



# 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](http://www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu)

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## INTRODUCTION

1. Lesotho is party to all nine core international human rights treaties for which it should be commended.<sup>1</sup> 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 Lesotho 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 Lesotho 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 Lesotho accepts, and actively engaging with civil society throughout the process

## CAPITAL PUNISHMENT

### A. Lesotho and International Law on the Death Penalty

5. The inclusion of the death penalty in Lesotho's domestic laws is based on its presence in Section 5 of the Lesotho Constitution 1993 (rev. 2018) which provides that every human being has an inherent right to life and that no one shall be arbitrarily deprived of his life. However, it also specifies that a person shall not be considered to have been deprived of his life if he dies in the execution of the sentence of death imposed by a court in respect of a criminal offence under the law of Lesotho of which he has been convicted.<sup>2</sup>
6. Additionally, Section 297 of the Criminal Procedure and Evidence Act permits the imposition of the death penalty in respect of murder and treason.<sup>3</sup> Furthermore, Section 32(a) (vii) of the Sexual Offences Act 2003 permits the imposition of the death penalty where a person convicted of rape knowingly commits the crime knowing that or having reasonable suspicion to believe that he is infected with HIV.<sup>4</sup>

7. The Lesotho Defence Force Act 1996 permits the imposition of the death penalty for various military crimes including aiding the enemy, communicating with the enemy, cowardly behaviour, mutiny, and failure to suppress mutiny, respectively. The Act applies solely to the members of the defence force.<sup>5</sup>
8. The last known execution in Lesotho was in November 1995.<sup>6</sup> Since then, Lesotho has joined other nations in imposing a moratorium on executions. Instances of commutation and pardon of death sentences in Lesotho have been recorded.<sup>7</sup> The United Nations also reported that while the High Court of Lesotho imposed death sentences, the Court of Appeal frequently commuted these sentences to life imprisonment.<sup>8</sup>

*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,<sup>9</sup> its Second Optional Protocol,<sup>10</sup> the ECOSOC Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty,<sup>11</sup> the Secretary General's quinquennial reporting,<sup>12</sup> the Secretary General's Question on the Death Penalty,<sup>13</sup> and the Human Rights Committee decisions.<sup>14</sup> Other relevant treaties include the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment<sup>15</sup> and the Convention on the Rights of the Child.<sup>16</sup>
10. The General Comment on the Right to Life<sup>17</sup> 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.<sup>18</sup>
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 ninth and most recent iteration of the resolution was passed on 15 December 2022. A total of 125 votes were recorded in favour with 37 votes against and 22 abstentions. Lesotho has abstained in all such resolutions to date.<sup>19</sup>
12. Lesotho'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.<sup>20</sup> The absence from the *note verbale* provides the platform for Lesotho to signal its support for a global moratorium in the forthcoming resolution.

## **B. Implementation of Recommendations from Cycle Three in 2020**

13. Lesotho received 211 recommendations in the Third Cycle of which 168 were accepted and 43 were noted.<sup>21</sup> A total of 10 recommendations focused on the death penalty, none of which were supported.<sup>22</sup>

### *Recommendations concerning Lesotho's Adoption of International Law*

14. **Iceland** (para 111.5); **Ireland** (para 111.6); **New Zealand** (para 111.8); **Uruguay** (para 111.17); **Australia** (para 111.18); **Costa Rica** (para 111.20); **Italy** (para 111.33) and **France** (para 111.35) recommended Lesotho ratify the Second Optional Protocol to the ICCPR. These were all noted and Lesotho has not indicated any change to its position.

### *Recommendations concerning Abolition and/or Official Moratorium*

15. A number of States also recommended Lesotho abolish the death penalty and/or introduce an official moratorium. This included **Iceland** (para 111.5); **Ireland** (para 111.6), **New Zealand** (para 111.8); **Australia** (para 111.18); **Italy** (para 111.33); **France** (para 111.35) and **Fiji** (para 111.34). Lesotho noted all of these recommendations and continues to support the retention of capital punishment.
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.<sup>23</sup> It is recommended that States adopt a SMART approach to recommendations as recognised by UPRinfo.<sup>24</sup> This would help Lesotho 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.”<sup>25</sup> 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. In 2022, the High Court of Lesotho in the case of *MK v Director of Public Prosecutions and Others*<sup>26</sup> declared that section 32(a)(vii) of the Sexual Offences Act 2003 was unconstitutional as it violated the right to equality before the law, the equal protection of the law, and amounted to inhumane treatment.<sup>27</sup> This decision eliminated the mandatory death sentence for people convicted of rape who were aware that they carried HIV.
19. Nonetheless, Lesotho still upholds the death penalty, however, reports suggest the country is considering acceding to the Second Optional Protocol, contingent on the outcomes of a public referendum.<sup>28</sup> Moreover, Lesotho has reported that the abolition of the death penalty will be tabled for national debate as part of the National Reform Process.<sup>29</sup> Unfortunately, Lesotho has yet to engage the public in meaningful discussion on the topic, causing efforts

to move toward abolition to stall. Furthermore, reports indicate that the general public and political leaders share a common sentiment that the death penalty is a necessary deterrent due to anger caused by high murder rates of women in the country.<sup>30</sup>

20. It is disappointing to note that former Prime Minister, Pakalitha Mosisili, and former Attorney General, Haar Phoofolo, believe that executions are the only effective means to punish and deter criminals.<sup>31</sup> This perspective persists in Lesotho despite there being no empirical evidence supporting the effectiveness of the death penalty, with countries including the United States of America a case in point where high murder rates persist in states that enforce the death penalty. Therefore, there is little evidence to suggest that the death penalty would be effective in reducing crimes or preventing murders in Lesotho.<sup>32</sup>
21. We urge the government of Lesotho to provide the platform for a comprehensive and inclusive public debate on the future of the death penalty in the country, allowing a group of people that is representative of all Lesotho citizens to share their opinions.

### **C. Further Points for Lesotho to Consider**

#### *The Role of the National Human Rights Institution*

22. Lesotho received 27 recommendations to establish and/or operationalise its National Human Rights Commission in line with the Paris Principles. These were received from **Honduras** (para 110.10), **India** (para 110.12), **Kuwait** (para 110.13), **Indonesia** (para 110.14), Iraq (para 110.15), **Mali** (para 110.16), **Morocco** (para 110.18), **Nepal** (para 110.20), **Niger** (para 110.22), **Philippines** (para 110.25), **Portugal** (para 110.26), **Rwanda** (para 110.27), **Fiji** (para 110.28), **South Africa** (para 110.30), **South Sudan** (para 110.33), **Tunisia** (para 110.34), **Tanzania** (para 110.37), **Vanuatu** (para 110.38), **France** (para 110.39), **Angola** (para 110.41), **Australia** (para 110.42), **Benin** (para 110.43), **Georgia** (para 110.44), **Burundi** (para 110.48), **Chile** (para 110.49), **Costa Rica** (para 110.50), and **Cote D'Ivoire** (para 110.51). Lesotho supported all these recommendations however they have **not been implemented**.
23. The Lesotho National Human Rights Commission (LHRC) was established by the sixth amendment to the Constitution in 2011. On 2 November 2015, the Human Rights Commission Bill was tabled in Parliament and the Human Rights Commission Act was promulgated in June 2016.<sup>33</sup> Section 133A of the Constitution, as amended, provides that “[t]here is established a Human Rights Commission which shall be independent and free from interference and subject only to this Constitution and any other law”. Unfortunately, despite the existence of a legal framework for an NHRI in Lesotho, the Commission has not yet been operationalised.
24. The LHRC, once operationalised, could help address Lesotho’s failure to domesticate ratified treaties and to submit its periodic and other state reports to the relevant treaty

bodies on time. Furthermore, in the context of capital punishment, the LHRC could undertake important work on pushing for the abolition of the death penalty from Lesotho's legal system, starting by limiting the types of crimes that attract the punishment. The LHRC 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.

25. We call upon the government to operationalise the LHRC without delay, ensuring it complies with the Paris Principles and to provide it with a mandate to advise on legislative amendment for abolition.

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

26. 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,”<sup>34</sup> and the ICESCR article 15 (1)(b) recognises the right of everyone, “[t]o enjoy the benefits of scientific progress and its applications.”
27. Roger Hood and Carolyn Hoyle have produced the 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.<sup>35</sup>

28. Social science investigations now demonstrate that reflecting appropriate government means that whilst capital punishment could be created within a legitimate parliamentary process,<sup>36</sup> it is now clear that the application of the death penalty renders an illegitimate and inhumane outcome.<sup>37</sup> Abolition in Lesotho 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*

29. Lesotho should consider adopting the UPR recommendations as an expression of mutual reinforcement of the government's commitment to promoting the Sustainable Development Goals.<sup>38</sup> The human rights values expressed in both the UPR and the SDGs can be woven together to promote policy coherence.<sup>39</sup>

30. 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.
31. 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.<sup>40</sup> The death penalty is antithetical to strong institutional processes for the fostering of the human dignity of the people of Lesotho.

#### **D. Recommendations**

We recommend that, before the next cycle of review, the government of Lesotho 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 Section 5 of the Lesotho Constitution 1993 (rev. 2018) 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. Annually publish data on the use of the death penalty. This should include the number of death sentences and executions, the nature of the offences and the reasoning behind convictions, identity of executed prisoners, and the number of death sentences commuted and pardoned.
- vii. Provide the platform for a comprehensive and inclusive public debate on the future of the death penalty in Lesotho, allowing a group of people that is representative of all Lesotho citizens to share their opinions.
- viii. 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.
- ix. Accept UPR recommendations on the abolition of the death penalty, as also signalling Lesotho’s affirmation of commitments to SDG 16 on strong institutions.
- x. Operationalise its National Human Rights Commission: (a) ensuring it complies fully with the Paris Principles and (b) provide it with a mandate on legislative abolition of the death penalty.

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- <sup>1</sup> See <[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=80&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=80&Lang=EN)>.
- <sup>2</sup> Lesotho Constitution 1993 (rev. 2018), s 5.
- <sup>3</sup> Criminal Procedure and Evidence Act 1981, s 297.
- <sup>4</sup> Sexual Offences Act 2003, s 32(a) (vii).
- <sup>5</sup> Lesotho Defence Force Act 1996, s 41, 42, 43, 48 & 49.
- <sup>6</sup> The Advocates for Human Rights, 'Lesotho's Compliance with the International Covenant on Civil and Political Rights: The Death Penalty' (2023), para 1.
- <sup>7</sup> Amnesty International, *Global Report: Death Sentences and Executions 2020* (2021).
- <sup>8</sup> 'In Dialogue with Lesotho, Experts of the Human Rights Committee Commend Measures to Combat Domestic and Gender-Based Violence, Raise Issues Concerning the Death Penalty and Attacks on Journalists' (*OHCHR*, 12 July 2023) <[www.ohchr.org/en/news/2023/07/dialogue-lesotho-experts-human-rights-committee-commend-measures-combat-domestic-and](http://www.ohchr.org/en/news/2023/07/dialogue-lesotho-experts-human-rights-committee-commend-measures-combat-domestic-and)>.
- <sup>9</sup> 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).
- <sup>10</sup> 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.
- <sup>11</sup> 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.
- <sup>12</sup> 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).
- <sup>13</sup> See eg, Report of the Secretary General, Question of the Death Penalty, A/HRC/27/23, 30 June 2014.
- <sup>14</sup> For example, *Judge v. Canada*, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003).
- <sup>15</sup> The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 10 December 1984.
- <sup>16</sup> Article 37(a) Convention on the Rights of the Child, G.A. Res 44/25, 20 November 1989.
- <sup>17</sup> 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.
- <sup>18</sup> *ibid* para 50.
- <sup>19</sup> 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*.
- <sup>20</sup> 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.
- <sup>21</sup> UNHRC, 'Report of the Human Rights Council on its forty-fifth session' (2 July 2021) UN Doc A/HRC/45/2, para 502-503.
- <sup>22</sup> See UNHRC, 'Report of the Working Group on the Universal Periodic Review – Lesotho' (18 March 2020) UN Doc A/HRC/44/18.
- <sup>23</sup> Amna Nazir, 'The Universal Periodic Review and the Death Penalty: A Case Study of Pakistan' (2020) 4(1) *RSIL Law Review* 126, 153.
- <sup>24</sup> 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](http://www.upr-info.org/en/news/for-impact-on-the-ground-the-upr-needs-smart-recommendations)> (21 October 2015).
- <sup>25</sup> UNHRC Res 5/1 (18 June 2007) UN Doc A/HRC/RES/5/1, para 1(c).
- <sup>26</sup> *MK v Director of Public Prosecutions and Others* [2022] LSHC 238 Const (25 October 2022)
- <sup>27</sup> *MK v Director of Public Prosecutions and Others* [2022] LSHC 238 Const (25 October 2022), page 2



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<sup>28</sup> The Advocates for Human Rights, ‘Lesotho’s Compliance with the International Covenant on Civil and Political Rights: The Death Penalty’ (2023), para 13

<sup>29</sup> Human Rights Committee, ‘Second Periodic Report Submitted by Lesotho under Article 40 of the Covenant Pursuant to the Optional Reporting Procedure, Due in 2020’ (22 April 2020) UN Doc CCPR/C/LSO/2, para 93.

<sup>30</sup> ‘Death Penalty Won’t Solve Lesotho’s Problem: Analysts’ (*Lesotho Times*, 12 October 2021) <<https://lestimes.com/death-penalty-wont-solve-lesothos-problem-analysts/>>.

<sup>31</sup> *ibid.*

<sup>32</sup> See the studies conducted by Roger Hood and Carolyn Hoyle in *The Death Penalty: A Worldwide Perspective* (5th edn, Oxford University Press 2015).

<sup>33</sup> Itumeleng Shale, ‘The Lesotho Human Rights Commission’ in Charles M Fombad (ed), *Compendium of Documents on National Human Rights Institutions in Eastern and Southern Africa* (Pretoria University Law Press 2019) 456.

<sup>34</sup> 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.

<sup>35</sup> Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (5th edn, Oxford University Press 2015) 7-8.

<sup>36</sup> 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.

<sup>37</sup> 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.

<sup>38</sup> See the UN Sustainable Development Goals website, <https://sustainabledevelopment.un.org/?menu=1300>.

<sup>39</sup> 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.

<sup>40</sup> 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.