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The ACLU submits this statement regarding recent developments in the U.S.' administration of the death penalty to contribute to the 2013 United Nations Secretary General's report to the Human Rights Council on the death penalty.<sup>1</sup>

### **Basic Facts on Death Penalty in the United States**

As of March 13, 2013, 1,325 people<sup>2</sup> have been executed in the United States since the modern death penalty era began in 1976.<sup>3</sup> The U.S. death penalty system in 33 states, the federal system, and the military continues to violate international law. As of October 2012, there were 3,146 people awaiting execution across the country.<sup>4</sup>

### **Positive Signs in Recent Years**

In the last decade the U.S. Supreme Court has outlawed the execution of juveniles, the intellectually disabled, and those who did not commit homicides.<sup>5</sup> The number of new death sentences has dropped dramatically – from a peak of 315 in 1996 to 78 in 2012.<sup>6</sup> New York, New Jersey, New Mexico, Illinois, and Connecticut have recently repealed the death penalty. In November 2012 California also came close to repealing, with 47% of voters supporting the ballot measure that would have replaced the death penalty with a life sentence.<sup>7</sup> On March 15, 2013 the Maryland legislature approved a bill that would make Maryland the sixth state in six years to repeal capital punishment.<sup>8</sup> On March 26, 2013 Delaware's Senate passed a bill to repeal the death penalty. The Delaware House of Representatives is expected to consider the bill in April 2013.<sup>9</sup>

North Carolina passed the Racial Justice Act in August 2009, requiring courts to enter a life sentence for any death row defendant who proves that race was a factor in the imposition of his sentence.<sup>10</sup> In a landmark April 2012 ruling based on that Act, a judge found intentional and systemic racial discrimination in the case of Marcus Robinson, and commuted his death sentence to life without parole.<sup>11</sup> Three more death sentences were set aside under the Racial Justice Act in December 2012.<sup>12</sup>

Increasingly, judges, prosecutors, law enforcement officials, and other former supporters of the death penalty acknowledge that its problems are too legion and the consequences of error too severe.<sup>13</sup> For example, in California, Donald Heller, the leader of the campaign which passed California's harsh death penalty measure in 1978, was a strong advocate of the 2012 ballot measure which would have repealed the death penalty.<sup>14</sup>

## **Imposition of the Death Penalty on the Mentally Ill and Intellectually Disabled**

In contravention of recommendations by the American Bar Association and leading mental health groups to exempt the severely mentally ill from the death penalty,<sup>15</sup> and of the constitutional prohibition on execution of the intellectually disabled, the U.S. continues to execute both the severely mentally ill and the intellectually disabled. Texas executed Yokamon Hearn in July 2012, despite his history of mental health problems including suicidality and brain damage.<sup>16</sup> Oklahoma executed Garry Allen in November 2012, despite his clear mental illness.<sup>17</sup> Texas continues to seek execution of Andre Thomas, even after he blinded himself in response to hallucinatory commands.<sup>18</sup>

In January 2013, the United States Supreme Court decided unanimously that state prisoners do not have a right to delay their capital appeals on federal habeas review because they are adjudged incompetent, meaning that their cases may proceed even when mental illness or intellectual disability prevents them from effectively participating.<sup>19</sup>

## **Death Row Prisoners Spend Excessive Time on Death Row**

Condemned prisoners often wait decades in solitary confinement before execution, in violation of internationally-recognized prohibitions against this mistreatment.<sup>20</sup> In his 2012 report to the General Assembly, UN Special Rapporteur on torture, Juan Mendez, explained that this “death row phenomenon” produces “severe mental trauma and physical deterioration in prisoners under sentence of death” and can sometimes constitute cruel, inhuman or degrading punishment.<sup>21</sup> This phenomenon may cause some prisoners, like Robert Gleason who was executed in Virginia in January, to “volunteer” for execution rather than remain on death row.<sup>22</sup>

## **The Death Penalty’s Arbitrary and Disproportionate Application**

Use of the death penalty is arbitrary and random. Among thousands of potentially eligible cases, only a handful of those convicted are sentenced to death; worse, non-legal factors such as race, class, and geography determine who is sentenced to death.<sup>23</sup>

Numerous studies establish that murder of whites, particularly by blacks, results in capital prosecution in far higher percentages than murders of people of color.<sup>24</sup> Minorities are overrepresented on death row, as the U.S. government acknowledged in its recent report to the UN Human Rights Committee.<sup>25</sup> U.S. constitutional law continues to prevent successful challenges to these racist practices.<sup>26</sup> People of color continue to be excluded from capital juries at alarming rates.<sup>27</sup>

## **The U.S. Death Penalty System Fails to Protect the Innocent**

Since 1973, 142 innocent people in 26 states have been exonerated from death row.<sup>28</sup> Tragically, many have not escaped execution. For example, on September 21, 2011, the state of Georgia executed Troy Davis, a Black man who was almost certainly innocent of the murder of a white police officer, despite the unreliability of the evidence that convicted him and the worldwide call for clemency. In October 2012, Louisiana released Damon Thibodeaux from death row after forensic evidence proved he was innocent. He had been on death row for 16 years.<sup>29</sup>

Other prisoners with strong claims of innocence, like Reginald Clemons in Missouri, also remain on death row. Clemons' case has many of the classic concerns that plague capital punishment – racism, prosecutorial misconduct, a coerced confession, lying witnesses, ineffective defense counsel, and no physical evidence. Concerns about the possibility of executing innocent people prompted Maryland Governor Martin O'Malley to sponsor a strong, and ultimately successful, push for repeal of the death penalty in his state in 2013.<sup>30</sup>

## **Inadequate Counsel and Insufficient Access to Resources**

Capital cases require qualified counsel and adequate resources, which very few individuals can afford. Many states fall woefully short of providing them to indigent clients. Early last year, the Supreme Court considered the case of Alabama death row prisoner Corey Maples, who missed a necessary deadline in his appeal when he was abandoned by counsel. The Court faulted Alabama's indigent defense system as contributing to Maples' dilemma, noting its low eligibility requirements for counsel in capital cases and the gross under-compensation of counsel.<sup>31</sup> Although Maples' case proceeds, the problems persist, as many on Alabama's death row have no lawyer to represent them at all.<sup>32</sup> U.S. law still permits states to execute prisoners who have no lawyers.<sup>33</sup>

## **Death Penalty Prosecutions under the Military Commissions Act of 2009**

The federal government's decision to seek the death penalty in military commissions at Guantánamo Bay against defendants accused of terrorism rather than in federal courts raises troubling international law concerns.<sup>34</sup> These commissions have been set up to achieve easy convictions and hide the reality of torture.<sup>35</sup> Their rules violate due process by allowing hearsay evidence and coerced or secret evidence under some circumstances.<sup>36</sup>

Two death penalty cases are currently proceeding at Guantánamo Bay. The first is against the alleged mastermind of 9/11 Khalid Sheikh Mohammed and four others, and the second is against Abd al-Rahim al-Nashiri, the man accused of planning the U.S.S. Cole bombing in 2000.<sup>37</sup> Recently it was discovered that the pre-trial hearings in these capital cases were being monitored and censored by government agents outside the courtroom, unknown to the military judge,<sup>38</sup> and that microphones had been hidden in rooms set aside for attorney-client meetings.<sup>39</sup>

## **Limitations on Access to Courts**

U.S. federal courts continue to severely restrict access to federal habeas review, as the International Court of Justice determined.<sup>40</sup> Recent Supreme Court decisions have made these limitations, often the only avenue to relief for wrongly convicted or wrongly sentenced prisoners, even harsher and more restrictive.<sup>41</sup>

## **Lethal Injection Risks Cruel and Unusual Punishment**

Although the Supreme Court has held that one current method of lethal injection used in the U.S. is constitutional,<sup>42</sup> that method depended upon a drug which is no longer available, thanks to international pressure on the companies that manufacture it. States have hurriedly switched to a one-drug method, with little information released or oversight allowed.<sup>43</sup> Several condemned prisoners have suffered excruciating pain during executions since. Special Rapporteur Juan Mendez expressed concern about lethal injection as practiced in the United States in his 2012 report to the General Assembly. He explained that “the conventional view of lethal injection as a peaceful and painless death is questionable” and stated that experts believe lethal injection protocols in the United States “probably violate the prohibition of cruel and unusual punishment.”<sup>44</sup>

## **Conclusion**

The U.S. death penalty system continues to be flawed and unsalvageable. Momentum is building towards nationwide abolition which would remedy the numerous violations plaguing the system. Important interim reforms could include implementation of measures to prevent police and prosecutor misconduct, and adequate funding for effective indigent defense.<sup>45</sup> The federal government should also fulfil its commitment in the Universal Periodic Review process to study the racial disparities of the death penalty,<sup>46</sup> and fully implement the 2012 recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions.<sup>47</sup> The federal government could also place a moratorium on all federal death penalty trials and executions.<sup>48</sup>

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<sup>1</sup> Human Rights Council, Decision 18/117 (Sept. 28, 2011).

<sup>2</sup> Death Penalty Information Center, Executions by Year, *available at* <http://www.deathpenaltyinfo.org/executions-year>.

<sup>3</sup> *Gregg v. Georgia*, 428 U.S. 153 (1976); *Proffitt v. Florida*, 428 U.S. 242 (1976); *Jurek v. Texas*, 428 U.S. 262 (1976); *Woodson v. North Carolina*, 428 U.S. 280 (1976); *Roberts v. Louisiana*, 428 U.S. 325 (1976).

<sup>4</sup> NAACP Legal Defense and Educational Fund, *Death Row USA* (Fall 2012), *available at* [http://www.naacpldf.org/files/publications/DRUSA\\_Fall\\_2012.pdf](http://www.naacpldf.org/files/publications/DRUSA_Fall_2012.pdf).

<sup>5</sup> *Roper v. Simmons*, 543 U.S. 551 (2005); *Atkins v. Virginia*, 536 U.S. 304 (2002); *Kennedy v. Louisiana*, 554 U.S. 407 (2008).

<sup>6</sup> Death Penalty Information Center, *The Death Penalty in 2012: Year End Report* (Dec. 2012), *available at* <http://deathpenaltyinfo.org/YearEnd2012>.

- <sup>7</sup> Brian Evans, [California Death Penalty Hangs On \(Barely\)](http://blog.amnestyusa.org/us/california-death-penalty-hangs-on-barely/), Amnesty International Human Rights Now Blog (Nov. 7, 2012), available at <http://blog.amnestyusa.org/us/california-death-penalty-hangs-on-barely/>.
- <sup>8</sup> Press Release, American Civil Liberties Union, Maryland Set to Repeal Its Death Penalty (Mar. 15, 2013), <http://www.aclu.org/capital-punishment/maryland-set-repeal-its-death-penalty>.
- <sup>9</sup> Death Penalty Information Center, Recent Legislation: Death Penalty Passes Delaware Senate; Defeated in Colorado (2013), <http://www.deathpenaltyinfo.org/recent-legislation-death-penalty-repeal-passes-delaware-senate-defeated-colorado>
- <sup>10</sup> American Civil Liberties Union, North Carolina Racial Justice Act (Dec. 7, 2011), <http://www.aclu.org/capital-punishment/north-carolina-racial-justice-act>.
- <sup>11</sup> Press Release, American Civil Liberties Union, *North Carolina v. Robinson* (Apr. 20, 2011), <http://www.aclu.org/capital-punishment-racial-justice/north-carolina-v-robinson>.
- <sup>12</sup> American Civil Liberties Union, *North Carolina v. Tilmon Golphin, Christina Walters, and Quintel Augustine* (Dec. 17, 2012), <http://www.aclu.org/capital-punishment-racial-justice/north-carolina-v-tilmon-golphin-christina-walters-and-quintel>.
- <sup>13</sup> In 2009, the American Law Institute withdrew the section of the Model Penal Code upon which most state statutes were based, because it no longer wanted to play any role in legitimizing the death penalty. American Law Institute, Report of the Council to the Membership of The American Law Institute on the Matter of the Death Penalty (Apr. 15, 2009), available at <http://deathpenaltyinfo.org/documents/aicoun.pdf>; Franklin E. Zimring, [Pulling the Plug on Capital Punishment](#), Natl. Law Journal (Dec. 7, 2009).
- <sup>14</sup> As Heller explained, "I am convinced now that [the death penalty] has never deterred anyone from committing a murder... In my mind, I realized what I did was a big mistake." Adam Nagourney, [Fighting to Repeal an Execution Law They Once Championed](#), N.Y. Times, Apr. 6, 2012.
- <sup>15</sup> American Bar Association, Resolution 122A, available at <http://www.deathpenaltyinfo.org/documents/122AReport.pdf>; National Alliance on Mental Illness and Murder Victims' Families for Human Rights, [Double Tragedies](#) (July 6, 2009), available at [http://www.nami.org/Content/ContentGroups/Policy/Issues\\_Spotlights/Death\\_Penalty/DoubleTragedies.pdf](http://www.nami.org/Content/ContentGroups/Policy/Issues_Spotlights/Death_Penalty/DoubleTragedies.pdf); American Psychological Association, [The Death Penalty in the United States](#), available at <http://www.apa.org/about/governance/council/policy/death-penalty.aspx>; E. Packard, [Associations Concur on Mental Disability and Death Penalty Policy](#), 38 Monitor on Psychology 14 (Jan. 2007).
- <sup>16</sup> Andrew Cohen, [A Day in the Life of the Death Penalty: July 18, 2012](#), The Atlantic (July 11, 2012), available at <http://www.theatlantic.com/national/archive/2012/07/a-day-in-the-life-of-the-death-penalty-july-18-2012/259647/>.
- <sup>17</sup> Denny LeBoeuf, [Lives Lost in 2012: Who Did We Kill?](#), American Civil Liberties Union Blog of Rights (Dec. 31, 2012), available at <http://www.aclu.org/blog/capital-punishment-prisoners-rights/lives-lost-2012-who-did-we-kill>
- <sup>18</sup> Marc Bookman, [How Crazy is Too Crazy To Be Executed?](#), Mother Jones (Feb. 12, 2013), <http://www.motherjones.com/politics/2013/02/andre-thomas-death-penalty-mental-illness-texas>.
- <sup>19</sup> *Ryan v. Gonzales*, 133 S. Ct. 696 (2013).
- <sup>20</sup> See, e.g., *Pratt & Morgan v. AG for Jamaica*, 4 All. E.R. 769, Judicial Committee of the Privy Council (Nov. 2, 1993); *Soering v. United Kingdom*, 11 Eur. Ct. H.R. 439 (Ser. A, No. 161) (July 7, 1989).
- <sup>21</sup> [Interim Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment](#), U.N. Doc. A/67/279, paras. 42, 48 (Aug. 9, 2012) (by Juan Mendez), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/458/12/PDF/N1245812.pdf?OpenElement>
- <sup>22</sup> See, e.g., Dena Potter, [Robert Gleason, Inmate Who Asked to Die, Will Be Executed](#), Huffington Post (Jan. 15, 2013) [http://www.huffingtonpost.com/2013/01/15/robert-gleason-execution\\_n\\_2482079.html](http://www.huffingtonpost.com/2013/01/15/robert-gleason-execution_n_2482079.html).
- <sup>23</sup> See, e.g., A. Mikulich & S. Cull, [Diminishing All of Us: The Death Penalty in Louisiana](#), Jesuit Social Research Institute (Mar. 2012) (death penalty is applied in only 1% of Louisiana murders); L. Montgomery, [Md. Questioning Local Extremes on Death Penalty](#), Wash. Post (May 12, 2002) (the city of Baltimore only had one person on death row while its surrounding county had 9 people on death row, with one-tenth less murders); R. Willing and G. Fields, [Geography of the Death Penalty](#), USA Today (Dec. 20, 1999) (one county in Ohio produces about 25% of the state's death sentences, though only 9% of the state's murders occur there).
- <sup>24</sup> See, e.g., David Baldus, et al., [Racial Discrimination in the Administration of the Death Penalty: the Experience of the United States Armed Forces \(1984-2005\)](#), 101 J. Crim. Law & Criminology 1227 (Fall 2011); Amnesty International, [United States of America: Death by Discrimination – the Continuing Role of Race in Capital Cases](#) (Apr. 2003); U.S. Department of Justice, [The Federal Death Penalty System: A Statistical Survey \(1988-2000\)](#) (Sept. 12, 2000).
- <sup>25</sup> Fourth Periodic Report of the United States of America to the United Nations Committee on Human Rights Concerning the International Covenant on Civil and Political Rights (Dec. 30, 2011).
- <sup>26</sup> *McCleskey v. Kemp*, 481 U.S. 279, 312 (1987).
- <sup>27</sup> Equal Justice Initiative, [Illegal Racial Discrimination in Jury Selection: A Continuing Legacy](#) (Aug. 2010), available at <http://eji.org/eji/files/EJI%20Race%20and%20Jury%20Report.pdf>.
- <sup>28</sup> Death Penalty Information Center, [The Innocence List](#) (Jan. 23, 2013), available at <http://www.deathpenaltyinfo.org/innocence-list-those-freed-death-row>. In his recently released book, "Anatomy of a Wrongful Execution," Professor James Liebman examined the execution of Carlos DeLuna. He concluded that DeLuna had been wrongly convicted "on the thinnest of evidence: a single, nighttime, cross-ethnic eyewitness identification and no corroborating forensics." James Liebman, [Los Tocayos Carlos](#), Columbia Human Rights Law Review, Vol. 43, No. 3 (Summer 2012) available at <http://www3.law.columbia.edu/hrlr/ltr/>. In May 2012, the University of Michigan Law School and the Center on Wrongful Convictions at Northwestern University released a report entitled "Exonerations in the United States, 1989–2012" and launched the National Registry of Exonerations, providing an unprecedented look at the problem of wrongful convictions. Samuel Gross and Michael Shaffer, [Exonerations in the United States, 1989-2012](#), National Registry of Exonerations (May 2012) available at [http://www.law.umich.edu/special/exoneration/Documents/exonerations\\_us\\_1989\\_2012\\_full\\_report.pdf](http://www.law.umich.edu/special/exoneration/Documents/exonerations_us_1989_2012_full_report.pdf).
- <sup>29</sup> Denny LeBoeuf, [A Good Ride from Death Row](#), American Civil Liberties Union Blog of Rights (Oct. 1, 2012), <http://www.aclu.org/blog/capital-punishment/good-ride-death-row>
- <sup>30</sup> Matt Bush, [O'Malley Takes on Death Penalty in Maryland State Hearing](#), WAMU 88.5 (Feb. 14, 2013), available at [http://wamu.org/news/13/02/14/omalley\\_takes\\_on\\_death\\_penalty\\_in\\_maryland\\_senate\\_hearing](http://wamu.org/news/13/02/14/omalley_takes_on_death_penalty_in_maryland_senate_hearing).
- <sup>31</sup> *Maples v. Thomas*, 132 S. Ct. 912, 917 (2012) (citing American Bar Association, [Evaluating Fairness and Accuracy in State Death Penalty Systems: The Alabama Death Penalty Assessment Report 117–120](#) (June 2006)).

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- <sup>32</sup> Maples v. Thomas, 132 S. Ct. 912, 917 (2012) (citing American Bar Association, Evaluating Fairness and Accuracy in State Death Penalty Systems: The Alabama Death Penalty Assessment Report 112 (June 2006)).
- <sup>33</sup> Murray v. Giarratano, 492 U.S. 1 (1989).
- <sup>34</sup> Report of the Special Rapporteur on Extrajudicial, summary or arbitrary Executions, Human Rights Council, (May 28, 2009), available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.2.Add.5.pdf>; Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/6/17/Add.3 (Nov. 22, 2007), available at <http://daccess-ods.un.org/TMP/9489911.html>.
- <sup>35</sup> See, e.g., Noa Yachot, Censorship at Guantanamo: Thoughts and Memories Don't Belong to the Government, American Civil Liberties Union Blog of Rights (Mar. 22, 2013), <http://www.aclu.org/blog/national-security/censorship-guantanamo-thoughts-and-memories-dont-belong-government>; Steve Vladeck, CMCR Denies Mandamus in Military Commission Media Access Cases, Lawfare (Mar. 28, 2013), <http://www.lawfareblog.com/2013/03/cmcr-denies-mandamus-in-military-commission-media-access-cases/>.
- <sup>36</sup> U.S. Dep't of Defense, Manual for Military Commissions (Apr. 27, 2010), available at [http://www.defense.gov/news/2010\\_Manual\\_for\\_Military\\_Commissions.pdf](http://www.defense.gov/news/2010_Manual_for_Military_Commissions.pdf); Military Commissions Act of 2009, 10 U.S.C. § 47A.
- <sup>37</sup> Denny LeBoeuf, Guantanamo and the Death Penalty: Two Terrible Ideas Come Together, American Civil Liberties Union Blog of Rights (Jan. 17, 2012), <http://www.aclu.org/blog/national-security/guantanamo-and-death-penalty-two-terrible-ideas-come-together>; Carol Rosenberg, Pentagon approves 9/11 Death Penalty Tribunal, Miami Herald (April 4, 2012), available at [http://www.miamiherald.com/2012/04/04/2731254\\_p2/us-says-sept-11-trial-to-resume.html](http://www.miamiherald.com/2012/04/04/2731254_p2/us-says-sept-11-trial-to-resume.html)
- <sup>38</sup> Carol Rosenberg, Guantanamo judge says 'external body' was wrong to censor war court, The Miami Herald (Jan. 29, 2013), available at <http://www.miamiherald.com/2013/01/29/v-print/3206764/guantanamo-judge-says-external.html#storylink=cpy>
- <sup>39</sup> Carol Rosenberg, FBI hid microphones in Guantanamo, but no one listened, prison commander testifies, The Miami Herald (Feb. 12, 2013), available at <http://www.miamiherald.com/2013/02/13/3232992/fbi-hid-microphones-in-guantanamo.html#storylink=cpy>
- <sup>40</sup> Case concerning Avena and other Mexican Nationals (Mex. v. U.S.), Judgment, 2004 I.C.J. 124 (Mar. 31), available at <http://www.icj-cij.org/docket/files/128/8188.pdf>.
- <sup>41</sup> American Civil Liberties Union, Slamming The Courthouse Doors: Denial of Access to Justice and Remedy in America, at 9 (Dec. 2010), available at [http://www.aclu.org/files/assets/HRP\\_UPRsubmission\\_annex.pdf#page=9](http://www.aclu.org/files/assets/HRP_UPRsubmission_annex.pdf#page=9).
- <sup>42</sup> Baze v. Rees, 553 U.S. 35 (2008).
- <sup>43</sup> Death Penalty Information Center, Changes to state execution protocols, Lethal Injection (2013), <http://www.deathpenaltyinfo.org/lethal-injection-moratorium-executions-ends-after-supreme-court-decision#changes>
- <sup>44</sup> Interim Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, U.N. Doc. A/67/279, at ¶ 38 (Aug. 9, 2012) (by Juan Mendez), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/458/12/PDF/N1245812.pdf?OpenElement>.
- <sup>45</sup> See American Civil Liberties Union, Suggested List of Issues to Country Report Task Force on the United States, Human Rights Committee, 107<sup>th</sup> Session, 29-32 (submitted Dec. 10, 2012), available at [https://www.aclu.org/files/assets/aclu\\_u.s.\\_icjpr\\_issues.pdf](https://www.aclu.org/files/assets/aclu_u.s._icjpr_issues.pdf).
- <sup>46</sup> Humanrights.gov, U.S. Implementation Plan for the 2010 Universal Periodic Review, at ¶ 95 (Mar. 16, 2012), <http://www.humanrights.gov/2012/03/16/u-s-implementation-plan-for-the-2010-universal-periodic-review>; American Civil Liberties Union, Unfinished Business: Turning the Obama Administration's Human Rights Promises into Policy (Mar. 21, 2012), available at [https://www.aclu.org/files/assets/unfinished\\_business\\_aclu\\_final.pdf](https://www.aclu.org/files/assets/unfinished_business_aclu_final.pdf).
- <sup>47</sup> Report of the Special Rapporteur on Extrajudicial, summary or arbitrary Executions: Follow-up to country recommendations – United States of America, Human Rights Council, U.N. Doc. A/HRC/20/22/Add.3 (Mar. 30, 2012), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/125/43/PDF/G1212543.pdf?OpenElement>
- <sup>48</sup> The governor of Puerto Rico has asked U.S. Attorney General Eric Holder not to certify any federal case in Puerto Rico for the death penalty after juries in the territory have declined to impose the death penalty five separate times. Reuters, Jury declines to impose death penalty in Puerto Rico murders (Mar. 23, 2013), <http://www.reuters.com/article/2013/03/24/us-usa-deathpenalty-puertorico-idUSBRE92N02020130324>.