

52nd session of the Human Rights Council
28 February 2023

Biennial high-level panel discussion on the question of the death penalty
Theme: Human rights violations relating to the use of the death penalty, in particular with respect
to limiting the death penalty to the most serious crimes

Mr. President,

The right to life is a cornerstone of the international Human Rights System and we therefore welcome this panel and the resolution 48/9. We strongly oppose the application of the death penalty in any circumstance.

We appreciate the report of the Secretary General (51/7), which reiterates that under international human rights law, the use of the death penalty should be limited to only the “most serious crimes”.¹

We underline resolution 48/9, which stresses that the term the “most serious crimes” has consistently been read restrictively and that under no circumstance can the death penalty ever be applied as a sanction against consensual same-sex conduct or relations² – in the same line of understanding of the General Comment 36 from the Human Rights Committee³.

We would like to draw the attention of the Council particularly to the fact that the death penalty continues to be used to punish consensual same-sex sexual acts between adults as well as sex work, or sex outside of marriage⁴, despite these acts not meeting the “most serious crimes” threshold.⁵

ILGA World currently reports there are six UN member States, where the death penalty is legally prescribed for consensual same-sex sexual acts⁶, and a further five where it is technically possible by means of reference to Sharia law.⁷

Moreover, ILGA World’s reports⁸ conclude that in 2021 and in previous years, possible executions were identified in at least two countries⁹, with an additional number of summary executions carried out by insurgent groups that gained effective control over a certain portion of territory in at least six countries.¹⁰

These laws imposing death sentences to consensual sexual relations and acts violate the right to life, to privacy and to non-discrimination, as already recognised by different UN mechanisms. Furthermore, often the penalty to these acts is applied by means such as stoning and hanging, in a clear contravention to the prohibition on torture and cruel, inhuman, or degrading treatment or punishment.

¹ A/HRC/51/7 para 27.

² A/HRC/RES/48/9 page 3.

³ CCPR/C/GC/36

⁴ A/HRC/51/7 para 28.

⁵ A/HRC/51/7 para 28.

⁶ Brunei Darussalam, Iran, Mauritania, Nigeria (12 Northern states only), Saudi Arabia and Yemen.

⁷ Afghanistan, Pakistan, Qatar, Somalia and United Arab Emirates.

⁸ ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalizing consensual same-sex sexual acts between adults and diverse gender expressions* (Geneva: ILGA, December 2021),

https://ilga.org/downloads/Our_Identities_Under_Arrest_2021.pdf

⁹ Iran and Saudi Arabia.

¹⁰ Somalia, Libya, Yemen, Iraq, Syria and Afghanistan.

Even in cases where execution is not carried out, the existence of such laws discriminates against lesbian, gay, bisexual, trans and gender non-conforming persons as they perpetuate stigma and violence, lead to social exclusion, reduce health outcomes, and form a stark barrier to realizing the SDGs.

As highlighted in the report of the Secretary General (51/7), the abolition of the death penalty is both desirable and necessary for the enhancement of human dignity and the progressive development of human rights.¹¹

We call upon States to abolish the death penalty and ensure tortuous sentencing or measures, including discriminatory laws that punish consensual sexual relations and activities, are never applied.

¹¹ A/HRC/51/7 para 3.