



# Forgotten victims:

## Children of parents sentenced to death or executed

### Wider impacts of the death penalty

In recent years, there has been a growing body of research into the wider impacts of the death penalty, exploring how others beyond just the accused individual are harmed by its use.

Our work in this area focuses on the rights of one of the most vulnerable affected groups: **children whose parents are sentenced or executed**. Our work takes place at the United Nations, focusing on how the impacts on children relate to their rights as enshrined in international human rights instruments.

The death sentence or execution of a parent has profound impacts for children, yet their experiences are often overlooked in criminal justice processes. These children have been referred to as the 'forgotten' or 'hidden' victims of the death penalty.

The harm they face is compelling and relevant in all countries and at all stages of the criminal justice process. The voices of children of parents sentenced to death or executed present the viewpoint of a group who are unquestionably innocent and demonstrably harmed by use of the death penalty.

Remembering that many of those facing the death penalty are parents can contribute to rehumanising death row prisoners in public perception. It should remind judges, legislators and the public to consider the damage the death penalty does.

### What harm is done to children of parents sentenced to death or executed?

Children affected by the death sentence or execution of a parent face many negative impacts, some of which are common to the broader group of children of incarcerated parents.

These include documented health impacts: for example, children of incarcerated parents face a greater likelihood of experiencing mental health problems, with the witnessing of a parent's arrest being especially linked with later trauma symptoms.

Other issues common among children of incarcerated parents relate to the impact of a parent's absence, which can reduce children's standard of living due to loss of family income, and affect access to healthcare and education.

Maintaining a relationship between parent and child through contact and visiting, where this is appropriate, has been found to mitigate some of these harmful effects and promote resilience.

For children of parents sentenced to death, these issues are compounded by the looming threat of the parent's execution.

In these circumstances, social stigma against those sentenced to death can limit the child's ability to grieve their parent's absence, resulting in what psychologists call disenfranchised grief. The non-finite loss that arises from uncertainty about if and when the execution will take place compounds the emotional and psychological harm.

The high security nature of death row means that often physical contact may be forbidden during visits, denying children physical comfort from their parent at a particularly traumatic time.

The stigma attached to death row prisoners and their families can place their children in a position of greater vulnerability, for example through lack of parental or family care. The conflicted relationship with the State can make children less able to rely on police and social services for protection and support.

For those children whose parents are executed, the State has permanently deprived them of that parental relationship. This has been found to have a specific, traumatic impact on the child.

In some circumstances, executions may be shrouded in secrecy, with little information provided, compounding children's distress. Families may not be informed of the execution until after it has taken place, and in some cases may not have the body of the deceased returned to them for burial.

### What has been done at the international level?

#### *UN Human Rights Council*

In 2012, Human Rights Council resolution 19/37 called on States "to ensure that children whose parents or parental caregivers are on death row, the inmates themselves, their families and their legal representatives are provided, in advance, with adequate information about a pending execution, its date, time and location, to allow a last visit or communication with the convicted person, the return of the body to the family or to inform on where the body is located, unless this is not in the best interests of the child."

The Human Rights Council passed a consensus resolution in March 2013 calling for a Panel on the human rights of children of parents sentenced to the death penalty or executed. This resolution "Acknowledges the negative impact of a parent's death sentence and his or her execution on his or her children, and urges States to provide those children with the protection and assistance they may require". The summary report of the Panel called on States which retain the death penalty "to ensure that the rights of the child to information and last visits or communications... are effectively protected; return of the body of a person executed or any personal effects to the family for burial, or inform them where the body is buried and allow them reasonable access to that location; immediately end any form of secrecy surrounding the use of the death penalty, and ensure domestic legislation complies with international standards on transparency."

#### *Special Procedures of the UN Human Rights Council*

The Special Rapporteur on Torture has said that the lack of adequate information for families of death sentenced prisoners constitutes cruel, inhuman or degrading treatment or punishment. The Special Rapporteur on the Independence of Judges and Lawyers has called on States to take the best interests of the children of accused into account in capital cases at the stage of prosecutorial decision-making as well as sentencing.

## UN Committee on the Rights of the Child

All States other than the USA have now ratified the UN Convention on the Rights of the Child (CRC), and as such, this approach provides an additional set of child rights-based arguments against the use of the death penalty.

The overarching principle established by Article 3 of the CRC is that the best interests of the child must be taken into account as a primary consideration in all decisions affecting them – including decisions relating to their parents.

The UN Committee on the Rights of the Child is clear that this applies to decisions around the sentencing of parents. The Committee has asked questions about this in State Party reviews and made recommendations on the issue.

The Committee has also recommended that authorities “take into consideration the existence of children and their best interests when considering the death penalty and provide psychological and other support necessary to children whose parents have been sentenced to death.” The duty to take into account the best interests of the child at the time of sentencing could, if implemented, contribute to a reduction in the use of the death penalty.

## UN General Assembly

In 2013, General Assembly resolution 68/147 acknowledged “that a parent’s ... sentencing to death ... has a serious impact on children’s development” and urged States “... to provide the assistance and support these children may require.”

## How can these standards be used?

In countries where the death penalty is still in use, demonstrating the wider impacts of the death penalty on the children of the accused can support advocacy for the restriction of its use. Arguments based on the rights of these children can be used to make the case against the imposition of a death sentence on a parent during judicial proceedings.

Where a moratorium is in place (de jure or de facto) death sentences continue to be handed down and individuals remain incarcerated on death row. The possibility of a return to the use of the death penalty means that for affected children, the risk of their parent’s execution remains. Highlighting this problem can be used in campaigning for the shift to full abolition.

Where the death penalty has been abolished, children may still be affected if a parent faces the death penalty abroad. In such cases, States have obligations to support these children. Depending on the circumstances, it may be necessary for authorities to provide children with support in the form of repatriation or facilitation of visits and contact.

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## How can we work together?

For the UN to develop strong responses it needs good information. We work with organizations and individuals who are working on this and related issues around the world.

By sharing information about UN standards so that they can be used for domestic advocacy, and by helping feed national level knowledge and expertise into international policy processes, together we can strengthen the international standards and guidance and their implementation.

For example, we work together with organisations working at the local and national level to submit information to the Committee on the Rights of the Child in advance of review sessions. This provides advocacy tools for organisations working in the country in question, and supports the further development of a body of recommendations from the Committee.

While these issues have gained increasing recognition, there is still much work to be done to understand the full impacts of parental death sentence and execution. In this respect, there is an important role for academic research in providing further exploration of the impacts.

The newly-formed International Coalition for Children with Incarcerated Parents (INCCIP) will establish a sub-group on children of parents sentenced to death or executed, connecting those working on this issue around the world.

If you are interested in working together or finding out more, please contact us.

## Relevant QUNO publications

*Children of parents sentenced to death or executed: Developments, good practices and next steps*, QUNO (August 2014)

*Lightening the load of the parental death penalty on children*, Oliver Robertson and Rachel Brett (June 2013) Also available in: French, Spanish, Arabic, Farsi and Japanese.

*Children of parents sentenced to death or executed: How are they affected? How can they be supported?*, Child Rights Connect (August 2013) Also available in: French, Spanish, Russian, Arabic and Chinese.

*Children of parents sentenced to death*, Helen Kearney (February 2012) Also available in: French, Spanish and Arabic.