

## Death Penalty

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

### MECHANISM

Universal Periodic Review

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**Summary:** Eritrea has not formally abolished the death penalty or implemented a moratorium on executions, nor has it limited the application of the death penalty to the “most serious” crimes. Although Eritrea has not sentenced anyone to death or executed anyone in many years, existing laws authorize capital punishment, and insufficient fair trial safeguards and the absence of an independent judiciary heighten the risk of arbitrary death sentences and executions. People serving criminal sentences experience torture, overcrowding, insufficient food and water, and inadequate hygiene. Arbitrary arrest and detention and enforced disappearances are common, particularly with regard to people perceived to be government critics.

## Eritrea has not abolished the death penalty.

- Since the last UPR, courts have not sentenced any individuals to death and authorities have not carried out any executions. Nonetheless, the country has not imposed a moratorium on executions.
- Under the Eritrean Constitution, courts can sentence an individual to death so long as legal proceedings satisfy certain procedural requirements. The judicial system has failed to implement these requirements, however, and the legal status of the country’s de facto constitution remains unclear.
- The Penal Code gives courts discretion to impose the death penalty for "Class 1 Serious Offenses" and "Class 2 Serious Offenses." Class 1 Serious Offenses include crimes such as genocide, crimes against humanity, war crimes, high treason, and piracy, while Class 2 Serious Offenses include crimes such as aggravated corruption, hijacking of an aircraft, and causing a catastrophe, many of which do not meet the “most serious” crimes threshold.

## Detention conditions and the use of torture violate human rights standards.

- Detention facilities are overcrowded and lack adequate hygiene, nutrition, and water supply. People in detention lack access to sufficient healthcare.
- There are also reports of inadequate ventilation and lighting. Officials also hold some individuals incommunicado in metal shipping containers and underground cells without toilets or beds.
- Individuals in detention lack access to a judicial complaint mechanism, and detention conditions are poorly monitored. Authorities prohibit monitoring visits by NGOs and international bodies.
- Authorities use torture against military deserters, people resisting national service, and people detained for political crimes.

## Authorities continue to violate fair trial rights.

- Courts and judges lack independence, and authorities violate basic fair trial guarantees, such as the rights to legal representation, the right to appeal, and the presumption of innocence. In cases involving national security, including capital cases, defendants do not have the right to counsel.
- Authorities often fail to provide defendants with a timely and public trial.
- Authorities do not promptly inform defendants of the charges against them, and do not afford defendants the right to prepare a defense, confront witnesses, or refuse to testify.

## Recommendations

- Formally abolish the death penalty and replace it with a sentence that is fair, proportionate, and consistent with international human rights standards.
- Ratify the Second Optional Protocol to the ICCPR.
- In the meantime, institute a formal moratorium on executions.
- In the meantime, ensure no court sentences a person to death for a crime that is not the “most serious,” consistent with Article 6(2) of the ICCPR.
- On at least an annual basis, publish official data on the use of the death penalty in Eritrea, including the number of sentences imposed and number of people under sentence of death, disaggregated by gender, nationality, ethnicity, crime of conviction, relationship to any codefendants or victims, date and court of sentencing, existence of any dependent children, current location, and status of any appeals or requests for clemency.
- Clarify the legal status of the Constitution and fully implement it.
- Prohibit the use of torture during interrogations and in all detention facilities.
- Ensure that all persons prosecuted for offenses involving national security and capital crimes receive competent and timely legal representation, starting from the moment of arrest or charging, all the way through to appeals and other recourse procedures, including any potential clemency or mercy processes.
- Implement the Special Rapporteur’s 2022 recommendation that the government of Eritrea “establish efficient, transparent mechanisms for the registration of detainees and introduce adequate monitoring mechanisms to prevent torture and inhuman or degrading treatment.”
- Provide for independent judicial oversight of conditions of detention at Eritrean prisons.
- Authorize NGOs and international organizations to conduct independent visits of prisons and to report on detention conditions.
- Create a mechanism by which defendants may raise prior to trial the issue of inadmissibility of evidence obtained through torture and ensure that all judicial actors have adequate training and capacity to bar consideration of such evidence.