentenced to death may also have contact with their defence lawyer (Article 80 of the Law of Prison Organisation). The prison management is required to take all necessary security measures to ensure that the visit goes peacefully.</p>
<p><b>Monitoring of prisons</b></p>	<p>The only independent monitoring of prisons may be undertaken by judges or NGOs. Between 2008 and 2011, more than 2,562 visits by NGOs, 2,907 visits by the judicial authorities, and 253 visits by provincial prison monitoring commissions were recorded.<sup>56</sup></p>

<sup>56</sup> National report (Morocco) submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 8 March 2012, A/HRC/WG.6/13/MAR/1, para. 40.

<b>Execution</b>	<p>Executions are carried out inside the detention institution where the person concerned is held, or at any other place the Minister of Justice decides (Article 603 of the Criminal Law). Therefore, an execution can only be carried out in public if the Minister of Justice decides.</p> <p>An execution is carried out in the presence of the following persons: 1) the head of the criminal court that gave the sentence, or a counsellor at this court chosen by the President of the appeals court; 2) a member of the office of the Attorney General appointed by the General Representative of the King at the appeals court that gave the sentence; 3) an investigation judge, or a judge at the court where the execution is to take place appointed by the president of that court; 4) a clerk at the court in the area where the execution is to take place; 5) the lawyer(s) of the sentenced person; 6) the governor of the detention institution where the execution is taking place, or the governor of the prison where the person was detained, when the execution is taking place somewhere else; 7) police or gendarme personnel assigned by the Attorney General; 8) the medical doctor at the detention institution, but if this is difficult, then a medical doctor appointed by the Attorney General; 9) an Imam; and 10) two competent witnesses. (If the sentenced person is a non-Muslim, then a representative of the religion to which he belongs may be present).</p> <p>The family of the executed person is notified after the execution has taken place, and informed of the place of burial.</p>
<b>Conditional release for those sentenced to life or long-term imprisonment</b>	While Lebanon provides some provisions for early conditional release, life-sentenced prisoners are not properly prepared for release.
<b>6. Tunisian Republic</b>	
<b>Number of prisoners on death row</b>	There are two men on death row in Tunisia. On 14 January 2012, all 122 death row inmates had their sentences commuted to life imprisonment; however, in May 2012, two new death sentences were issued, the first since the revolution.
<b>Number of life sentenced prisoners</b>	Unknown.
<b>Where are death row / lifer inmates housed?</b>	Those sentenced to death used to be housed at the civilian prison 9 April in Tunis. However they are now held at Mornaguia prison, to the south of Tunis. They are kept separate from other prisoners.
<b>Basic living conditions</b>	Prisoners on death row and those serving a life sentence receive the same treatment as other prisoners with regard to cleanliness, food, and other facilities. However, in most cases, conditions are of a low standard. Serious overcrowding in poorly ventilated cells, poor sanitary conditions, and inadequate opportunities for physical activity are prevalent. <sup>57</sup>
<b>Rehabilitation and social reintegration programmes</b>	Prior to the 2011 revolution, prisoners on death row were neither allowed to receive visits from family members nor to receive correspondence. On 16 February 2011, a measure was put in place to recognise the right of those on death row to receive visits and food from their relatives. <sup>58</sup> A delegation from Human Rights Watch that visited two prisons in early 2011 confirmed that death row prisoners had been denied visits by their family for more than 15 years.
<b>Monitoring of prisons</b>	Wishing to foster the independent oversight of prison institutions, it was decided after the 2011 revolution to allow international governmental bodies and national and international NGOs to carry out inspection visits to all Tunisian prisons, without exception. The Tunisian League for the Defence of Human Rights, Human Rights Watch, World Organisation against Torture and UN Office for the High Commissioner for Human Rights (OHCHR) were thus able to make inspection visits to prisons. This oversight contributes to the periodic oversight that is carried out by the sentencing judge, the Higher Committee for Human Rights and Basic Freedoms (CSDHFL) and the ICRC. <sup>59</sup>

<sup>57</sup> Human Rights Watch, *Tunisia: Prison Visit Ends 20-Year Ban*, 4 February 2011.

<sup>58</sup> National report (Tunisia) submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 30 March 2012, A/HRC/WG.6/13/TUN/1, para. 63.

<sup>59</sup> *Ibid.*, para. 78.

<b>Execution</b>	<p>Executions took place in the civilian prison 9 April in the capital, Tunis. Executions are required to be carried out in the presence of a representative of the Attorney General at the Court of Appeal, a judge of the court that gave the sentence, the clerk to the court, a forensic medical officer and the governor of the prison. Executions are not carried out in public.</p> <p>Article 47 of the Law of Military Proceedings and Punishments provides that sentences of death issued by the military courts should be executed in a place determined by the Minister of Defence. Executions are carried out in the presence of a member of the court that gave the sentence, the Attorney General, the official doctor, and the clerk to the court (Article 47 of the Law of Military Proceedings and Punishments).</p> <p>The family is informed that the execution has taken place, and is given the body for burial. Article 52 of the Law of the Civilian Status of 1956 provides that an execution should not be entered in the family's Book of Civilian Status, out of respect for the feelings of the relatives.</p>
<b>Conditional release for those sentenced to life or long-term imprisonment</b>	<p>There are no clear provisions in the law which set out the procedure for early conditional release; however in practice the procedures require a psychological assessment of the prisoner, and an assessment of the prisoner's file, which shows the extent of his interaction with rehabilitation programmes and his behaviour in prison.</p> <p>People sentenced to life imprisonment undergo a limited programme to prepare them for release.</p>
<b>7. Republic of Yemen</b>	
<b>Number of prisoners on death row</b>	<p>Exact statistics on the number of prisoners on death row is unavailable; however, the researchers were able to estimate that there were approximately 15 death row inmates in 2010. This figure includes some foreigners (mainly from Somalia, Ethiopia, Eritrea and Iran for drug related offences), and women (mainly for murdering their husbands).</p>
<b>Number of life sentenced prisoners</b>	<p>Unknown.</p>
<b>Where are death row / lifer inmates housed?</b>	<p>There is no specific prison for death row inmates. It is believed that those sentenced to death are held in Central Prisons (which exist in Sana'a, Al-Houdaida, Rada'a and possibly other locations), which are sometimes segregated into wards by gender. People sentenced to long prison sentences are held in the central reformatory institutions at the county level.</p>
<b>Basic living conditions</b>	<p>People sentenced to death are detained in individual cells under constant supervision in accordance with Article 35 of the Law of Prison Organisation No. 48 of 1991. The law requires that a prisoner sentenced to death should be given the same clothes, furnishings and food that are given to other prisoners (Article 64 of the regulations for the implementation of the Law of Prison Organisation). Generally speaking, conditions in prisons in Yemen are very poor, and do not meet international minimum rules for the treatment of prisoners. According to a Committee formed by parliament to visit prisons and learn about prisoners' conditions, the prisons are unfit for human use. It should be noted, however, that conditions at the Central Prison in Sanaa and, to some extent, the prisons of Aden and Taez, are slightly better than in other cities.</p> <p>Article 65 provides that when a person sentenced to death leaves his individual cell for any reason, he must wear handcuffs, but may not be put in handcuffs when inside his cell unless considered to be dangerous. There are other precautionary measures that must be taken in the treatment of prisoners sentenced to death, including a ban on any burning or combustible materials, or the use of sharp tools for any reason; their food is given to them in plastic plates and with plastic cutlery; they are not allowed to use any metal or glass articles; electric wiring must be kept safe at all times in their cells, and electric outlets should be beyond their reach.</p>
<b>Access to medical care</b>	<p>The same regulations that apply to all prisoners regarding health also apply to those sentenced to death. Chapter 5 of the Law of Prison Organisation addresses the health care of the prisoners. It requires the prison management to provide health-care in prison, treat those who are ill and provide preventive care and treatment for them, and appoint specialist medical doctors in collaboration with the Ministry of Health.</p>

<b>Rehabilitation and social reintegration programmes</b>	Chapter 4 of the Law of Prison Organisation addresses the issues of reform, rehabilitation and professional training of prisoners. Prisoners sentenced to death and life-imprisonment may go out of their cells to the inner yard of the prison for exercise for no more than one hour a day, at times decided by the prison management. The law guarantees all prisoners the right to worship according to his religion, as far as feasible. Relatives may visit the prisoner on the day before their execution (Articles 17 and 37 of the regulations for the implementation of the Law of Prison Organisation).
<b>Monitoring of prisons</b>	<p>In 2010, the Yemeni Parliament formed a select committee which visited some of the prisons in several districts. The Committee reported that most of the prisons visited, such as those of al-Hudaida and Ebb, were unfit for human use.<sup>60</sup></p> <p>The Department of Public Prosecutions (the Prosecutor-General) has overall responsibility for overseeing and inspecting prisons and that prosecutor's offices are established in central prisons in the different governorates following decree No. 91 of 1995. They may inspect places of arrest, detention and prison facilities. However, the UN Committee against Torture has raised concerns about the lack of systematic and effective monitoring and inspection of all places of deprivation of liberty, including the lack of regular and unannounced visits to places of detention by national and international monitors.<sup>61</sup></p>
<b>Execution</b>	<p>All execution orders must be ratified by the President. Executions are normally carried out in the Central Prison. The sentence and the charge against the condemned person must be read out at the place of execution. The execution is carried out in the presence of a member of the Attorney General's office, the clerk at the investigation office, a police officer, and the doctor in charge. The relatives of the victim and the prisoner's defence lawyer may also attend.</p> <p>The family of the executed person is notified of the time of execution. The relatives of the person sentenced to death may visit him on the day appointed for execution. If the relatives request the body for burial, it will be given to them. Otherwise the government buries the body at its own cost.</p> <p>With regards to a murder offence, the death sentence may not be carried out until the relatives of the victim have been notified about the execution (Article 481 of the Law of Criminal Procedures).</p>
<b>Conditional release for those sentenced to life or long-term imprisonment</b>	Article 506 of the Law of Criminal Procedures provides a prisoner with the chance of early conditional release after serving three quarters of his sentence so long as his conduct in prison was satisfactory. Such release is called 'release under condition'. There are directives and formal procedures for this conditional release, according to the Law of Criminal Procedures. A written request may be submitted to the Committee formed under the Law, which is headed by a member of the office of the Attorney General and includes the director of the penal institute, a representative of the Minister of Justice, and the director of social affairs (Article 96 of the Law of Criminal Procedure). The Committee then assesses the petition and gives its recommendations based on the following considerations: the prisoner's conduct during imprisonment; whether the prisoner has benefited from the programmes of vocational and social training; the period served in prison; whether the prisoner has fulfilled any financial commitments stated in his sentence; and whether his release would represent no danger to public security (Article 94 of the Law of Criminal Procedure). If granted, conditional release may include any conditions the Committee requests the released prisoner to abide by until his release becomes final at the end of the term of his imprisonment.

60 Interview with Muhammad al-Maqtari, a lawyer at the High Court, December 2010.

61 UN Committee against Torture, *Consideration of reports submitted by States parties under Article 19 of the Convention, Concluding observations of the Committee against Torture: Yemen*, 25 May 2010, CAT/C/YEM/CO/2/Rev.1, para. 10

Although the researchers have not been able to conclusively evaluate the exact number of prisoners on death row or those serving a life or long-term sentence, the available statistics show that there are at least 1,185 death row prisoners across the seven target countries. However, it is likely that this number is in reality much higher. There are at least 9,152 prisoners serving a life sentence in the region, but again that number will in reality be much higher as researchers were unable to form an estimate of the number of lifers in Algeria, Jordan, Tunisia or Yemen.

The prison conditions across the region for those on death row or serving a life sentence are reported to be well below international standards. Prison conditions are exacerbated by overcrowding across the region, which leads to facilities that are considered insanitary, lacking in appropriate medical facilities (including mental health facilities), inadequate nutrition or clean water, lack of ventilation, and inadequate cell space. Visitation facilities are often restrictive, and other out of cell activities severely limited.

While each country makes some kind of provisions for monitoring prisons – either through the Attorney General, by judges, or through local or international civil society such as the ICRC – none of the seven countries have a systematic national independent monitoring body, and only Lebanon and Tunisia have ratified the Optional Protocol to CAT, so the international Subcommittee on Prevention of Torture (SPT) has no jurisdiction to monitor prison conditions in the other five countries.

The system of early or conditional release for prisoners serving a life or long-term sentence lacks a strong legal basis in many of the seven target countries. The numbers of prisoners that benefit from early conditional release is small in comparison to the numbers of sentences of life and long-term imprisonment. Linked to this is the lack of rehabilitation and social reintegration programmes. Most countries in this study prefer to use the granting of general pardons by the King or the President as a method of early release, but such a pardon serves the interests of the political authority more than it promotes the system of criminal justice. Granting a pardon may be useful in some cases, but in most cases it strengthens the concept of loyalty to the government rather than the concept of serving the community and reforming offenders.

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## Chapter six: Availability of public statistics and transparency on the application and implementation of the death penalty and life and long-term imprisonment

**Table 13: Availability of statistics**

<b>People's Democratic Republic of Algeria</b>	Algeria publishes no statistical reports on the implementation of the death penalty or life imprisonment. Article 168 of the Law of Prison Organisation and the Reintegration of Prisoners in Society penalises anyone who publishes, or contributes to the publication of, data or documents related to the enforcement of the death penalty, apart from the document of the actual execution and the statement issued by the Ministry of Justice. However, there are no specific laws that make such information a state secret.
<b>Arab Republic of Egypt</b>	Egypt publishes no statistical reports on the implementation of the death penalty. Although there are no laws dealing with the confidentiality of statistics on the death penalty, access to such information is traditionally difficult, and in practice, even where the information is available the media do not publish it for fear of being harassed for doing so.  The Information Centre in the Ministry of Justice publishes a statistical report which references the sentences of life imprisonment given by the criminal courts.
<b>Hashemite Kingdom of Jordan</b>	Jordan publishes no statistical reports on the implementation of the death penalty or life imprisonment. However, under the Law of Access to Information, it is possible to access such information through the Ministry of Justice and the Directorate of Reformation and Rehabilitation Centres. Normally court rulings are published in the Magazine of the Lawyers' Syndicate and in the Judicial Magazine published by the Ministry of Justice. The Legislation and Opinion Bureau created a website ( <a href="http://www.lob.jo">www.lob.jo</a> ) containing the texts of existing laws and of draft laws due for enactment in Jordan, which citizens and visitors can access in order to submit comments on draft texts, in what constitutes a form of direct, popular participation. <sup>62</sup>
<b>Lebanese Republic</b>	Lebanon publishes no statistical reports on the implementation of the death penalty or life imprisonment. However, local civil society organisations do publish some statistics on the death penalty, including Death Penalty Lebanon ( <a href="http://www.deathpenaltylebanon.org">www.deathpenaltylebanon.org</a> ) and Amnesty International ( <a href="http://www.amnesty.org">www.amnesty.org</a> ).  Although there are no laws that make such information confidential or a state secret, Article 424 of the Law of Principles of Criminal Trials prohibits the publication in the media of any statement related to the enforcement of the death penalty, apart from the actual document prepared by the clerk of the court. Nevertheless, the press used to publish such information, including photos taken at the time of the execution, and no action was taken against the press for doing so.
<b>Kingdom of Morocco</b>	There are no laws that make such information confidential or a state secret, or that restrict the media from commenting on the death penalty. Some independent reports on the death penalty have been published by the Moroccan Prison Monitor on the website: <a href="http://www.omdp.org.ma">www.omdp.org.ma</a> .  Any available data on the implementation of life imprisonment is held by the General Directorate of Prisons, which publishes an annual statistical bulletin: <a href="http://www.dgapr.gov.ma">www.dgapr.gov.ma</a> .  No official opinion poll has been carried on the death penalty; however, a number of unofficial ones have been carried out by civil society. The best known of these is one published on the blog <a href="http://www.pienedemortagumaroc.over-blog.com">www.pienedemortagumaroc.over-blog.com</a> . The poll was conducted among the blog visitors, 834,629 in total, and found that 57 percent of respondents were against the death penalty.
<b>Tunisian Republic</b>	Tunisia publishes no statistical reports on the implementation of the death penalty or life imprisonment. There are no laws that make such information confidential or a state secret, or that restrict the media from commenting on the death penalty. Some court rulings are published in specialised publications.
<b>Republic of Yemen</b>	Yemen publishes no statistical reports on the implementation of the death penalty or life imprisonment. There are no laws that make such information confidential or a state secret, or that restrict the media from commenting on the death penalty. However, if the media do make a comment on a political or state security case, there is a risk of harassment. Sentences in political cases are in practice unpublicised. The High Court does have a website where cases can be followed: <a href="http://www.ysc.org.ye">http://www.ysc.org.ye</a> .

It should be noted that little interest is shown in the seven target countries in gathering or publishing official statistics concerning this group (death row and lifers) of prisoners.

<sup>62</sup> National report (Jordan) submitted in accordance with paragraph 15(A) of the annex to Human Rights Council Resolution 5/1, 9 February 2009, A/HRC/WG.6/4/JOR/1, p. 7.

## Chapter seven: Observations, recommendations and resolutions adopted by international human rights organisations concerning the death penalty and life/long-term imprisonment

**Table 14: Observations, recommendations and resolutions by international human rights bodies**

<p><b>People's Democratic Republic of Algeria</b></p>	<p>Following its Universal Periodic Review on 29 May 2012, the UN Human Rights Council made the following recommendations to Algeria<sup>63</sup>:</p> <ul style="list-style-type: none"> <li>• To take all necessary measures to abolish the death penalty.</li> <li>• To commute all death sentences to prison sentences.</li> <li>• To ratify the Second Optional Protocol to the ICCPR; the Rome Statute of the International Criminal Court; and the Optional Protocol to the Convention against Torture.</li> <li>• To promote measures and reforms to consolidate democracy and the rule of law.</li> <li>• To continue efforts to consolidate and deepen the judicial reform process.</li> <li>• To encourage efforts undertaken by the Government to increase the involvement of the civil society in the public sphere.</li> </ul> <p>The UN Human Rights Committee welcomed, in 2008, the moratorium on the death penalty, and the fact that Algeria considers itself to be a de facto abolitionist state.<sup>64</sup></p>
<p><b>Arab Republic of Egypt</b></p>	<p>Following its Universal Periodic Review on 17 February 2010, the UN Human Rights Council made the following recommendations to Egypt<sup>65</sup>:</p> <ul style="list-style-type: none"> <li>• To engage towards the abolition of the death penalty by adopting a moratorium; commuting all sentences already pronounced; reducing the number of death penalty applicable offences; that in all cases, the enforcement of the death penalty should be made in accordance with Article 6 of ICCPR; and to fully abolish the death penalty. Egypt did not support these recommendations, and declared its intention to retain the death penalty in response to the rising incidence of violence in society, and the deterrent nature of the punishment.</li> <li>• To thoroughly investigate all instances of the persecution of lawyers, members of the judiciary, human rights defenders, and journalists, for legitimate activities in the defence of human rights as well as lift restrictions within national legislation or practice that limit NGO registration and activity. Egypt did not support these recommendations considering them inaccurate or factually incorrect.</li> <li>• To ratify the Second Optional Protocol to the ICCPR; the Rome Statute of the International Criminal Court; and the Optional Protocol to the Convention against Torture. Egypt agreed to examine these recommendations; however, it would not ratify the Second Option Protocol to the ICCPR in light of its decision to retain the death penalty.</li> <li>• To respect the minimum standards relating to the death penalty: Egypt supported this recommendation, highlighting that this punishment is very rarely used, and is only given under the strictest judicial conditions, ensuring that all means of justice are guaranteed.</li> </ul> <p>In 2009, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged the Egyptian government to ensure that all cases involving terrorism, whether they are prosecuted in an ordinary criminal court or in a specialised court, are tried in strict compliance with each of the guarantees as spelled out in Article 14 of the ICCPR.<sup>66</sup></p> <p>In 2002, the UN Human Rights Committee noted with concern the very large number of offences which, under Egyptian law, are punishable by the death penalty and recommended that Egypt review the question of the death penalty in light of the provisions of Article 6 of the ICCPR.<sup>67</sup> In its follow-up response, Egypt explained how the infliction of the penalty is subject to numerous conditions and legal and constitutional procedures.<sup>68</sup></p>

63 UN Human rights Council, *Report of the Working Group on the Universal Periodic Review: Algeria*, 5 July 2012, A/HRC/21/13.

64 A/HRC/WG.6/1/DZA/2, 26 March 2008.

65 UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Egypt*, 26 March 2010, A/HRC/14/17.

66 *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, Mission to Egypt*, 14 October 2009, A/HRC/13/37/Add.2, para. 57.

67 CCPR/CO/76/EGY, para. 12

68 Comments by the Government of Egypt on the concluding observations of the Human Rights Committee (CCPR/CO/76/EGY/Add.1), para. 11.

<p><b>Hashemite Kingdom of Jordan</b></p>	<p>The UN Human Rights Committee has raised concerns about the excessive number of offences punishable by the death penalty as well as the number of death sentences, and recommended measures to be taken towards abolition of the death penalty.<sup>69</sup></p> <p>Jordan underwent its Universal Periodic Review on 11 February 2009, and the following responses and requests were made<sup>70</sup>:</p> <ul style="list-style-type: none"> <li>• The UK commended the establishment of a moratorium on the death penalty.</li> <li>• France asked how Jordan envisaged transforming the de facto moratorium into a de jure moratorium, and Ireland recommended that Jordan take further concrete steps to move quickly towards abolition.</li> <li>• Bosnia and Herzegovina asked whether Jordan intended to ratify the Second Optional Protocol to the ICCPR.</li> <li>• Chile recommended that Jordan harmonise national legislation with the standards and norms set out in the international human rights instruments ratified by Jordan.</li> <li>• Argentina noted the reduction of the list of crimes punishable by the death penalty as a step towards its abolition.</li> </ul> <p>The UN Committee against Torture, in its review of Jordan's second periodic report to the Committee, made the following recommendation<sup>71</sup>:</p> <ul style="list-style-type: none"> <li>• Jordan should promptly implement effective measures to ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention. These include, in particular, the right to have prompt access to a lawyer and an independent medical examination, to notify a relative, and to be informed of their rights at the time of detention, including about the charges laid against them, as well as to appear expeditiously before a judge. The State party should also take effective measures to ensure that 'lawyers' rooms' provide for the confidentiality of client-lawyer consultations.</li> <li>• The State party should continue to take effective measures to improve conditions in places of detention and to reduce overcrowding in such places, including through the application of alternative measures to imprisonment.</li> </ul>
<p><b>Lebanese Republic</b></p>	<p>Following its Universal Periodic Review on 10 November 2010, the Human Rights Council made the following recommendations to Lebanon, which Lebanon did not support<sup>72</sup>:</p> <ul style="list-style-type: none"> <li>• To introduce a de jure moratorium and abolish the death penalty.</li> <li>• To commute existing death sentences to imprisonment terms.</li> <li>• To ratify the Second Optional Protocol to the ICCPR.</li> </ul> <p>It should be noted that Lebanon's official report to the Human Rights Council for its Universal Periodic Review was unclear as to how the final step towards abolition would take place. Although it stated that the executive has for a number of years imposed an effective moratorium, on the question of abolition, it stated that the Ministry of Justice drafted and submitted a bill to abolish the death penalty in 2008 however 'divergent views remain to be reconciled.'<sup>73</sup></p> <p>In 2010, the UN Country Team for Lebanon reported that the occupancy level of prisons in Lebanon, based on official capacity, was around 140 percent. The lack of adequate facilities and services presented major obstacles for prisoners to access their basic rights. Due to inadequate space allocation at detention facilities, detainees convicted or accused of minor offences were not separated from those convicted of serious crimes.<sup>74</sup></p>

69 CCPR/C/79/Add.35, paras 8 and 14.

70 UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Jordan*, 29 May 2009, A/HRC/11/29.

71 UN Committee against Torture, *Concluding observations of the UN Committee against Torture, Consideration of reports submitted by states' parties under Article 19 of the Convention: Jordan*, 25 May 2009, CAT/C/JOR/CO/2.

72 UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Lebanon*, 12 January 2011, A/HRC/16/18.

73 National report (Lebanon) submitted in accordance with paragraph 15(A) of the annex to Human Rights Council Resolution 5/1, 23 August 2010, A/HRC/WG.6/9/LBN/1, para. 31.

74 UN Country Team on Lebanon submission to the Universal Periodic Review, para. 11, in *Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1: Lebanon*, 2 September 2010, A/HRC/WG.6/9/LBN/2, para. 24

<b>Kingdom of Morocco</b>	<p>Following its Universal Periodic Review on 22 May 2012, the UN Human Rights Council made the following recommendation to Morocco, which Morocco supported<sup>75</sup>:</p> <ul style="list-style-type: none"> <li>• To continue to implement the moratorium and continue to make efforts to abolish the death penalty.</li> </ul> <p>It also recommended that Morocco commute all death sentences to prison sentences and abolish, once and for all, the death penalty; however, this recommendation was not supported by Morocco.</p> <p>In 2011, the UN Committee against Torture noted with satisfaction that there was a de facto moratorium on the enforcement of death sentences, but expressed concern about the conditions under which prisoners were held on death row. It recommended that Morocco consider ratifying the Second Optional Protocol to the ICCPR with a view to abolition, and in the meantime, to maintain the moratorium; consider commuting death sentences; and ensure that all death row prisoners are treated humanely, and that, in particular, they are able to receive visits from their families and their attorneys.<sup>76</sup></p> <p>The Committee also recommended that Morocco continue its efforts to build new prisons and renovate existing ones; continue to increase the resources allocated to running the prison system; especially for food and medical care; and that it allow local and international observers to carry out regular, independent, unannounced and unrestricted visits to places of detention so that the prisons in Morocco could be brought into line with the UN Standard Minimum Rules for the Treatment of Prisoners.<sup>77</sup></p> <p>The UN Human Rights Committee also expressed concern in 2004 that the number of offences punishable by the death penalty had risen since the previous periodic report, and recommended that the number of such offences be reduced to a minimum, with a view to abolishing the death penalty, and that the sentences of all persons sentenced to death were commuted.<sup>78</sup></p>
<b>Tunisian Republic</b>	<p>Following its Universal Periodic Review on 22 May 2012, the Human Rights Council made the following recommendations to Tunisia, which Tunisia supported<sup>79</sup>:</p> <ul style="list-style-type: none"> <li>• To study the possibility of abolishing the death penalty in law.</li> <li>• To commute all death sentences into prison sentences.</li> </ul> <p>Recommendations under the Universal Periodic Review process that Tunisia did not support, but agreed to examine included the following:</p> <ul style="list-style-type: none"> <li>• To abolish the death penalty, and integrate its abolition into its new constitution.</li> <li>• To ratify the Second Optional Protocol to the ICCPR.</li> </ul> <p>In 2008, the UN Human Rights Committee welcomed the moratorium on the death penalty, and the progress that Tunisia has made towards abolishing the death penalty and commuting the death sentences of certain prisoners.<sup>80</sup></p>
<b>Republic of Yemen</b>	<p>In 2005, the UN Human Rights Committee expressed concern that the offences carrying the death penalty under Yemeni law are not consistent with the requirements of the ICCPR, and that the right to seek a pardon is not guaranteed for all on an equal footing. The Committee found that the preponderant role of the victim's family in deciding whether or not the death penalty is carried out on the basis of financial compensation ('blood money') is also contrary to the Covenant. The Human Rights Committee asked Yemen to limit the cases in which the death penalty is imposed, ensure that is applied only for the most serious crimes, and officially abolish the sentence of death by stoning.<sup>81</sup></p>

<sup>75</sup> UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Morocco*, 6 July 2012, A/HRC/21/3.

<sup>76</sup> CAT/C/MAR/CO/4, paras 4 and 21.

<sup>77</sup> *Ibid.*, paras 18 and 19.

<sup>78</sup> CCPR/CO/82/MAR, paras. 5 and 11.

<sup>79</sup> UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Tunisia*, 9 July 2012, A/HRC/21/5.

<sup>80</sup> UN Human Rights Committee, *Consideration of reports submitted by states parties (Tunisia) under Article 40 of the Covenant, Concluding observations of the Human Rights Committee*, 23 April 2008, CCPR/C/TUN/CO/5, paras. 5 and 14.

<sup>81</sup> UN Human Rights Committee, *Consideration of reports submitted by States parties (Yemen) under Article 40 of the Covenant, Concluding observations of the Human Rights Committee*: 9 August 2005, CCPR/CO/84/YEM, para. 15.

<p><b>Republic of Yemen (continued)</b></p>	<p>Both the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment voiced their concerns about death sentences imposed on children.<sup>82</sup> However, the Yemeni government provided information, which indicated that in two cases the individuals were released.<sup>83</sup></p> <p>The Special Rapporteur on extrajudicial, summary or arbitrary executions has also received a number of cases concerning the non-respect of international standards relating to the imposition of the death penalty in Yemen.<sup>84</sup> The Special Rapporteur expressed concern that in a number of instances Yemen's responses did not clarify whether trial proceedings fully complied with international standards relating to the imposition of the death penalty.<sup>85</sup></p> <p>The 2005 Common Country Assessment (CCA) report by the UN Country Team for the Republic of Yemen noted that problems of poor access to and weak administration of justice remain widespread and are particularly serious for women, especially in rural areas where the traditional tribal system is male-centric and the formal court system dysfunctional. Women face difficulties in accessing the courts because of social restraints and other cultural, procedural and administrative impediments inside the courts. With high illiteracy rates, population dispersion and absence of public awareness campaigns, citizens remain unaware of their constitutional and legal rights and are unable to exercise them. Weak administrative capacity and lack of adequate infrastructure of the judiciary (Ministry of Justice and the courts) compound the problem. The litigation process is slow, and is marked by failure to execute court rulings, thus leading to lack of public trust in the judiciary.<sup>86</sup></p> <p>Following its Universal Periodic Review on 11 May 2009, the UN Human Rights Council made the following recommendations to Yemen, which Yemen supported<sup>87</sup>:</p> <ul style="list-style-type: none"> <li>• To ensure the death penalty is not applied to minors, to immediately remove juvenile prisoners from death row, and to review the use of the death penalty on mentally disabled person.</li> <li>• To ensure that all persons detained have prompt access to a doctor and a lawyer, as well as contact with their families, at all stages of detention.</li> </ul> <p>Yemen did not support the following recommendations under the Universal Periodic Review process<sup>88</sup>:</p> <ul style="list-style-type: none"> <li>• To take all necessary measures to abolish the death penalty; to ratify the Second Optional Protocol to the ICCPR, and as a first step, introduce a moratorium; and to restrict the application of the death penalty not only to the most serious crimes by reducing the number of capital offences, but also to restrict the application of the death penalty in line with the international minimum standards.</li> </ul> <p>The UN Committee against Torture made the following recommendations to Yemen in May 2010<sup>89</sup>:</p> <ul style="list-style-type: none"> <li>• To ratify the Second Optional Protocol to the ICCPR</li> <li>• To review its policy with regard to the imposition of the death penalty, and in particular to take the measures necessary to ensure that the death penalty is not imposed on children.</li> <li>• To ensure that its legislation provides for the possibility of the commutation of death sentences, especially where there have been delays in their implementation.</li> <li>• To ensure that all persons on death row are afforded the protection provided by the Convention and are treated humanely.</li> </ul>
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82 E/CN.4/2006/53/Add.1, pp. 303–305; A/HRC/4/20/Add.1, p. 380; and A/HRC/8/3/Add.1, pp. 439–440.

83 A/HRC/8/3/Add.1, pp. 437 and 440.

84 See E/CN.4/2006/53/Add.1, pp. 306–307; A/HRC/4/20/Add.1, pp. 374–376; A/HRC/8/3/Add.1, pp. 437–438.

85 E/CN.4/2006/53/Add.1, p. 307; A/HRC/4/20/Add.1, pp. 376 and 377.

86 United Nations Country Team in Republic of Yemen, *Common Country Assessment Republic of Yemen*, 2005, pp. 25–26, available at <http://www.undg.org/docs/8078/Yemen%20CCA%20English.pdf>.

87 UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Yemen*, 5 June 2009, A/HRC/12/13.

88 Ibid.

89 UN Committee against Torture, *Consideration of reports submitted by States parties under article 19 of the Convention, Concluding observations of the Committee against Torture: Yemen*, 25 May 2010, CAT/C/YEM/CO/2/Rev.1.

<b>Republic of Yemen (continued)</b>	<ul style="list-style-type: none"><li>• To provide information, in detail, on the precise number of people executed, for which offences and whether any children have been sentenced to death and executed. Yemen should also indicate the current number of people on death row, disaggregated by sex, age, ethnicity and offence.</li><li>• To take the necessary measures to establish and ensure the full independence and impartiality of the judiciary in the performance of its duties in conformity with international standards, notably the Basic Principles on the Independence of the Judiciary. In this respect, Yemen should ensure that the judiciary is free from any interference, in particular from the executive branch, in law as in practice.</li><li>• To strengthen the role of judges and prosecutors with regard to the initiation of investigation and prosecution of cases of torture and ill-treatment and the legality of detention, including by providing adequate training on Yemen's obligations under the Convention to judges and prosecutors.</li><li>• To take effective and prompt measures to ensure that all detainees are afforded, in practice, all fundamental legal safeguards from the very outset of their detention. These include, in particular, the rights to have prompt access to a lawyer and an independent medical examination, to notify a relative, and to be informed of their rights at the time of detention, including about the charges laid against them, as well as to appear before a judge within a time limit in accordance with international standards.</li><li>• To establish an effective national system to monitor and inspect all places of detention and to follow up on the outcome on such systematic monitoring. It should also ensure that forensic doctors trained in detecting signs of torture are present during these visits.</li></ul>
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## Chapter eight: Additional sources of information on the death penalty or life/long-term imprisonment

**Table 15: Additional sources of information**

<p><b>People's Democratic Republic of Algeria</b></p>	<p>On 10 October 2009 the Algerian Coalition against the Death Penalty was formed by the Algerian Association for the Defence of Human Rights (Ligue algérienne de défense des droits de l'Homme or LADDH). It is also a member of the Arab Coalition against the Death Penalty. Other active NGOs in Algeria include:</p> <ul style="list-style-type: none"> <li>• Algerian section of Amnesty International.</li> <li>• Algerian League of Human Rights (Ligue algérienne des droits de l'Homme of LADH).</li> <li>• National Committee for the Protection and Promotion of Human Rights (CNPPDH).</li> </ul> <p>It is important to note that local Algerian civil society organisations are affiliated with a number of other international organisations such as the International Commission of Jurists, the International Forum of Lawyers' Organisations (represented by the Lawyers Syndicate of Algeria) which is a member of the World Coalition against the Death Penalty, and the Action Group on the Death Penalty in Africa affiliated to the African Commission of Human Rights.</p>
<p><b>Arab Republic of Egypt</b></p>	<p>The debate surrounding the death penalty in Egypt is still limited, even among human rights organisations, a large number of which do not seem to consider the issue a priority in terms of the country's socio-political situation. There is also a strong religious undercurrent around the question of the death penalty, which means that pursuing abolition can be interpreted as running contrary to the ethics of Egyptian society. This means that few human rights NGOs have included the abolition of the death penalty in their mandate.</p> <p>The establishment of the Egyptian Alliance against the Death Penalty in June 2007, was considered an important step, and it includes 22 organisations and legal centres, as well as 194 legal activists.<sup>90</sup> The Maat Centre for Legal and Constitutional Studies provides the Secretariat for this Alliance. However, in recent years the Alliance has become very inactive. Other non-governmental organisations active in Egypt in human rights include:</p> <ul style="list-style-type: none"> <li>• The Human Rights Association to Help Prisoners.<sup>91</sup></li> <li>• The Arab Centre for the Independence of Judges and Lawyers.<sup>92</sup></li> <li>• The Egyptian Human Rights Organisation.<sup>93</sup></li> <li>• The Maat Centre for Legal and Constitutional Studies.<sup>94</sup></li> <li>• The Andalus Centre for Tolerance and Anti-Violence Studies.<sup>95</sup></li> <li>• The Cairo Centre for Human Rights Studies.<sup>96</sup></li> <li>• The Arab Penal Reform Organisation.</li> <li>• Egyptian Initiative for Personal Rights.</li> <li>• United Group / Attorneys at Law and Human Rights Advocates.</li> </ul>

90 The names of the organisations and activists included may be found on the website of the Arab Monitor against the Death Penalty <<http://www.dp.achrs.org/alliances/egypt.html>>.

91 The Human Rights Association to Help Prisoners was formed in 1997 as a civil, non-profit making and non-political organisation, with the aim of providing legal help to prisoners and working to improve conditions in prisons so that they become places suitable for reformation and rehabilitation. As part of a series of seminars on Islam and Human Rights, the Association held a seminar on the death penalty in Egyptian penal legislation: 'The Death Penalty: Retain, Minimise or Abolish' on 11 September 2004, to coincide with the World Day against the Death Penalty. For more information please visit the Association's website: <<http://www.hrcap.org/main.php>>.

92 The Arab Centre for the Independence of Judges and Lawyers is a regional, Arab NGO working for the improvement and consolidation of justice in legal profession, and the respect for human rights and basic freedoms. The Centre is organising a campaign to reduce the death penalty in Arab countries, which continues until the end of 2013. For more information please visit the Centre's website: <<http://www.acjilp.org>>.

93 The Egyptian Human Rights Organisation is one of the oldest NGOs working in the field of human rights in Egypt. It was established in 1985 and works under the principles enshrined in the Universal Declaration of Human Rights, as well as other international human rights instruments. It is a member of five organisations that have consultative status with the UN Economic and Social Council (ECOSOC): The World Organisation against Torture (OMCT), the International Federation for Human Rights (FIDH), the Arab Organisation for Human Rights (AOHR), the International Commission of Jurists (ICJ), and the International Freedom of Expression Exchange (IFEX). For more information please visit the organisation's website: <<http://ar.eohr.org>>.

94 The Maat Centre for Legal and Constitutional Studies is the coordinator of the Egyptian Alliance against the Death Penalty. It undertakes a number of activities against the death penalty. For more information please visit: <<http://www.maatalw.org/index.htm>>.

95 The Andalus Centre is an academic and research centre which upholds the values of tolerance and citizenship. It aims to contribute to human development in Egyptian and Arab societies. It is committed to the Declaration of Principles of Tolerance adopted by the General Assembly of UNESCO in its twenty-eighth session held in Paris on 16 November 1995, as well as all international covenants, treaties and declarations on human rights. The Centre is at present organising a number of training courses on the right to life, which also address the death penalty. For more information please visit: <<http://www.andalusitas.net/AR/>>.

96 The Cairo Centre for Human Rights Studies is an independent, regional NGO established in 1993. It aims to promote respect of human rights and democracy, analyse the difficulties facing the implementation of international human rights laws, disseminate the culture of human rights in the Arab World, and promote dialogue between cultures within the framework of international agreements and conventions. For more information please visit: <<http://www.cihrs.org>>.

<b>Hashemite Kingdom of Jordan</b>	<p>There has been a national coalition working against the death penalty in Jordan since March 2007.</p> <p>The key organisations working on the fight against the death penalty in Jordan are:</p> <ul style="list-style-type: none"> <li>• Penal Reform International – Middle East and North Africa regional office.</li> <li>• Arab Coalition against the Death Penalty.</li> <li>• Adaleh Centre for Human Rights Studies.</li> <li>• Mizan law Group for Human Rights.</li> <li>• National Centre for Human Rights.</li> <li>• Amman Centre for Human Rights Studies.</li> </ul> <p>Outside of the NGO sector, a number of parliamentarians have also declared themselves abolitionists and adopted a strategy for the gradual abolition of the death penalty.</p>
<b>Lebanese Republic</b>	<p>Lebanon has one of the strongest abolitionist movements in the region. In fact, following the resumption of executions in 2004, large-scale national and international mobilisation brought together organisations, religious figures, politicians and parliamentarians. The key organisations working on the fight against the death penalty in Lebanon are:</p> <ul style="list-style-type: none"> <li>• The Lebanese Association for Civil Rights (ALDC).</li> <li>• The National Campaign to Abolish the Death Penalty in Lebanon: &lt;<a href="http://www.deathpenaltylebanon.org">www.deathpenaltylebanon.org</a>&gt;, established in 1998.</li> <li>• Lebanese Centre for Human Rights (Association Justice et Miséricorde).</li> <li>• Coalition of Civil Society Organisations in Lebanon (CCSOL).</li> <li>• Parliamentary Human Rights Commission.</li> </ul> <p>Both the ALDC and the National Campaign to Abolish the Death Penalty in Lebanon are members of the World Coalition against the Death Penalty.</p>
<b>Kingdom of Morocco</b>	<p>The Moroccan abolitionist movement is one of the oldest in the MENA region, and has a very active coalition against the death penalty (Coalition marocaine pour l'abolition de la peine de mort). The Coalition was established on 10 October 2003, and brings together nine NGOs (The National Coalition is a member of the World Coalition against the Death Penalty):</p> <ul style="list-style-type: none"> <li>• The Moroccan Association for Human Rights (AMDH) <a href="http://www.amdh.org.ma">www.amdh.org.ma</a>.</li> <li>• The Moroccan Organization for Human Rights (OMDH) <a href="http://www.omdh.org.ma">www.omdh.org.ma</a>.</li> <li>• The Moroccan Observatory of Prisons (OMDP) <a href="http://www.omdp.org.ma">www.omdp.org.ma</a>.</li> <li>• The Moroccan Forum for Truth and Justice <a href="mailto:fmvj@manara.ma">fmvj@manara.ma</a>.</li> <li>• Amnesty International <a href="mailto:admin-ma@amnesty.org">admin-ma@amnesty.org</a>.</li> <li>• Association of Lawyers' Organisations in Morocco <a href="mailto:association.abam@gmail.com">association.abam@gmail.com</a>.</li> <li>• People's Rights Centre <a href="mailto:centredgfes@hotmail.com">centredgfes@hotmail.com</a>.</li> <li>• The Moroccan Group for the Defence of Human Rights <a href="mailto:lmddh72@gmail.com">lmddh72@gmail.com</a>.</li> <li>• Adalah Association <a href="mailto:adalajust@yahoo.fr">adalajust@yahoo.fr</a>.</li> </ul>
<b>Tunisian Republic</b>	<p>A national coalition against the death penalty was established on 20 June 2007 (Coalition Nationale tunisienne contre la peine de mort). It brings together seven organisations:</p> <ul style="list-style-type: none"> <li>• Tunisian branch of Amnesty International.</li> <li>• Tunisian Association for the Defence of Human Rights.</li> <li>• Tunisian Association of Democratic Women.</li> <li>• Arab Institute of Human Rights.</li> <li>• Tunisian Women Association for Research and Development.</li> <li>• Tunisian Journalists Association.</li> <li>• Tunisian Federation of Cinema Clubs.</li> </ul>
<b>Republic of Yemen</b>	<p>It is still difficult to openly fight against the death penalty in Yemen. There is a Yemeni Coalition against the Death Penalty, which is managed by the Human Rights Centre for Information and Rehabilitation. The coalition has received some cooperation from other Arab countries such as the Arab Organisation for Penal Reform in Cairo. The Yemeni Organisation for the Defence of Human Rights (YODHR), which was particularly involved in establishing the national coalition, was subject to a media attack after it participated in a regional conference in Amman.</p>

## Recommendations

1. The recent political instability across the MENA region may have a positive impact on abolition. The revolutions in Egypt, Tunisia and Yemen have provided a golden opportunity, and those states should take steps to discuss and debate criminal justice reforms, and to call for more respect for human rights and the abolition of the death penalty through constitutional and legislative reform processes. States such as Algeria, Jordan, Lebanon and Morocco which have seen less turbulence, should also take steps towards safeguarding human rights in their criminal justice and penal systems, and should open the door for collaboration with human rights organisations.
2. Algeria, Jordan, Lebanon, Morocco and Tunisia should take steps towards fully abolishing the death penalty in law for all crimes. At an interim measure, to continue to uphold their moratoriums on executions, and consider establishing *de jure* moratoriums on executions and sentencing.
3. Egypt and Yemen to establish a moratorium on executions, with a view to taking steps towards fully abolishing the death penalty in law.
4. As a step towards abolition of the death penalty, all seven countries should as a minimum reduce the application of the death penalty by abolishing those crimes from their statute books which do not meet the ‘most serious crimes’ standard (Article 6(2) of the ICCPR), which has been interpreted as meaning ‘intentional crimes with lethal or other extremely grave consequences’.<sup>97</sup>
5. Egypt, Jordan and Yemen to abolish the mandatory death penalty.
6. Yemen to take all necessary legal and policy steps to prevent the execution of those who were under the age of 18 years at the time of committing a death penalty applicable offence.
7. All seven countries to ensure that legislation clarifies the procedures regarding the sentencing of those who were mentally disabled at the time of committing an offence, or developed a mental disability subsequent to sentencing; establish a legal definition of ‘mental disability’ in accordance with international standards with regard to those who are not criminally liable; and ensure that all persons suffering from a mental disability are prohibited from being executed.
8. All seven countries to commute all death sentences to a fixed-term sentence. Each case should be reviewed individually, taking into consideration the length of sentence already served, the character of the prisoner and the type of crime committed.
9. All seven countries to undertake a campaign to educate the public on the need to abolish the death penalty. The campaign should include the need to implement humane alternative sanctions.
10. All countries to provide public access to regularly updated (at least annually) information and statistics on the national penal system, including the number of sentenced prisoners and their characteristics (age, sex, health and offence convicted of), length of sentence and place of sentence; publish historical information on the application of the death penalty, including statistics on clemency and pardon decisions, and the application of life or long-term imprisonment; and abolish any regulations or orders that may prevent or classify the publication of such official information or statistics.
11. All seven countries to humanise the system of punishment by reducing the number of offences for which life or long-term imprisonment may be prescribed, and limit these cases to only the ‘most serious crimes’.
12. All seven countries to abolish mandatory life or long-term sentences, and ensure that judges have the discretion to take into consideration all aggravating and mitigating circumstances when sentencing.
13. All life sentenced prisoners should have a realistic right of parole. According to the UN Crime Prevention and Criminal Justice Branch’s 1994 report ‘Life Imprisonment’<sup>98</sup>, all prisoners sentenced to life should have their suitability for release reviewed after serving between 8

<sup>97</sup> Safeguard 1 of the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, approved by UN ECOSOC resolution 1984/50 of 25 May 1984.

<sup>98</sup> UN Crime Prevention and Criminal Justice Branch, *Life Imprisonment*, Vienna, 1994.

to 12 years of incarceration. Ensure that early release procedures are clearly defined in law, are accessible, meet due process safeguards, and are subject to appeal or review in all seven countries.

14. All seven countries to undertake legislative and policy steps to ensure the independence of the courts and the transparency of the judicial system are upheld. This should include guaranteeing that judicial appointment, compensation, and tenure are made according to objective criteria, and are not dependent on the executive branch of government. All other elements of a fair trial procedure should be thoroughly implemented. This should include reforming the system of legal aid in all seven countries to ensure that indigent defendants accused of an offence for which the death sentence or life imprisonment may be imposed can obtain free legal assistance at all stages of the case: pre-trial, trial, appellate, pardon and parole. They should also ensure all legal aid lawyers are independent of the state, adequately paid, have the same rights vis-à-vis the prosecutor, and are well-trained in courtroom advocacy methods for capital trials and sentencing hearings.
15. All seven countries to ensure that where military judicial systems exists, they implement and uphold robust fair trial procedures, are subject to appeal or review by a higher court, and do not have jurisdiction to try civilians.
16. All seven countries to draft and adopt a strategy to reform their penal systems with a clear vision that makes specific reference to reforming death row and life and long-term imprisonment to be consistent with international human rights standards and norms, including eliminating any discriminatory practices and regulations, and organise a public debate on the strategy, with participation from all interested parts of civil society.
17. All seven countries to carry out reforms to their penitentiary systems, so that they are compliant with international human rights standards, including the UN Standard Minimum Rules for the Treatment of Prisoners. This should include improving the cell size and living conditions for prisoners, reducing overcrowding, and improving access to health-care including mental health care. Prioritise resources of the prison administrations of all seven countries so that they can effectively implement those international standards and norms. Ensure all prison staff are appropriately trained in international human rights standards.
18. All seven countries to ensure that prison conditions of death row and life-sentenced prisoners approximate as closely as possible to the conditions of life outside the prison system, and offer programmes for rehabilitation and reintegration. This should include the possibility to study, to work, to have contact with the outside world, to have access to a library, to have access to regular sporting and outdoors activities, to receive medical treatment, and consider developing other rehabilitation and reintegration programmes that will assist a prisoner to deal with any underlying issues or problems linked to their crime, such as drug or alcohol abuse, anger management, psychological or psychiatric support.
19. Egypt, Jordan, Lebanon, Morocco and Yemen to ratify the First Optional Protocol to the ICPPR.
20. All seven countries to ratify the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty.
21. Algeria, Egypt, Jordan, Morocco and Lebanon to ratify the Optional Protocol to CAT. All seven countries to establish a National Preventative Mechanism, which is independent, competent to monitor all places where people are deprived of their liberty, and effectively operative in terms of its budget and resources.
22. Algeria, Egypt, Morocco, Lebanon and Yemen to become a state party to the Rome Statute to the International Criminal Court.
23. Algeria, Egypt and Tunisia to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
24. Tunisia to ratify the African Charter on the Rights and Welfare of the Child.
25. Algeria, Jordan, Morocco, Lebanon and Tunisia to vote in favour of the fourth UN General Assembly moratorium resolution in December 2012, to co-sponsor said resolution, and make use of bilateral

relations to advocate for other states to support the resolution. Egypt and Yemen to abstain from voting, and not sign any *note verbale* of disassociation if one is initiated.

26. All seven countries to establish a mechanism at the national level to implement recommendations and views of the UN Committee on Human Rights and other UN Treaty Bodies; and ensure that all reporting to UN treaties bodies (including the Human Rights Committee, the Committee on the Rights of the Child, and the Committee against Torture) is up to date.
  27. To encourage further collaboration between government officials and civil society, including journalists, on criminal justice issues.
  28. To encourage relevant international organisations and donor states in a position to do so to promote and support criminal justice reforms within all seven countries at both the financial and political level.
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