

THE UPR PROJECT AT BCU

Submitted by:

The UPR Project at BCU
Centre for Human Rights, School of Law
Birmingham City University

Submitted to:

Libya's Universal Periodic Review
Fourth Cycle
50th Session of the UPR Working Group
Nov 2025

About the UPR Project at BCU:

Birmingham City University's Centre for Human Rights was created in 2014 to promote human rights, ensure access to justice, and enhance the rule of law around the world. We seek to achieve this through leading research, education, and consultancy. We submit expert reports to international human rights regions, provide advisory services to governments and nongovernmental organisations, and draft legal opinions and file legal briefs in domestic courts and international human rights courts.

The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in offering support to the UPR Pre-sessions, providing capacity building for UPR stakeholders and National Human Rights Institutions, and the filing of stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the safeguarding of human rights around the world, and to help ensure that UPR recommendations are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights. The UPR Project at BCU engages with the UPR regularly as a stakeholder and is frequently cited by the OHCHR. You can read more about the UPR Project here: www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu

Compiled by:

Lead Author: Dr. Amna Nazir **Contributing Authors:** Dr. Alice Storey & Prof. Jon Yorke.
Thank you to: BCU Law Researcher, Stella Mguli, for her research assistance.

Contact:

Dr. Alice Storey (Lead Academic of the UPR Project at BCU) Email: Alice.Storey@bcu.ac.uk
Address: Birmingham City University, School of Law, Curzon Building, 4 Cardigan Street, Birmingham, B4 7BD, UK.

INTRODUCTION

1. Libya is party to eight of the nine core international human rights treaties for which it should be commended.¹ This includes the International Covenant on Civil and Political Rights (ICCPR) and in line with the Covenant's protection of the right to life and the prohibition against inhuman punishment, this Stakeholder Report focuses upon capital punishment.
2. We make recommendations to the Government of Libya on this key issue, implementation of which would also see the State moving towards achieving Sustainable Development Goal 16 which aims for peaceful and inclusive societies, access to justice for all and effective, accountable and inclusive institutions at all levels.
3. We urge the State to make practical commitments in the fourth cycle of the UPR for the abolition of the punishment. As an initial step, we call for the suspension of the capital judicial process through the initiation of an official moratorium on the death penalty. This will enable the government to make a positive commitment towards domestic *de jure* abolition.
4. In this submission, we encourage Libya to commit to improving its human rights protection and promotion by engaging meaningfully with the UPR. This includes giving full and practical consideration to all recommendations made by Member States, effectively implementing the recommendations Libya accepts, and actively engaging with civil society throughout the process

CAPITAL PUNISHMENT

A. Libya and International Law on the Death Penalty

5. The Draft Libyan Constitution recognises the right to life as a fundamental right. It states that: "Every human being has the right to life. The State shall adopt the necessary measures to ensure indemnity of the dead when the criminal is unknown in accordance with what the law regulates."²
6. The Constitution includes a provision reaffirming human dignity, the sanctity of life, and the state's obligation to protect these rights.³ However, the Draft Constitution does not explicitly prohibit the death penalty, leaving a gap for it to be enforced under the Penal Code.
7. The inclusion of the death penalty in Libya's domestic laws is based on its presence in the Libyan Penal Code which includes death as one of the principal penalties. Furthermore,

the Penal Code states that “Every person sentenced to death shall be executed by firing squad, in accordance with the legally prescribed procedures.”⁴

8. Over 30 articles of the Penal Code of Libya provide for the death penalty, including as a punishment for treason, military offences, murder, acts of speech, and establishing, aiding, or abetting unlawful organisations. The Penal Code exempts children under the age of 18,⁵ people who are mentally incapacitated,⁶ and people who commit offences against public health due to negligence.⁷
9. In 2022, Libya sentenced 18 people to death⁸ and in 2023, 29 people were sentenced to death.⁹ There are currently 500 people sentenced to death in Libya with the last known execution taking place in 2010.¹⁰

International Law Promoting the Restriction and Abolition of the Death Penalty

10. The United Nations’ framework for regulating the application of the death penalty comprises a corpus of international human rights law and jurisprudence. Of particular relevance are Articles 6, 7, and 14 ICCPR,¹¹ its Second Optional Protocol,¹² the ECOSOC Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty,¹³ the Secretary General’s quinquennial reporting,¹⁴ the Secretary General’s Question on the Death Penalty,¹⁵ and the Human Rights Committee decisions.¹⁶ Other relevant treaties include the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment¹⁷ and the Convention on the Rights of the Child.¹⁸
11. The General Comment on the Right to Life¹⁹ provides an interpretive lens on the death penalty and concerning ICCPR Article 6(6), which states, ‘[n]othing in this article shall be invoked to delay or to prevent the abolition of capital punishment,’ it:

reaffirms the position that States parties that are not yet totally abolitionist should be on an irrevocable path towards complete eradication of the death penalty, de facto and de jure, in the foreseeable future. The death penalty cannot be reconciled with full respect for the right to life, and abolition of the death penalty is both desirable [...] and necessary for the enhancement of human dignity and progressive development of human rights.²⁰
12. The growing international consensus against capital punishment is reflected in the UN General Assembly’s biennial resolution to impose a global moratorium on the use of the death penalty. The tenth and most recent iteration of the resolution was passed on 17 December 2024. A total of 130 votes were recorded in favour with 32 votes against and 22 abstentions. Libya has voted against all such resolutions to date except in 2018 where it voted in favour.²¹

13. Libya's voting record is also reflected in its presence as a signatory to the Joint Permanent Missions' most recent *note verbale* of dissociation, which records a formal objection to the Secretary General of the United Nations on the attempt to create a global moratorium on the death penalty.²² This is also reflected in Libya's comments made at the 2023 Human Rights Council's High-level Panel on the Death Penalty. During the discussions, Libya stated that states have the sovereign right to "enact the appropriate penalties of crimes falling in their jurisdiction. We affirm that international human rights law does not place any international legal obligation to abolish the death penalty."²³

B. Implementation of Recommendations from Cycle Three in 2020

14. Libya received 285 recommendations in the Third Cycle which were all noted.²⁴ A total of 20 recommendations focused on the death penalty, all of which were noted.²⁵

Recommendations concerning Libya's Adoption of International Law

15. **Ukraine** (para 148.25), **Rwanda** (para 148.37.1), **Croatia** (para 148.37.2), **Namibia** (para 148.37.3), **Slovakia** (para 148.37.4), **Argentina** (para 148.38), **Honduras** (para 148.40), **Iceland** (para 148.41), **Italy** (para 148.42), **Latvia** (para 148.43), and **France** (para 148.133) recommended Libya to ratify the Second Optional Protocol to the ICCPR. These were all noted and Libya has not indicated any change to its position.

Recommendations concerning a Moratorium and/or Abolition

16. Australia, Iceland, and Liechtenstein recommended Libya "abolish the death penalty". Others such as **Argentina** (para 148.38), **Italy** (para 148.42), **Latvia** (para 148.43), **Slovakia** (para 148.129), **Belgium** (para 148.130), **Costa Rica** (para 148.131), **Cyprus** (para 148.132), **France** (para 148.133), **Holy See** (para 148.134), and **Portugal** (para 148.137) recommended the State establish a moratorium with a view to abolition of the death penalty. Libya noted all of these recommendations and continues to support the retention of capital punishment.
17. Whilst such recommendations are welcomed, it is crucial that they remain specific and measurable in order to assess the level of implementation. Broad recommendations, whilst easy to accept, lack any impetus to bring about real change.²⁶ It is recommended that States adopt a SMART approach to recommendations as recognised by UPRinfo.²⁷ This would help Libya initiate an incremental approach to reducing the scope of the punishment and map out the process for abolition.
18. Additionally, it would prove more beneficial if recommending States make reference to the review criteria which includes "human rights instruments to which a State is party."²⁸ For example reference to Article 6 and/or 14 ICCPR, a treaty the State under Review has ratified, would strengthen any death penalty recommendations.

19. Libya has continued to hand down death sentences in violation of international law. In September 2022, the Misrata's Court of Appeals sentenced Diaa el-Din Ahmed Miftah Balaou to death for “insisting on apostasy from the Islamic religion” after he refused to repent, the sentence is still pending automatic review by the Supreme Court of Libya.²⁹ In March 2023, six Libyan women and men were arrested and are facing the death penalty for converting to Christianity and for proselytizing.³⁰ In May 2023, a mass trial conducted by the Misrata criminal court sentenced 23 defendants to death for crimes allegedly linking them to the Islamic State (ISIS) in 2015 in Sirte.³¹
20. We regret to note that, in 2023, Libya reconsidered enforcing the death penalty due to the increase in crime rate and murder in the country, initiating this move after years of non-application of the punishment.³² The Libyan Attorney General, Al-Siddiq Al-Sour formed a committee to evaluate the implementation of the death penalty and ensure fair retribution in some cases.³³ This decision sparked concerns from domestic and international human rights and humanitarian organisations due to the potential violation of the right to life and fair trial standards.³⁴
21. We urge Libya to move towards a *de jure* moratorium with a view to abolition in line with its commitments under Article 6 ICCPR and to remove the death penalty from its Penal Code.

C. Further Points for Libya to Consider

The Role of the National Human Rights Institution

22. Libya’s National Council for Civil Liberties and Human Rights (NCCLHR)³⁵ could undertake important work on pushing for the abolition of the death penalty from Libya’s legal system. The NCCLHR could advise the government on the abolition process, provide public education on how capital punishment renders harmful effects upon society, and demonstrate its ineffectiveness as a penological policy on deterrence.
23. We call upon the government to provide the Libya NCCLHR with a mandate to advise on legislative amendment for abolition.

Adopting the UPR Recommendations to Enable the People of Libya to Benefit from Advances in Effective Penology

24. The right to benefit from scientific advancement should also apply to the progress in social science research on the death penalty. The Universal Declaration of Human Rights, Article 27, states, “[e]veryone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits,”³⁶ and

the ICESCR article 15 (1)(b) recognises the right of everyone, “[t]o enjoy the benefits of scientific progress and its applications.”

25. Leading social science and criminological investigations into the death penalty worldwide have concluded:

[t]hose who favour capital punishment ‘in principle’ have been faced with yet more convincing evidence of the abuses, discrimination, mistakes, and inhumanity that appear inevitably to accompany it in practice. Some of them have set out on the quest to find the key to a ‘perfect’ system in which no mistakes or injustices will occur. In our view, this quest is chimerical.³⁷

26. Social science investigations now demonstrate that reflecting appropriate government means that whilst capital punishment could be created within a legitimate parliamentary process,³⁸ it is now clear that the application of the death penalty renders an illegitimate and inhumane outcome.³⁹ Abolition in Libya would enable the people of the country to benefit from the advancement of the leading social scientific research on punishment policies.

The Universal Periodic Review Recommendations and the Contribution to the Sustainable Development Goals

27. Libya should consider adopting the UPR recommendations as an expression of mutual reinforcement of the government’s commitment to promoting the Sustainable Development Goals.⁴⁰ The human rights values expressed in both the UPR and the SDGs can be woven together to promote policy coherence.⁴¹
28. SDG 16 provides for “Peace, Justice and Strong Institutions” but the application of the death penalty is inconsistent with this goal. Specifically, SDG 16.1 aims to reduce death rates, promote equal access to justice, and “protect fundamental freedoms,” and to further this, SDG 16.A.1 identifies the importance of relevant national institutions, for building capacity at all levels, to prevent violence and combat terrorism and crime.
29. The use of the death penalty does not signal legitimate strength in institutions, but renders counterproductive and inhumane consequences, including a brutalising effect upon society. This was affirmed in the Special Rapporteur’s report on ‘pay-back’ violence and killings.⁴² The death penalty is antithetical to strong institutional processes for the fostering of the human dignity of the people of Libya.

D. Recommendations

We recommend that, before the next cycle of review, the government of Libya should:

- i. Uphold and enforce its international obligations to safeguard the right to life, pursuant to Articles 6, 7 and 14 of the ICCPR.

- ii. Whilst it retains the death penalty, ensure it complies with the ‘most serious crimes’ principle, under Article 6 ICCPR, restricting punishment to crimes of intentional killing only.
- iii. Ratify the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty.
- iv. Amend Articles of the Penal Code to remove the provision of the death penalty.
- v. Develop, in consultation with civil society and relevant regional bodies, a comprehensive action plan to formalise its moratorium, with a view to abolition, within the next four years.
- vi. Affirm its commitment to SDG 16 on access to justice and strong institutions through its support at the next biennial vote on the UNGA Resolution on the moratorium on the use of the death penalty.
- vii. Accept UPR recommendations on the abolition of the death penalty, as also signalling Libya’s affirmation of commitments to SDG 16 on strong institutions.
- viii. Issue Libya’s National Council for Civil Liberties and Human Rights (NCCLHR) with a mandate to advise on legislative amendment for abolition.

¹ See <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=99&Lang=EN>.

² Article 38 of Libya (Draft of 2 Mar 2016) Constitution
<https://www.constituteproject.org/constitution/Libya_2016D> accessed 25 Jan 2025

³ *ibid* art 39.

⁴ *ibid* art 17 and 19.

⁵ *ibid* art 81.

⁶ *ibid* art 84.

⁷ *ibid* art 316.

⁸ Amnesty International, ‘Amnesty International Global Report: Death Sentences and Executions 2023’
<<file:///C:/Users/id302636/Downloads/ACT5065482023ENGLISH.pdf>> 12 accessed 25 Jan 2025.

⁹ *ibid* 11.

¹⁰ World Coalition Against The Death Penalty, ‘Retentionist’ <<https://worldcoalition.org/pays/libya/>> accessed 25 Jan 2025.

¹¹ International Covenant on Civil and Political Rights (1976) 999 UNTS 171, Article 6 (right to life); Article 7 (the prohibition against torture and inhuman or degrading treatment or punishment); and Article 14 (the right to a fair trial and the principle of equality of arms).

¹² The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, GA Res. 44/128, December 15, 1989.

¹³ Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, Economic and Social Council Resolution, 1984/50; Additions to the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic and Social Council Resolution 1989/64; and the Strengthening of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic Council Resolution 1996/15.

¹⁴ See eg, ECOSOC Capital Punishment and Implementation of the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty Report of the Secretary-General UN Doc E/2015/49 (13 April 2015).

¹⁵ See eg, Report of the Secretary General, Question of the Death Penalty, A/HRC/27/23, 30 June 2014.

¹⁶ For example, *Judge v. Canada*, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003).

¹⁷ The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 10 December 1984.

¹⁸ Article 37(a) Convention on the Rights of the Child, G.A. Res 44/25, 20 November 1989.

¹⁹ UN Human Rights Committee, General Comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, 30 October 2018.

²⁰ *ibid* para 50.

- ²¹ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 62/149, 18 December 2007, *adopted by 104 votes to 54, with 29 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 63/168, 18 December 2008, *adopted by 106 votes to 46, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 65/206, 21 December 2010, *adopted by 109 votes to 41, with 35 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 67/176 20 December 2012, *adopted by 111 votes to 41, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 69/186 18 December 2014 *adopted by 117 votes to 37, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 71/187, 19 December 2016 *adopted by 117 votes to 40, with 31 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 73/175 17 December 2018 *adopted by 121 votes to 35, with 32 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 75/183, 16 December 2020 *adopted by 123 votes to 38, with 24 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 77/222, 15 December 2022 *adopted by 125 votes to 37, with 22 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 79/179, 17 December 2024 adopted by 130 votes to 32, with 22 abstentions.
- ²² UNGA, ‘Note verbale dated 13 September 2019 from the Permanent Mission of Egypt to the United Nations addressed to the Secretary-General’ (16 September 2019) UN Doc A/73/1004.
- ²³ ‘Panel Discussion on the Death Penalty – 4th Meeting, 52nd Regular Session Human Rights Council’ (23 February 2023, *UN Web TV*) <<https://webtv.un.org/en/asset/k11/k1lanmh0h8>>.
- ²⁴ UNHRC, ‘Report of the Working Group on the Universal Periodic Review: Libya – Addendum’ (18 February 2021) UN Doc A/HRC/46/7/Add.1, para 5.
- ²⁵ See UNHRC, ‘Report of the Working Group on the Universal Periodic Review: Libya (23 December 2020) UN Doc A/HRC/46/7.
- ²⁶ Amna Nazir, ‘The Universal Periodic Review and the Death Penalty: A Case Study of Pakistan’ (2020) 4(1) RSIL Law Review 126, 153.
- ²⁷ See UPRinfo, ‘For impact on the ground the UPR needs SMART recommendations’ <www.upr-info.org/en/news/for-impact-on-the-ground-the-upr-needs-smart-recommendations> (21 October 2015).
- ²⁸ UNHRC Res 5/1 (18 June 2007) UN Doc A/HRC/RES/5/1, para 1(c).
- ²⁹ Human Rights Watch, ‘Libya: Events of 2022’ <www.hrw.org/world-report/2023/country-chapters/libya> accessed 25 Jan 2025
- ³⁰ *ibid.*
- ³¹ *ibid.*
- ³² Libya Review, ‘Libya Considers Enforcing Death Penalty’ (22 July 2023) <<https://libyareview.com/36249/libya-considers-enforcing-death-penalty/>> accessed 25 Jan 2025.
- ³³ *ibid.*
- ³⁴ *ibid.*
- ³⁵ *ibid.*
- ³⁶ It is further recalled that the Human Rights Council determined that the basis of the Universal Periodic Review includes consideration of the Universal Declaration of Human Rights, see, Institution-building of the United Nations Human Rights Council, A/HRC/RES/5/1 18 June 2007.
- ³⁷ Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (5th edn, Oxford University Press 2015) 7-8.
- ³⁸ John Rawls stated, “[a]t some point, the injustice of the outcomes of a legitimate democratic procedure corrupts its legitimacy,” in, *Political Liberalism* (Columbia University Press 2005) 248.
- ³⁹ Austin Sarat stated, “law cannot work its lethal will and ally itself with the killing state while remaining aloof and unstained by the deeds themselves,” in, *When the State Kills: Capital Punishment and the American Condition* (Princeton University Press 2001) 21.
- ⁴⁰ See the UN Sustainable Development Goals website, <https://sustainabledevelopment.un.org/?menu=1300>.
- ⁴¹ The first two cycles of the UPR were reviewed under a data mining procedure and of the circa. 50,000 recommendations, it was possible to link more than 50% of those to SDG targets, see, The Danish Institute for Human Rights, Linking the Universal Periodic Review to the SGGs, p. 2.
- ⁴² Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to Papua New Guinea (3 to 14 March 2014), A/HRC/29/37/Add.1, 30 March 2015, para. 96, “...several interlocutors shared the opinion that the death penalty might actually lead to further killings... given the payback culture. While the Special Rapporteur condemns the existence of the payback culture, he acknowledges that payback-related killings might increase if the death penalty is carried out.