



Submission on Death by Incarceration in the United States

“[DBI] condemns men, women and children to die in prison. In doing this, the state is making the argument that it has the moral right to strip a human being of all hope and dignity until they die. This rationale is a byproduct of a historic cycle of violence that the United States was founded upon—slavery, racism, classism, misogyny, the genocide of Native Americans and the theft of their ancestral lands. The total lack of compassion and the dehumanization of DBI sentences has its roots in this historical legacy.”¹

ISSUE & SUMMARY

I. Introduction

This submission describes the United States’ cruel and racially discriminatory policy and practice of death by incarceration (“DBI”), more commonly known as life without parole (LWOP), life with parole (LWP), and “virtual life” sentences (sentences that will or are likely to exceed life expectancy). It is submitted by the groups listed below.² Incarcerated people, their loved ones, and advocates in the United States refer to this as “death by incarceration” or “the other death penalty” to describe their cruel reality.³

Even though U.N. human rights bodies have called on the United States to ensure that prison sentences do not violate international standards, that parole should be available and accessible to all incarcerated people, and that the United States establish a moratorium on LWOP sentences, nearly 200,000 people continue to serve DBI sentences in the United States. This means that one of every 6 people in prison, or 16% of the total prison population, is serving a DBI sentence.⁴ Of

¹ Written in 2022 by Right to Redemption Committee members Robert Labar, Vernon Robinson, Charles Bassett, and Terrell Carter, while serving LWOP sentences in Pennsylvania.

² Abolitionist Law Center, Amistad Law Project, Center for Constitutional Rights, California Coalition for Women Prisoners, Drop LWOP, Release Aging People in Prison, Right to Redemption (R2R), and the Sentencing Project.

³ Terrell Carter, Rachel López, Kempis Songster, *Redeeming Justice*, 116 Nw. U. L. Rev. 315, 328 (2021).

⁴ Ashley Nellis and Celeste Barry, *The Sentencing Project, A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States* 2 (2025),

those serving DBI sentences, 45% are Black, although only 14.4% of the U.S. population is Black.⁵

2025 has seen several alarming policies and practices by the United States when it comes to the criminal legal system, including a renewed commitment to the use and *expansion* of the death penalty at the federal level and its encouragement at the state level as well.⁶ The current administration has made clear its opposition to any effort to limit, let alone abolish, the death penalty.⁷ **In this environment, the challenges for limiting or abolishing DBI sentences are also clear - as is the need for rigorous examination and strong recommendations by this Council. While in 2020 several member states called for the United States to abolish the federal death penalty and life without parole for juveniles, the 2020 recommendations, while important, do not go far enough: all sentences that exceed life expectancy and/or have no meaningful opportunity for review and release must be abolished, not only those that are mandatory, non-homicide related, or imposed on youth. This includes LWOP but also all other forms of excessive sentencing, whether imposed on youth or adults.**

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The United States is the global leader in sentencing people to die in prison, though such sentences appear to be rising globally.⁸ One study concluded that more people are serving DBI sentences in the United States than in all other 113 surveyed countries combined, and that individuals serving LWOP in the United States made up more than 80 percent of those serving the sentence worldwide.⁹

- There are nearly 200,000 people, or 16 percent of the total U.S. prison population,¹⁰ serving some form of a DBI sentence in the United States. In 2024,

<https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>

⁵ Gravie Martinez and Jeffrey S. Passel, Pew Research Center, “Facts About the U.S. Black Population,” <https://www.pewresearch.org/race-and-ethnicity/fact-sheet/facts-about-the-us-black-population/> (2025).

⁶ See Restoring the Death Penalty and Protecting Public Safety, Executive Order, Jan. 20, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/restoring-the-death-penalty-and-protecting-public-safety/>; Office of the Attorney General, U.S. Dep’t Justice, Reviving the Federal Death Penalty and Lifting the Moratorium on Federal Executions, Memorandum, Feb. 5, 2025, <https://www.justice.gov/ag/media/1388561/dl>. Many U.S. states are also introducing legislation for new methods of killing condemned people. These methods include gassing with lethal nitrogen gas, electrocution, and the firing squad. Executions in Alabama, Louisiana, and South Carolina have been carried out using lethal gas and the firing squad just in the first few months of 2025. Rick Rojas and Nicholas Bogel-Burroughs, *Louisiana Resumes Capital Punishment with First Nitrogen Execution*, The New York Times (Mar. 18, 2025).

⁷ See Restoring the Death Penalty and Protecting Public Safety, Executive Order, Jan. 20, 2025, Sec. 3(e) (calling for the 37 individuals whose federal death sentences were commuted by former President Biden on December 23, 2024, to be punished with harsh conditions of confinement).

⁸ The rise of DBI globally is in part caused by countries replacing one form of deprivation of life with another: as countries eliminate the death penalty, they replace it with DBI.

⁹ Dirk van Zyl Smit & Catherine Appleton, *Life Imprisonment: A Global Human Rights Analysis* 88, 94 (2019).

¹⁰ Ashley Nellis and Celeste Barry, *The Sentencing Project, A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States* 2 (2025), <https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>

more people were serving life-without-parole sentences than ever before, a 68% increase since 2003.¹¹

- Forty-five percent of those sentenced to DBI are Black people, although only 14.4% percent of the total U.S. population is comprised of Black people.¹²
- Thirty-five percent of those sentenced to any form of DBI are 55 and older.¹³
- Almost half of all people serving LWOP in the United States are considered aging or elderly, over the age of 50; a quarter are over the age of 60.¹⁴

Death by incarceration sentences in the United States leave a largely Black and aging population to die in prison without any meaningful opportunity for release. In some states and the federal system, anyone serving a life sentence is precluded by law from applying for parole, turning all life sentences into LWOP sentences in those jurisdictions.¹⁵ In most states, those serving LWOP have virtually no opportunity for release; their only option may be to seek clemency, an entirely discretionary power that state governors and U.S. presidents have used extremely sparingly in recent years.¹⁶ In other states, those serving LWOP are prohibited by virtue of their sentence from even applying for clemency.¹⁷ Individuals serving life *with* parole (LWP) or virtual life sentences may be given the opportunity to be reviewed by a parole board, but the procedures for both clemency and parole across the United States fall far short of what is required under international standards.¹⁸

¹¹ *Id.*

¹² Ashley Nellis and Celeste Barry, *The Sentencing Project, A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States* 2 (2025), <https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>; Gravier Martinez and Jeffrey S. Passel, Pew Research Center, “Facts About the U.S. Black Population,” <https://www.pewresearch.org/race-and-ethnicity/fact-sheet/facts-about-the-us-black-population/> (2025).

¹³ Ashley Nellis and Celeste Barry, *The Sentencing Project, A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States* 17 (2025), <https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>

¹⁴ Ashley Nellis, *Nothing But Time: Elderly Americans Serving Life Without Parole* (2022), <https://www.sentencingproject.org/app/uploads/2022/10/Nothing-But-Time-Elderly-Americans-Serving-Life-Without-Parole.pdf>.

¹⁵ Release Types: Parole, Fla. Comm’n on Offender Rev., <https://www.fcor.state.fl.us/release-types.shtml>; 61 Pa. Cons. Stat. § 6137(a)(1) (2022); US Sent’g Comm’n, *Life Sentences in the Federal System* 20 n.1 (2015), https://www.ussc.gov/sites/default/files/pdf/researchand-publications/research-projects-and-surveys/miscellaneous/20150226_Life_Sentences.pdf.

¹⁶ Daniel Pascoe, *Worthless Checks? Clemency, Compassionate Release, and the Finality of Life Without Parole*, 118 NW. U. L. Rev. 1393, 1417 (2024) (“LWOP clemency has clearly proven extremely rare in the state jurisdictions... LWOP clemency was also very rare in federal cases”).

¹⁷ Terrell Carter et al., *supra* note 3, at 357 (citing statutes).

¹⁸ See American Law Institute, *Model Penal Code* (2021), section 6.11 (finding that “research, historical inquiry, and the first-hand experience of practitioners support the judgment that parole boards, when acting as prison-release authorities, are failed institutions,” that they are “highly susceptible to political pressure,” and that parole board discretion “cannot be sponsored as an ostensible check on prison population growth”); see also Jon Miller, Zach Russo, and Sumit Poudyal, *How Former Prisoners View the Parole System*, *The New Yorker*, Nov. 17, 2021, <https://www.newyorker.com/culture/the-new-yorker-documentary/how-former-prisoners-view-the-parole-system>

While it is crucial for any prison sentence to include a meaningful opportunity for review and release, that is not sufficient: any prison sentence that at the outset exceeds life expectancy with the aim of permanently incarcerating people until their death violates international law for all the reasons discussed in this submission.

Death by incarceration is the devastating consequence of a cruel and racially discriminatory criminal legal system that begins with violent policing and ends with the condemnation of people—particularly Black people—to prison until their death, by sentence and by the social, medical, and psychological consequences of incarceration. These sentences impact not only individuals, but entire communities, rupturing family ties and perpetuating intergenerational cycles of poverty, trauma, and pain. The sentence has increased the number of aging people in prison, which in turn has led to the cruel phenomenon of nursing homes and hospice inside prisons.¹⁹ This system is not driven by respect for life. It is not designed to address harm, violence, and its root causes, but compounds them, and in fact diverts resources and political will away from systems that do.²⁰ Instead, it is rooted in the legacy of slavery and racial hierarchy in the United States²¹ and, given the continuous disproportionate impact on Black people and communities, perpetuates those traumas in different forms.²²

Through DBI sentences, the United States deprives individuals of their human right to demonstrate that they have changed and to hope for a life outside of prison—a form of torture, cruel, inhuman, or degrading treatment or punishment condemned by several human rights bodies. This development in international human rights law finds significant parallels in the work of those who are advocating—many from inside prison—for the recognition of a “right to redemption.”²³ And by permanently sentencing people to death in prison, all DBI sentences also violate the prohibition on racial discrimination, the right to life, and the prohibitions on the arbitrary deprivation of life and liberty.

II. Death by Incarceration Violates the Prohibition on Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.

“The sentence of LWOP has taken all hope from me, just waking up and knowing that you’re never getting out of prison is devastating, it slowly drains the hope and life out of us. It’s like being buried alive.” – Bee Vue (sentenced to LWOP in California)

The Universal Declaration of Human Rights, as well as several treaties that are binding on the United States, protect individuals’ rights to dignity and prohibit torture, and cruel, inhuman, or degrading treatment or punishment, including articles 7 and 10 of the International

¹⁹ Prison Policy Initiative, The aging prison population: Causes, costs and consequences, Aug. 2, 2023, <https://www.prisonpolicy.org/blog/2023/08/02/aging/>; López, Rachel, *The Unusual Cruelty of Nursing Homes Behind Bars*, 32 Fed. Sent’g Rep. 264 (2020).

²⁰ Erin Reinhart, Biden’s Plan for More Police Won’t Make America Safer, TIME, Aug. 24, 2022, <https://time.com/6208047/police-crime-america/>.

²¹ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2010); Douglas A. Blackmon, *Slavery by Another Name* (2008).

²² See, e.g., Working Grp. on Arbitrary Detention, Rep. of Visit to the US, ¶ 61, U.N. Doc. A/HRC/36/37/ADD.2 (July 17, 2017).

²³ Terrell Carter et al., *supra* note 3 at 337.

Covenant on Civil and Political Rights (ICCPR), as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Death by incarceration sentences fail to provide incarcerated individuals with any meaningful opportunity for review of their sentence and release, thereby violating the prohibition on torture and other cruel, inhuman and degrading treatment or punishment. The Committee against Torture has repeatedly recommended that states should abolish irreducible life sentences, including LWOP sentences, precisely because of this.²⁴ It has stated that there should be “no blanket prohibition for life-sentenced prisoners to apply for release on parole for good reasons”²⁵ and that states should “guarantee the periodic review of life sentences with a view to their commutation.”²⁶ It has noted that these requirements are crucial to protecting an individual’s “right to hope,”²⁷ and without them a prison sentence may “hinder respect for the principle of human dignity and of a humanitarian approach to the treatment and rehabilitation of prisoners.”²⁸ Similarly, the U.N. Human Rights Committee has urged the United States to consider a moratorium on the imposition of LWOP sentences.²⁹

In arriving at the recommendation to abolish irreducible life sentences, the Committee against Torture relied on European case law,³⁰ which recognizes that such sentences are incompatible with the right to human dignity and the prohibition against torture contained in Article 3 of the European Convention on Human Rights. According to the European Court in *Vinter v. United Kingdom*, “it would be incompatible with . . . human dignity . . . to deprive a person of his freedom without at least providing him with the chance to someday regain that freedom.”³¹ The Court emphasized that “there is also now clear support in European and international law for the principle that all prisoners, including those serving life sentences, be offered the possibility of rehabilitation and the prospect of release”³²

Certain minimum standards are required under international law to ensure meaningful review and prospect of release including impartiality of the review process, transparency, certainty, and clarity.³³ There must be certainty and clarity related to the criteria that will be used to determine whether an incarcerated person will be released, and related to when reviews will take place. While international consensus is lacking on the maximum time period in which

²⁴ CAT, *Concluding Observations on the Seventh Periodic Report of the Netherlands*, ¶ 35, U.N. Doc. CAT/C/NLD/CO/7 (Dec. 18, 2018); CAT, *Concluding Observations on the second periodic report of South Africa*, ¶ 19, U.N. Doc. CAT/C/ZAF/CO/2 (June 7, 2019); CAT, *Concluding Observations on the Third Periodic Report of Lithuania*, ¶ 12, U.N. Doc. CAT/C/LTU/CO/3 (June 17, 2014); CAT, *Concluding Observations on the seventh periodic report of Greece*, ¶ 37(d), U.N. Doc. CAT/C/GRC/CO/7 (Sep. 3, 2019); CAT, *Concluding Observations on the seventh periodic report of Poland*, ¶ 14, U.N. Doc. CAT/C/POL/CO/7 (Aug. 29, 2019)

²⁵ CAT, *Concluding Observations on Lithuania*, *supra* note 24, ¶ 12.

²⁶ CAT, *Concluding Observations on Greece*, *supra* note 24, ¶ 37(d).

²⁷ CAT, *Concluding Observations on Netherlands*, *supra* note 24, ¶ 35.

²⁸ CAT, *Concluding Observations on Poland*, *supra* note 24, ¶ 14.

²⁹ Hum. Rts. Comm., *Concluding Observations of the Fifth Periodic Review of the United States*, ¶¶ 46-47, CCPR/C/USA/CO/5 (Nov. 3, 2023).

³⁰ See, e.g., CAT, *Concluding Observations on Netherlands*, *supra* note 24, at ¶ 34.

³¹ *Vinter v. United Kingdom*, App. Nos. 66069/09, 130/10 & 3896/10, ¶ 113 (July 9, 2013), <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-122664%22%5D%7D>

³² *Id.* at ¶ 114.

³³ Submission to U.N. Independent Experts Regarding Death By Incarceration at 23-24 (September 15, 2022), available at <https://www.deathbyincarcerationistorture.com/the-complaint>.

review of a prison sentence must take place, the Council of Europe Committee of Ministers recommended to member states in 1976 that “a review... of the life sentence should take place, if not done before, after eight to fourteen years of detention and be repeated at regular intervals.”³⁴ And there continues to be strong support by criminal law experts for a maximum period of 10 to 15 years,³⁵ despite the fact that the European Court has in more recent years noted support for a longer maximum period of 25 years.³⁶

But the United States continues the cruel practice of DBI, and in fact the number of people serving LWOP has increased in more than half of all U.S. states in the last four years.³⁷ In some states, individuals serving LWOP have no access to the clemency process at all and therefore lack any avenue for release. In those jurisdictions where those serving LWOP do have access to clemency processes, and those serving other forms of DBI have access to parole processes, the procedures for both fall far short of what is required under international standards to ensure a meaningful prospect for review and release: they lack clarity and certainty, they lack transparency, and because clemency and parole boards often include prosecutors or others with law enforcement backgrounds, they lack impartiality.³⁸ Overwhelmingly across states, parole release decisions are based on re-visiting the original crime rather than assessing personal growth, development, transformation, and redemption. And as described below, these sentences are racially discriminatory.³⁹ Because of the discretionary and often political nature of clemency decisions, the actual numbers of those granted clemency or parole in the United States are vanishingly small, rendering DBI sentences, even those eligible for parole, de facto irreducible.⁴⁰

³⁴ Council of Europe, Committee of Ministers, Resolution 76(2) on the Treatment of Long-Term Prisoners, ¶ 12 (Adopted by the Committee of Ministers on 17 Feb. 1976 at the 254 meeting of the Ministers’ Deputies).

³⁵ In 2017, the American Law Institute recommended in the Model Penal Code—an influential model act drafted by criminal law experts in the United States—that legislatures enact laws enabling prison sentences to be reviewed within 15 years, and at regular intervals thereafter, to determine if resentencing is appropriate. Model Penal Code § 305.6(1) (Am. L. Inst., Proposed Final Draft 2017). The Sentencing Project has recommended that review occur between 10 and 15 years, and has also recommended limiting all criminal sentences to 20 years. Nellis & Barry, *A Matter of Life*, *supra* note 4, at 26. Similarly, the Coalition to Abolish Death by Incarceration has demanded that parole review should take place after no more than 15 years. About, Coalition to Abolish Death by Incarceration, <https://cadbiwest.org/about/> (last visited August 30, 2023).

³⁶ *Hutchinson v. United Kingdom*, App. No. 57592/08, ¶ 44 (Jan. 17, 2017).

³⁷ Ashley Nellis and Celeste Barry, *The Sentencing Project, A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States* 3 (2025), <https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>

³⁸ Submission to U.N. Independent Experts Regarding Death By Incarceration at 24-28 (September 15, 2022), available at https://www.deathbyincarcerationistorture.com/files/ugd/22acfc_8b4c9394670c44099f562da0481cd2d1.pdf.

³⁹ For example, the European Court and the Inter-American Commission have both concluded that the United States’ federal clemency system does not satisfy minimum human rights standards. *Trabelsi v. Belgium*, App No. 140/10, ¶¶ 136-137 (Sept. 4, 2014); *Hall v. United States*, Case 12.719, Report No. 28/20, OEA/Ser.L/V/II doc. 38 ¶¶ 79-80 (2020). In most states, clemency and parole procedures lack clarity, transparency, and impartiality. https://www.deathbyincarcerationistorture.com/files/ugd/22acfc_8b4c9394670c44099f562da0481cd2d1.pdf at 24-28.

⁴⁰ There is a burgeoning movement to allow state courts to reconsider lengthy sentences, a modest proposal given the scope of extreme sentencing. See Becky Feldman, *The Second Look Movement: A Review of the Nation’s Sentence Review Laws* (2025), <https://www.sentencingproject.org/reports/the-second-look-movement-a-review-of-the-nations-sentence-review-laws/>

Consistent with analysis from other human rights bodies, the Council should clarify that: **1) the United States’ practice of DBI is denying those sentenced to life or virtual life a meaningful opportunity for review and release, thereby condemning them to die in prison; 2) that this practice is a violation of the prohibition on torture; and cruel, inhuman, and a degrading treatment or punishment, and 3) recommend that DBI be abolished.**

III. DBI Is a Violation of the Prohibition on Racial Discrimination.

“[DBI] condemns men, women and children to die in prison. In doing this, the state is making the argument that it has the moral right to strip a human being of all hope and dignity until they die. This rationale is a byproduct of a historic cycle of violence that the United States was founded upon—slavery, racism, classism, misogyny, the genocide of Native Americans and the theft of their ancestral lands. The total lack of compassion and the dehumanization of DBI sentences has its roots in this historical legacy.” – Right to Redemption Committee Members Robert Labar, Vernon Robinson, Charles Bassett, and Terrell Carter (sentenced to LWOP in Pennsylvania)

The Universal Declaration of Human Rights, as well as several treaties that are binding on the United States prohibit racial discrimination, including the Convention on the Elimination of Racial Discrimination (CERD), and articles 2 and 26 of the ICCPR, and international human rights bodies have emphasized that states must not use race or ethnicity as a factor in determining criminal sentences.⁴¹ But first in 2014 and most recently in 2022, the Committee on the Elimination of Racial Discrimination has expressed particular concern over the racism that pervades the United States’ criminal legal system, including its sentences of life imprisonment.⁴² Additionally, in 2024, the U.N. Special Rapporteur on Racism noted after her visit to the United States that “death by incarceration sentences can be considered to constitute cruel, inhuman and degrading treatment... and their racially disparate use violates the prohibition of racial discrimination, in contravention of international human rights treaties that the United States is party to.”⁴³

Yet the racially disparate rates of harsh sentences, including DBI sentences, persist in the United States: LWOP, LWP, and other sentences that exceed life expectancy are used to permanently incarcerate people belonging to racially and ethnically marginalized groups. While only 14.4

⁴¹ CERD, *General Recommendation 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system*, ¶¶ 34–37, U.N. Doc. A/60/18(SUPP) (Aug. 17, 2005).

⁴² CERD, *Concluding Observations of the Comm.: United States*, ¶¶ 26, 27, U.N. Doc. CERD/C/USA/CO/10-12 (Aug. 22, 2022); CERD, *Concluding Observations of the Comm.: United States*, ¶¶ 20-21, U.N. Doc. CERD/C/USA/CO/7-9 (Sept. 15, 2014).

⁴³ Ashwini K.P. (Special Rapporteur on racism), *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on her visit to the United States of America*, ¶44, A/HRC/56/68/Add.1 (May 16, 2024).

percent of the US population is comprised of Black people, 45 percent of all of those serving DBI sentences nationwide are Black people.⁴⁴ Stark racial disparities amongst Black and white people exist in virtually every state when it comes to DBI sentencing.⁴⁵ Disparities in DBI sentencing also exist between Latinx people and non-Latinx white people.⁴⁶

Racial disparities also exist with respect to rates of release. Unless they are resentenced, individuals sentenced to LWOP can generally only be released through clemency, and those sentenced to other forms of DBI can generally only be released through parole – both of which are wholly discretionary and infected by racial bias.⁴⁷ A 2025 study found significant racial disparities in parole grants between Black and white applicants in New York, for example.⁴⁸ An Alabama study likewise found that white applicants were granted parole at a rate more than double Black parole applicants.⁴⁹ Another study found significant racial disparities in parole outcomes for those sentenced to DBI in California.⁵⁰ Similarly, empirical studies suggest that racial disparities also exist in the clemency context, which includes commutations and pardons.⁵¹

But racially disparate rates of DBI sentences are not only a result of the racial bias at sentencing and release. They are the inevitable result of a racially discriminatory criminal legal system that is rooted in slavery and its legacy, and which, at every step of the way—from surveillance, to

⁴⁴ Ashley Nellis and Celeste Barry, *The Sentencing Project, A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States* 2 (2025), <https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>; Gracie Martinez and Jeffrey S. Passel, Pew Research Center, “Facts About the U.S. Black Population,” <https://www.pewresearch.org/race-and-ethnicity/fact-sheet/facts-about-the-us-black-population/> (2025).

⁴⁵ Ashley Nellis and Celeste Barry, *The Sentencing Project, A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States* 13-14 (2025), <https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>

⁴⁶ Quinn Cozzens & Bret Grote, Abolitionist L. Ctr., *A Way Out: Abolishing Death by Incarceration in Pennsylvania* 17, (2018), https://abolitionistlawcenter.org/wp-content/uploads/2018/09/ALC_AWayOut_27August_Full1.pdf; ACLU, *A Living Death: Life without Parole for Nonviolent Offenses* 31 (2018), <https://www.aclu.org/publications/living-death-life-without-parole-nonviolent-offenses>.

⁴⁷ Carter et al., *supra* note 3, at 362–65.

⁴⁸ The Center on Race, Inequality and the Law at NYU School of Law, *Freedom Delayed, Justice Denied: Racial Disparities in New York State’s Parole Release Decisions* (2025), <https://drive.google.com/file/d/10dI7Xwjg3c7f20lMOVqkmUr7OLWHIE-u/view>

⁴⁹ Beth Shelburne, *Grim Outlook for Parole-Eligible People in Alabama Prisons* (Jun. 1, 2024), <https://www.alabamasmartjustice.org/reports/documents-reveal-a-grim-outlook-for-parole-eligible-people-incarcerated-in-alabamas-violent-overcrowded-prisons>.

⁵⁰ Kathryn M. Young & Jessica Perlman, *Racial Disparities in Lifer Parole Outcomes: The Hidden Role of Professional Evaluations*, L. & Soc’y Inquiry 1, 19 (2021).

⁵¹ See, e.g., Marvin Wolfgang et al., *Comparison of the Executed and the Commuted Among Admissions to Death Row*, 53 J. Crim. L. & Criminology 301, 311 (1962); Margaret Vandiver, *The Quality of Mercy: Race and Clemency in Florida Death Penalty Cases*, 27 U. Rich. L. Rev. 315, 331 (1993); Dafna Linzer & Jennifer LaFleur, *Presidential Pardons Heavily Favor Whites*, ProPublica, Dec. 3, 2011, <https://www.propublica.org/article/shades-of-mercy-presidential-forgiveness-heavily-favors-whites>; Carol Jacobsen & Lora B. Lampert, *Institutional Disparities: Consideration of Gender in the Commutation Process for Incarcerated Women*, 39 Signs: J. Women Culture and Soc’y 265, 270 (2013); Ed Monahan et al., *A Comparison of Executions and Death to Life Commutations in Kentucky, 1901–2019*, 101 Prison J. 591, 603 (2021).

arrest and pre-trial detention, to charging and trial⁵²—discriminates against people of color, particularly Black people, and ultimately leads to racially disparate rates of DBI.

More particularly, the punitive power of the U.S. criminal legal system is disproportionately imposed on communities of color that are also subjected to poverty, housing discrimination, health insecurity, and violence by private actors. The systematic deprivation of resources in education, healthcare, and other social support and services, because of intersecting and compounding factors, in turn, brings more policing and surveillance in these communities and more exposure to the criminal legal system. Further, the racial discrimination in every aspect of the criminal legal system inevitably results in the reality that Black people are disproportionately condemned to death—and as described below, premature death—in prison. The consequences ripple through their families, communities, and future generations.

In accordance with other U.N. treaty bodies’ pronouncements calling for the abolition of policies that disproportionately subject people from racially and ethnically marginalized groups to some of the worst consequences of the criminal legal system, such as the death penalty and juvenile LWOP sentences,⁵³ **the Council should recommend the abolition of all DBI sentences. Specifically, the United States should repeal all laws that permit or mandate the imposition of LWOP, LWOP, or virtual life sentences.**

IV. DBI Is a Violation of the Right to Life.

“While fighting the Death Penalty, I was given a LWOP sentence instead, to me both were the same, as it meant ‘Die in Prison One Way or Another.’” – Alvin Ronnel Ross (serving LWOP sentence in California)

The Universal Declaration of Human Rights, as well as Article 6 of the ICCPR protects the right to life.⁵⁴ The Human Rights Committee (HRC) has interpreted this right broadly, and considers it not only a prohibition on direct killings, but also the “entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death.”⁵⁵ Under international law, any deprivation of life must not be “arbitrary,” with arbitrary taken to mean unlawful under international law, or inappropriate, unjust, unpredictable, unreasonable, unnecessary, disproportionate, or lacking in due

⁵² See, e.g., Jeff Adelson, Gordon Russell and John Simerman, *How an abnormal Louisiana law deprives, discriminates, and drives incarceration: Tilting the scales*, The Advocate (Apr. 1, 2018),

⁵³ See, e.g., Hum. Rts. Comm., *Concluding Observations on the fourth periodic report of the United States*, ¶¶ 8, 23, U.N. Doc. CCPR/C/USA/CO/4 (Apr. 23, 2014); CERD, *Concluding Observations of the Comm.: United States*, ¶ 27(d), (g), U.N. Doc. CERD/C/USA/CO/10-12 (Aug. 22, 2022); CERD, *Concluding Observations of the Comm.: United States*, ¶¶ 21, 23, U.N. Doc. CERD/C/USA/CO/6 (May 8, 2008); CERD, *Concluding Observations on the combined seventh to ninth periodic reports of the United States*, ¶¶ 20–21, U.N. Doc. CERD/C/USA/CO/7-9 (Sept. 25, 2014); CAT, *Concluding Observations on the combined third to fifth periodic reports of the United States*, ¶ 24, U.N. Doc. CAT/C/USA/CO/3-5 (Dec. 19, 2014); CAT, *Concluding Observations on the second periodic report of South Africa*, ¶¶ 18–19, U.N. Doc. CAT/C/ZAF/CO/2 (June 7, 2019).

⁵⁴ International Covenant on Civil and Political Rights, art. 6.

⁵⁵ Hum. Rts. Comm. (HRC), General Comment No. 36, ¶ 3, U.N. Doc. CCPR/C/GC/36 (Sep. 3, 2018) (emphasis added).

process.⁵⁶ The HRC has also stated that when States deprive individuals of their liberty, such as through imprisonment, they have a “heightened duty of care to take any necessary measures to protect the lives” of these individuals.

But United States prisons are “death-making institutions”⁵⁷ that create risks of fatal harm. This is why advocates have coined the term “death by incarceration” to reveal the reality that those serving prison sentences that exceed life expectancy are condemned to die, often prematurely in prison.

Several empirical studies have found a clear and consistent relationship between rates of incarceration and adverse health outcomes for incarcerated people.⁵⁸ These outcomes emerge as a result of a variety of conditions that characterize U.S. prisons and are exacerbated by deepening environmental and climate injustice: overcrowding,⁵⁹ extreme temperatures,⁶⁰ inadequate sanitation procedures,⁶¹ hard labor, and a lack of access to adequate physical and mental healthcare services for vulnerable populations.⁶² As well, many U.S. prison systems either delay or outright deny people with LWOP sentences from participating in offered in-prison self-help or rehabilitation programs.⁶³

The negative health impacts of being incarcerated ultimately lead to a higher probability of premature death: the longer one spends in prison, the shorter one’s life expectancy becomes.

⁵⁶ *Id.*, ¶¶ 18, 21; Christof Heyns (Special Rapporteur on extrajudicial, summary or arbitrary executions), Rep. on Protection of the Right to Life during Law Enforcement, ¶ 55, U.N. Doc. A/HRC/26/36 (Apr. 1, 2014).

⁵⁷ Keeanga-Yamahatta Taylor, *The Emerging Movement for Police and Prison Abolition*, New Yorker, May 7, 2021, <https://www.newyorker.com/news/our-columnists/the-emerging-movement-for-police-and-prison-abolition>; Advancing Public Health Interventions to Address Harms of the Carceral System, Am. Pub. Health Ass’n (Oct. 26, 2021), <https://www.apha.org/Policies-andAdvocacy/Public-Health-Policy-Statements/Policy-Database/2022/01/07/Advancing-Public-Health-Interventions-to-Address-theHarms-of-the-Carceral-System>.

⁵⁸ See Christopher Wildeman & Emily A. Wang, *Mass Incarceration, Public Health, and Widening Inequality in the USA*, 389 *Lancet* 1464, 1467–68 (2017), and Michael Massoglia & William Alex Pridemore, *Incarceration and Health*, 41 *Ann. Rev. Socio.*, 291, 291, 295–96 (2015).

⁵⁹ See Paul S. Appelbaum, *Lost in the Crowd: Prison Mental Healthcare, Overcrowding, and the Courts*, 62 *Psychiatric Servs.* 1121, 1121–22 (2011).

⁶⁰ https://www.prisonpolicy.org/blog/2022/04/20/environmental_injustice/;
<https://www.prisonpolicy.org/blog/2019/06/18/air-conditioning/>

⁶¹ See Sharon Bernstein, California Prison Inspection Uncovers Unsanitary Conditions, Reuters, May 13, 2015, <https://www.reuters.com/article/us-usa-california-prisons/california-prison-inspection-uncovers-unsanitary-conditions-idUSKBN0NZ07D20150514>; Shannon Heffernan, The Way Prisoners Flag Guard Abuse, Inadequate Health Care, and Unsanitary Conditions Is Broken, ProPublica, Dec. 2, 2020, <https://www.propublica.org/article/the-way-prisoners-flag-guard-abuse-inadequate-health-care-and-unsanitary-conditions-isbroken>.

⁶² See Tina Maschi et al, *Palliative and End-of Life Care in Prisons: A Content Analysis of the Literature*, 10 *Int’l J. Prisoner Health* 172, 188 (2014); Steve Belenko et al, *Treating Substance Use Disorders in the Criminal Justice System*, 15 *Current Psychiatry Reps.* 414, 416 (2013); Keri Blakinger, Prisons Have a Health Care Issue – And It Starts at the Top, Critics Say, The Marshall Project, July 1, 2021, <https://www.themarshallproject.org/2021/07/01/prisons-have-a-health-care-issue-and-it-starts-at-the-top-critics-say>; Tiana Herring, COVID Looks Like It May Stay. That Means Prison Medical Copays Must Go, Prison Pol’y Initiative, Feb. 1, 2022, https://www.prisonpolicy.org/blog/2022/02/01/pandemic_copays/.

⁶³ Ashley Nellis and Celeste Barry, The Sentencing Project, *A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States* 2 (2025), <https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>.

One study published in 2013 found that spending a year in prison can lead to a two-year decline in an incarcerated individual's life expectancy.⁶⁴ According to the latest Bureau of Justice Statistics (BJS) report, the number of deaths (3,853 prisoners) and mortality rate in U.S. state prisons (330 deaths per 100,000 prisoners) in 2019 was at one of the highest levels since BJS started collecting data in 2001.⁶⁵ In New York State prisons, for example, the number of deaths from all causes among incarcerated people rose from 107 in 2023 to 144 in 2024.⁶⁶

By permanently confining people to these environments that lead to premature death, DBI sentences amount to a death penalty. **These sentences must be abolished. Specifically, the United States should repeal all laws that permit or mandate the imposition of LWOP, LWP, or virtual life sentences.**

V. DBI Is an Arbitrary Deprivation of Liberty.

“Sentences of DBI do not allow for true acts of atonement for a changed life, nor does it end in the healing process for those affected by these crimes.” – Sheena King (serving LWOP sentence in Pennsylvania)

The Universal Declaration of Human Rights as well as Article 9 of the ICCPR protect the right to liberty. Under international human rights law, any deprivation of liberty must be justified by legitimate aims and must be proportionate to those aims.⁶⁷ In the context of a deprivation of liberty through incarceration, while rehabilitation must be a central aim of the deprivation, human rights bodies have found that other legitimate aims for incarceration may include incapacitation, deterrence, and, to a limited extent, retribution for the harm caused.⁶⁸ But, in addition to failing to serve the purpose of rehabilitation as described in Section II above, DBI also fails to serve any of these other aims, resting instead on the political demand for harsher sentences.

First, as to incapacitation, studies have shown that recidivism rates drop as people age, so sentences like DBI keep people in prison even when they are unlikely to commit a crime if released.⁶⁹ Second, as to deterrence, experts, including U.N. Special Procedures mandate holders,

⁶⁴ Evelyn J. Patterson, *The Dose–Response Time Served in Prison on Mortality: New York State, 1989–2003*, 103 Am. J. Pub. Health 523, 526 (2013); see also Sebastian Daza et al, *The Consequences of Incarceration for Mortality in the United States*, 57 Demography 577, 595 (2020).

⁶⁵ E. Ann Carson, Bureau of Just. Statistics, *Mortality in State and Federal Prisons, 2001–2019 – Statistical Tables 1* (2021), <https://bjs.ojp.gov/content/pub/pdf/msfp0119st.pdf>.

⁶⁶ New York State Corrections and Community Supervision, *DOCCS Fact Sheet* (January 2025), doccs.ny.gov/system/files/documents/2025/01/doccs-fact-sheet-january-2025_0.pdf

⁶⁷ Hum. Rts. Comm., General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, ¶ 6, U.N. Doc. CCPR/C/21/Rev.1/Add. 13 (May 26, 2004); Anand Grover (Special Rapporteur on the right to health), *Rep. to Hum. Rts. Council in its Fourteenth Session*, ¶ 5, U.N. Doc. A/HRC/14/20 (Apr. 27, 2010); Christof Heyns (Special Rapporteur on extrajudicial, summary or arbitrary executions), *Rep. on Protection of the Right to Life during Law Enforcement*, ¶¶ 55–65, U.N. Doc. A/HRC/26/36 (Apr. 1, 2014).

⁶⁸ HRC, General Comment No. 21, ¶ 10; *Vinter v. United Kingdom*, *supra* note 31, ¶ 111.

⁶⁹ Damon Petrich et al., *Custodial Sanctions and Reoffending: A Meta-Analytic Review*, 50 Crime and Just. 353 (2021); US Sentencing Comm’n, *The Effects of Aging on Recidivism Among Federal Offenders* 3 (2017), <https://www.ussc.gov/sites/default/files/pdf/research-andpublications/research->

have raised doubts as to whether lengthy and harsh sentences actually deter violence.⁷⁰ And third, as to retribution, while international law accepts a limited form of retribution as a legitimate carceral aim, as the European Court of Human Rights has noted, strong retributive justifications for incarceration diminish as a prison sentence goes on.⁷¹ And while crime victims are often used as a justification for harsh, retributive punishments, they are not a monolith. For example, advocates in Pennsylvania have uplifted the experiences of “dual victims:” individuals, some of whom advocate for the abolition of DBI, who have lost loved ones to crime and also have a loved one serving a DBI sentence.⁷² The first-ever national survey on crime victims’ views on safety also indicates that most prefer shorter prison sentences and a criminal legal system focused on rehabilitation rather than retribution.⁷³ Additionally, many DBI sentences are imposed mandatorily, which fails to account for victim perspectives and individual responsibility.

Because these sentences do not serve any legitimate purpose, they are an arbitrary deprivation of liberty and must be abolished. **Specifically, the United States should repeal all laws that permit or mandate the imposition of LWOP, LWP, or virtual life sentences.**

PRIOR UPR RECOMMENDATIONS & U.S. GOVERNMENT RESPONSE

In 2020, the Human Rights Council presented the United States with several recommendations that are relevant for its consideration during this review of the United States’ policy of DBI.⁷⁴ First, several states recommended that the United States abolish or impose a moratorium on the death penalty. Second, several states recommended banning LWOP sentences for juveniles.

Neither of these recommendations have been implemented. The United States has neither established a moratorium on the death penalty, much less abolished it, and its racially discriminatory practice of death by incarceration is another form of death penalty that we urge the Council to examine. And, although the total prison population has decreased by 13% between

[publications/2017/20171207_Recidivism-Age.pdf](#); John L. Anderson, Recidivism of Paroled Murderers as a Factor in the Utility of Life Imprisonment, 31 Current Issues in Crim. Just. 255, 261 (2019).

⁷⁰ Special Rapporteur on extrajudicial, summary, or arbitrary executions et al., letter dated Mar. 1, 2022, from the Special Rapporteur on extrajudicial, summary or arbitrary executions et al. to the Office of the High Commissioner for Human Rights, at 6–7, U.N. Doc. USA 12/2021 (Mar. 1, 2022). *See also* Cozzens & Grote, *supra* note 46, at 43 (citing Paul H. Robinson, Life Without Parole Under Modern Theories of Punishment, in Life Without Parole: America’s New Death Penalty? 138, 140 (Charles J. Ogletree, Jr. and Austin Sarat eds. 2012)). *See also*, the Sentencing Project, Incarceration & Crime: A Weak Relationship (2024).

⁷¹ *Dickson v. United Kingdom*, App. No. 44362/04 ¶ 28 (Dec. 4, 2007), <https://hudoc.echr.coe.int/engpress#%7B%22itemid%22%3A%222003-2204926-2350295%22%7D>.

⁷² Elizabeth Hardison, These Crime Victims Have Lost Loved Ones to Murder — And to Prison. That’s Why They Want to End Life Without Parole in Pennsylvania, Pa. Cap. Star, Aug. 27, 2019, <https://www.penncapital-star.com/criminal-justice/these-crime-victims-have-lost-loved-ones-to-murder-and-to-prison-thats-why-they-want-to-end-life-without-parole-in-pennsylvania/>.

⁷³ All. for Safety and Just., Crime Survivors Speak: The First-Ever National Survey of Victims’ Views on Safety and Justice 5 (2016), <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>.

⁷⁴ U.N. Hum. Rts. Council, Report of the Working Group on the Universal Periodic Review of the United States of America, A/HRC/46/15, at 15-16, 19 (Dec. 15, 2020).

2020-2024, the number of people serving DBI decreased by only 4%,⁷⁵ revealing that people continue to be sentenced to DBI and that there are insufficient meaningful processes for review of these sentences and release. Additionally, youth and young adults continue to serve DBI sentences, including LWOP: in 2024, there were a total of 68,429 people serving DBI sentences for crimes committed under the age of 25, and 19,930 of those serving LWOP.

Moreover, the 2020 recommendations, while important, do not go far enough: all sentences that exceed life expectancy and/or have no meaningful opportunity for review and release must be abolished, not only those imposed on youth. This includes LWOP but also all other forms of death by incarceration, whether imposed on youth or adults.

RECOMMENDATIONS BY OTHER HUMAN RIGHTS BODIES

In the past two years, numerous human rights bodies have examined the United States' policy of imposing DBI sentences—including life with parole, life without parole, and virtual life sentences—and called for an end to this cruel and racist practice.

The U.N. Human Rights Committee recommended in 2023 that the United States consider a **moratorium on the imposition of LWOP sentences**. It also called on the United States to ensure that parole is available and more accessible to all, including those sentenced to any form of life imprisonment, and to abolish all mandatory LWOP, LWOP for non-homicide-related crimes, and LWOP for juveniles.⁷⁶

The U.N. Special Rapporteur on Racism issued a long list of recommendations related to death by incarceration after her 2023 visit to the United States, including calling on the United States to consider “**a national moratorium on the imposition of sentences of life imprisonment without parole and other death by incarceration sentences**, including those that exceed natural life expectancy.”⁷⁷ She also recommended that parole should be available and accessible to all, including those sentenced to life imprisonment, and that executive clemency powers should be used “to help to urgently address the racially disparate impact of mass incarceration.”⁷⁸

The U.N. Expert Mechanism on Racism and Law Enforcement (EMLER) noted in 2023 “that disproportionate, excessive and discriminatory sentencing beyond life expectancy is a cruel, inhuman and degrading treatment, in violation of international human rights standards protecting life, liberty and against torture,” and recommended that “[a]ll prison sentences in the United States should include parole eligibility within a reasonable number of years, and always below life expectancy,” and that clemency powers should be used “in favour of persons already

⁷⁵ Ashley Nellis and Celeste Barry, *The Sentencing Project, A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States 2* (2025), <https://www.sentencingproject.org/app/uploads/2025/01/A-Matter-of-Life-The-Scope-and-Impact-of-Life-and-Long-Term-Imprisonment-in-the-United-States.pdf>

⁷⁶ Hum. Rts. Comm., *Concluding Observations of the Fifth Periodic Review of the United States*, at 20, CCPR/C/USA/CO/5 (Nov. 3, 2023).

⁷⁷ Ashwini K.P. (Special Rapporteur on racism), Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on her visit to the United States of America, at 20, A/HRC/56/68/Add.1 (May 16, 2024)

⁷⁸ *Id.*

serving sentences beyond life expectancy, especially benefiting children and persons who committed crimes when they were children and older persons.”⁷⁹

SUGGESTED QUESTIONS TO THE UNITED STATES

1. What is the federal government’s position on LWOP sentences for any group of people? Is the federal government taking any legal or policy measures to limit LWOP, LWP, or “virtual life” sentences (sentences that will or are likely to exceed life expectancy)? What legal and policy measures are states taking to limit or abolish these sentences? Are states or the federal government repealing any laws that permit or mandate LWOP, LWP, “virtual life,” and other lengthy or indeterminate sentences, to comply with international obligations, including the prohibition on torture, CIDT, and racial discrimination?
2. What legal and policy measures and other steps are the federal and state governments undertaking to ensure that all prison sentences include parole eligibility or judicial review within a determined and reasonable number of years, and to ensure that individuals are released at their eligibility date through a process that meets international standards?
3. What steps are the federal and state governments undertaking to address racial bias in parole and clemency, to ensure that parole and clemency decisions are based on pre-established, clear criteria, and that release is granted if those criteria are met?
4. What steps are the federal and state governments taking to ensure that parole reviews and other release mechanisms are fair and impartial, and to rectify the overrepresentation of parole commissioners with law enforcement backgrounds, to ensure that parole hearings provide a meaningful opportunity for release and do not constitute a second trial or an additional opportunity to punish parole applicants?

RECOMMENDATIONS

1. Impose a moratorium on the imposition of life without parole sentences.
2. Repeal all laws that permit or mandate LWOP, LWP, and other terms-of-years sentences that exceed life expectancy.
3. Ensure that all prison sentences include parole eligibility or judicial review within a determined and reasonable number of years, and ensure periodic and meaningful opportunities for parole or sentence review.

⁷⁹ International Independent Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement, *Report on Visit to the United States of America*, ¶¶ 3, U.N. Doc. A/HRC/54/CRP.7 (Sept. 26, 2023).

4. Ensure that all imprisoned individuals are released at their eligibility date through a process that meets international human rights standards. Parole boards and judicial resentencing must be guided by the presumption of release.

5. Immediately engage in a state and federal level review of the racial disparities and intergenerational impact of death-by-incarceration sentences with a commitment to accountability and repair in the most impacted communities.

6. District Attorneys and Attorney Generals at the state level in their respective jurisdictions should take immediate measures to vacate the convictions and sentences of political prisoners in their jurisdictions who are serving death-by-incarceration sentences to facilitate their immediate release.⁸⁰

7. The U.S. President and governors of all 50 states in the United States must exercise their clemency powers to commute the sentences of the 200,000 people currently sentenced to death by incarceration in the U.S., granting them release or, at a minimum, the possibility of release before an advanced age.

8. The U.S. President and governors of all 50 states in the United States must exercise their clemency powers to commute the sentences of political prisoners currently serving death-by-incarceration sentences in the United States, granting them release.

⁸⁰ In Pennsylvania, we seek to highlight the cases of three individuals who have been denied the right to life by law enforcement and state actors: Mumia Abu-Jamal (age 70), Fred Muhammed Burton (age 78), and Joseph Bowen (age 79), all of whom have served over 40 to 50 years in prison already. We seek the opportunity to provide an addendum to this submission with more information about the plight of political prisoners serving DBI, including these men, for the Council's consideration.