



THE UPR PROJECT AT BCU

Submitted by:

The UPR Project at BCU
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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

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INTRODUCTION

1. Niger is party to all 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 Niger 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 Niger 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 Niger accepts, and actively engaging with civil society throughout the process

CAPITAL PUNISHMENT

A. Niger and International Law on the Death Penalty

5. Niger retains the death penalty in law however it has not carried out an execution since 1976, making it a de facto abolitionist state.
6. The Constitution of the Seventh Republic (2010) guarantees the right to life but does not expressly prohibit capital punishment. Article 12 states that “[e]ach person has the right to life, health, physical and moral integrity, healthy and sufficient food, clean water, education and instruction under the conditions defined by law.”² However, it also leaves room for limitations “under the conditions defined by law,” which includes the Penal Code provisions on the death penalty.
7. The Nigerien Penal Code provides for the death penalty for a limited range of offences, including murder with aggravating circumstances; treason and espionage; certain acts of terrorism; and crimes under military law, such as desertion in the face of the enemy and other wartime offences.³

8. While courts continue to hand down death sentences, these are invariably commuted to life imprisonment or long custodial terms, reflecting the government's de facto moratorium. Though no executions have been carried out for decades, death sentences are still pronounced by Nigerien courts, particularly in cases related to terrorism and violent crime.⁴ Under the Constitution, the President of the Republic holds powers of pardon and commutation, which have been routinely exercised to prevent executions.⁵

International Law Promoting the Restriction and Abolition of the Death Penalty

9. 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,⁶ its Second Optional Protocol,⁷ the ECOSOC Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty,⁸ the Secretary General's quinquennial reporting,⁹ the Secretary General's Question on the Death Penalty,¹⁰ and the Human Rights Committee decisions.¹¹ Other relevant treaties include the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment¹² and the Convention on the Rights of the Child.¹³
10. The General Comment on the Right to Life¹⁴ 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.¹⁵
11. 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. Niger has abstained in all such resolutions to date except in 2014 and 2018 where it voted yes.¹⁶
12. Niger's voting record is also reflected in its absence 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.¹⁷ The absence from the *note verbale* provides the platform for Niger to signal its support for a global moratorium in the forthcoming resolution.

B. Implementation of Recommendations from Cycle Three in 2021

13. Niger received 254 recommendations in the Third Cycle of which 248 were accepted and 6 were noted.¹⁸ A total of 21 recommendations focused on the death penalty, all of which enjoyed State support.¹⁹

Recommendations concerning Niger’s Adoption of International Law

14. A number of states recommended Niger ratify the Second Optional Protocol to the ICCPR. This included **Belgium, France, Timor-Leste, Rwanda** (para 122.4), **Ukraine** (para 122.5), **Nepal, Argentina** (para 122.6), **Latvia** (para 122.7), **Namibia** (para 122.8), **Azerbaijan** (para 122.9), **Croatia** (para 122.10), **Iceland** (para 122.11), **Chile** (para 122.13), **Australia** (para 122.16), **Finland** (para 122.42), and **Uruguay** (para 122.99). These have **not been implemented**. While the government prepared a bill to authorize ratification in 2014, the process has not been completed, and the country’s Penal Code still provides for capital punishment for certain offences.

Recommendations concerning Abolition and/or Official Moratorium

15. Several states also urged Niger to abolish the death penalty, calling on it to “intensify” and “redouble” its efforts, and to “consider further positive actions” towards abolition. For example, **Costa Rica** (para 122.83), **Cote D’Ivoire** (para 122.84), **Fiji** (para 122.85), **Angola** (para 122.89), **Italy** (para 122.91), **Latvia** (para 122.92), **Mexico** (para 122.93), **Slovenia** (para 122.96), and **Spain** (para 122.97). **Uruguay** (para 122.99) also recommended Niger “strengthen awareness-raising campaigns on the death penalty and public debates on the matter from a human rights approach, including in its parliament” with a view to accelerating ratification of the ICCPR-OP-2. Niger supported all such recommendations however these remain **not implemented**.
16. 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.²⁰ It is recommended that States adopt a SMART approach to recommendations as recognised by UPRinfo.²¹ This would help Niger initiate an incremental approach to reducing the scope of the punishment and map out the process for abolition.
17. 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.”²² For example reference to Article 6 and/or 14 ICCPR, a treaty the State under Review has ratified, would strengthen any death penalty recommendations.
18. Since its previous UPR, Niger’s legal and political landscape regarding capital punishment has remained largely static, with no executions carried out, reflecting its continued status as “abolitionist in practice.” According to publicly available records, no new death sentences were handed down in 2021, and only four individuals were known to remain on death row by the end of that year.²³ This continuation of moratorium in practice reinforces

Niger's alignment with a growing number of countries that retain the death penalty in law but refrain from applying it.

19. A significant institutional milestone came in February 2022 when the Government of Niger established a national committee tasked with reviewing and updating both the Penal Code and the Criminal Procedure Code.²⁴ Civil society actors and international rights coalitions have publicly encouraged this body to take the opportunity to remove references to capital punishment from domestic legislation, in alignment with constitutional protections and regional human rights standards.²⁵
20. However, despite these promising structural reforms, Niger's position on the Second Optional Protocol to the ICCPR has not advanced. Although a draft bill to authorize ratification was approved in 2014,²⁶ the process remains stalled; Niger has yet to accede to the Protocol. Moreover, the country's UN voting record reveals an ambivalent trajectory: while it has generally abstained in all UN General Assembly moratorium resolutions, it voted in favour in 2014 and 2018.²⁷ This inconsistency at the international level indicates a cautious approach, even as institutional foundations for abolition gain attention domestically.
21. The broader political landscape of Niger presents additional challenges. The 2023 military coup and the subsequent political upheaval have overshadowed progress on human rights reforms. Notably, Niger's new junta announced in August 2023 that it intended to prosecute deposed President Mohamed Bazoum for "high treason," signalling that he could face the death penalty if convicted.²⁸ This development underscores how politicized justice may jeopardize the de facto moratorium and highlights the fragility of human rights protections under authoritarian regimes.
22. Overall, it is commendable that Niger has maintained its moratorium in practice, and initial institutional efforts have been made toward reform via legal code reviews. Yet, the lack of legislative action, interrupted progress on international commitments, and political instability present ongoing risks to the long-term abolitionist trajectory.

C. Further Points for Niger to Consider

The Role of the National Human Rights Institution

23. The Commission Nationale des Droits Humains (CNDH) was established in 2004 and reaffirmed under the Constitution of 2010 and Organic Law No. 2012-44.²⁹ It is an independent public body with a mandate to promote and protect human rights in Niger. The CNDH has the power to investigate human rights violations, advise the government on legislative reforms, and raise awareness of rights among the public.³⁰ Its independence and constitutional entrenchment make it a key actor in Niger's human rights landscape.

24. Alongside the National Committee currently tasked with reviewing and updating the Penal Code and the Criminal Procedure Code, the CNDH is well-placed to play a central role in advancing the abolition agenda. The National Committee’s reform process provides an important opportunity to remove all provisions authorising capital punishment, while the CNDH can provide expert human rights analysis and ensure that proposed reforms comply with Niger’s constitutional guarantees and regional obligations.
25. In this context, the CNDH could prepare detailed legal and policy recommendations for Parliament and the national committee on how to revise the Penal Code to abolish the death penalty. The Commission is also positioned to lead public education campaigns explaining the human rights implications of the death penalty, the lack of evidence supporting its deterrent effect, and the compatibility of abolition with Niger’s cultural and religious traditions. A formal requirement for the CNDH to collaborate with the national committee and advise Parliament on abolition would ensure that its expertise is fully integrated into the legislative process.
26. The CNDH’s ability to engage with a wide range of actors, including religious leaders, civil society organisations, victims’ associations, and academic institutions, makes it an effective facilitator of a broad national dialogue on the death penalty. By serving as a neutral platform for debate, the Commission could help to ensure that reform efforts are inclusive, representative, and reflective of the views of Nigerien society. Moreover, through its international advocacy, the CNDH could encourage the government to ratify the Second Optional Protocol to the ICCPR and to adopt a more consistent position in favour of the UN General Assembly resolutions calling for a moratorium on the use of the death penalty.
27. Empowering both the CNDH and the National Committee to work collaboratively on death penalty reform would provide the government with a nationally legitimate and coordinated mechanism for legislative and policy change. This dual approach would demonstrate Niger’s commitment to building strong institutions in line with Sustainable Development Goal 16, while ensuring that the abolition process is inclusive, transparent, and grounded in both technical and human rights expertise.

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

28. 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,”³¹ and the ICESCR article 15 (1)(b) recognises the right of everyone, “[t]o enjoy the benefits of scientific progress and its applications.”

29. Leading social science and criminological investigations into the death penalty worldwide and 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.³²

30. Social science investigations now demonstrate that reflecting appropriate government means that whilst capital punishment could be created within a legitimate parliamentary process,³³ it is now clear that the application of the death penalty renders an illegitimate and inhumane outcome.³⁴ Abolition in Niger 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

31. Niger should consider adopting the UPR recommendations as an expression of mutual reinforcement of the government’s commitment to promoting the Sustainable Development Goals.³⁵ The human rights values expressed in both the UPR and the SDGs can be woven together to promote policy coherence.³⁶

32. 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.³⁷

33. 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.³⁸ The death penalty is antithetical to strong institutional processes for the fostering of the human dignity of the people of Niger.

D. Recommendations

We recommend that, before the next cycle of review, the government of Niger 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. 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.
- v. Ensure that the National Committee tasked with reviewing the Penal Code and the Criminal Procedure Code removes all references to capital punishment, in line with constitutional protections and regional human rights standards.
- vi. Mandate the National Human Rights Commission (CNDH) to collaborate with the National Committee on legislative measures towards the abolition of the death penalty.
- vii. 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.
- viii. Accept UPR recommendations on the abolition of the death penalty, as also signalling Niger's affirmation of commitments to SDG 16 on strong institutions.

¹ See <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=80&Lang=EN>.

² See Constitution of the Republic of Niger (2010) available at <www.wipo.int/wipolex/en/text/497188>.

³ Cornell Center on the Death Penalty Worldwide, Database: Niger

<<https://dpw.lawschool.cornell.edu/database/#/results/country?id=52>> accessed 6 October 2025.

⁴ *ibid*.

⁵ Constitution of the Republic of Niger (2010, rev 2017) Art 72 available at <www.wipo.int/wipolex/en/text/497188>.

⁶ 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).

⁷ 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.

⁸ 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.

⁹ 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).

¹⁰ See eg, Report of the Secretary General, Question of the Death Penalty, A/HRC/27/23, 30 June 2014.

¹¹ For example, *Judge v. Canada*, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003).

¹² The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 10 December 1984.

¹³ Article 37(a) Convention on the Rights of the Child, G.A. Res 44/25, 20 November 1989.

¹⁴ 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.

¹⁵ *ibid* para 50.

¹⁶ 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.

¹⁷ UNGA, ‘Note verbale dated 3 September 2021 from the Permanent Mission of Egypt to the United Nations addressed to the Secretary-General’ (7 September 2021) UN Doc A/75/1015.

¹⁸ UNHRC, ‘Report of the Working Group on the Universal Periodic Review – Niger: Addendum’ (16 July 2021) UN Doc A/HRC/48/5/Add.1, para 2-4.

¹⁹ See UNHRC, ‘Report of the Working Group on the Universal Periodic Review – Niger’ (15 July 2021) UN Doc A/HRC/48/5.

²⁰ Amna Nazir, ‘A UPR Perspective on Capital Punishment and the Kingdom of Saudi Arabia’ (2023) 20(1) Muslim World Journal of Human Rights 1-18.

²¹ See UPRinfo, ‘For impact on the ground the UPR needs SMART recommendations’ <www.uprinfo.org/en/news/for-impact-on-the-ground-the-upr-needs-smart-recommendations> (21 October 2015).

²² UNHRC Res 5/1 (18 June 2007) UN Doc A/HRC/RES/5/1, para 1(c).

²³ The Advocates for Human Rights / WCADP, *Niger: Death Penalty Report* <www.theadvocatesforhumanrights.org/Res/WCADP%20_%20TAHR_CONICOPEM_REPRODEVH_SYNAFEN%20Niger%20CEDAW%20DP%20final.pdf> accessed 6 October 2025; Amnesty International, *Death Sentences and Executions 2021* <https://amnestynepal.org/wp-content/uploads/2022/05/Amnesty-Report_Death-Sentences-and-Executions-2021.pdf> accessed 6 October 2025.

²⁴ Agence Nigérienne de Presse, ‘Niger : l'avant-projet du Code pénal révisé remis au ministre de la Justice’ (27 March 2023, *ANP*) <<https://anp.ne/niger-lavant-projet-du-code-penal-revise-remis-au-ministre-de-la-justice>> accessed 6 October 2025; ‘Réformes à la justice : remise au ministre de la Justice de l'avant-projet du Code pénal’ (27 March 2023, *Le Sahel*) <www.lesahel.org/reformes-a-la-justice-remise-au-ministre-de-la-justice-de-lavant-projet-du-code-penal> accessed 6 October 2025.

²⁵ FIACAT & ACAT Niger, ‘CADHP 75 – Déclaration orale sur la situation des droits humains en Afrique’ (17 May 2023) <www.fiacat.org/representation-internationale/union-africaine-cadhp/3142-cadhp-75-declaration-oreale-sur-la-situation-des-droits-humains-en-afrique> accessed 6 October 2025

²⁶ UNHRC, ‘Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Niger’ (9 November 2015) UN Doc A/HRC/WG.6/24/NER/3, para 9.

²⁷ See (n 16).

²⁸ Peter Beaumont, ‘Niger coup leaders say deposed President Mohamed Bazoum could face treason charges’ (14 August 2023, *The Guardian*) <www.theguardian.com/world/2023/aug/14/niger-coup-leaders-say-deposed-president-mohamed-bazoum-could-face-treason-charges>.

²⁹ Nora Götzmann and Sébastien Lorion, ‘National Human Rights Institutions And Access To Remedy In Business And Human Rights Part 2: Four Comparative Case Studies From Africa’ (The Danish Institute for Human Rights 2020) 23.

³⁰ *ibid*.

³¹ 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.

³² Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (5th edn, Oxford University Press 2015) 7-8.

³³ 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.

³⁴ 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.

³⁵ See the UN Sustainable Development Goals website, <https://sustainabledevelopment.un.org/?menu=1300>.

³⁶ 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.

³⁷ “Goal 16: Peace, Justice and Strong Institutions,” (*Global Goals*) <<https://globalgoals.org/goals/16-peace-justice-and-strong-institutions>> accessed 6 October 2025.

³⁸ 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.