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CASE 14.754

REPORT ON THE ADMISSIBILITY AND MERITS (PUBLICATION)

CHRISTA PIKE
UNITED STATES OF AMERICA

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I. INTRODUCTION¹

1. On November 17, 2020, the Inter-American Commission on Human Rights (the “Inter-American Commission”, “Commission” or “IACHR”) received a petition submitted by Sandra Babcock, Zohra Ahmed, Stephen Ferrell and the Cornell Law School Clinic (the “petitioners”). The petitioners alleged the international responsibility of the United States of America (the “State” or “the United States”) for the violation of the rights of Christa Pike because the application of the death penalty and conditions of detention.

2. On October 26, 2021, the IACHR informed the parties that it decided to apply Resolution 1/16 and jointly decide in due course the admissibility and merits of the matter.² The parties enjoyed the time periods provided for in the IACHR’s Rules of Procedure to present additional observations on the merits. All the information received by the Commission was duly transmitted.³

II. POSITIONS OF THE PARTIES

A. Petitioners

3. They claim that Ms. Pike has spent over 28 years on death row in Tennessee, where she faces execution after being convicted for the murder of Colleen Slemmer. Concerning the right to an adequate defense, the petitioners maintain that Ms. Pike’s defense team failed to present substantial mitigating evidence that could have spared her sentence.

4. Regarding Ms. Pike’s confinement on death row, the petitioners argue that her solitary confinement constitutes a form of inhumane treatment and unusual punishment. They highlight that it has had severe physical implications on Ms. Pike, as well as being detrimental to her mental health. Additionally, the petitioners allege that the execution protocols in use in the state of Tennessee create a risk of causing pain and suffering in the moments leading to the execution, which would constitute a form of cruel, infamous, or unusual punishment.

5. Regarding the petition’s admissibility, the petitioners explain that the Commission has competence under the American Declaration of the Rights and Duties of Man and that there has been no other submission of the matter before international organizations. They express that Ms. Pike has exhausted all local remedies regarding the right to an adequate defense. They add that on June 8, 2020 the Supreme Court of the United States denied her petition for a writ of certiorari, meaning that the petition is timely.

B. State

6. The State requests that the petition be declared inadmissible because the petitioners failed to exhaust domestic remedies, was not presented timely, did not state a *prima facie* violation of the American Declaration, or was manifestly groundless. They add that declaring the petition admissible would violate the fourth instance doctrine. Finally, the State stresses that the Commission’s practice of joining the admissibility and merits consideration of a petition is against the International Court of Justice’s standards of process.

7. Regarding the issues mentioned about Ms. Pike’s defense and fair trial guarantees, they consider them already been raised, analyzed and answered by the domestic courts. Thus, they believe that if the Commission were to express itself on the matter, it would violate the fourth instance doctrine. They conclude that the petitioners are exposing a mere disagreement with defense strategies that did not affect Ms. Pike’s rights.

¹ Pursuant to Article 17.2 of the Commission’s Rules of Procedure, Commissioner Rosa María Payá Acevedo, citizen of the United States, did not participate in the discussion or decision of this report. Likewise, pursuant to Article 17.3 of the Commission’s Rules of Procedure, Commissioner Riyad Insanally, permanent resident in the United States, did not participate in the discussion or decision of this report.

² The Commission applied said resolution given that the petition refers to the use of the death penalty.

³ On December 11, 2020, the IACHR granted precautionary measures No. 1080-20, on behalf of Ms. Pike pursuant to Article 25(1) of its Rules of Procedure. The Commission requested the United States to a) adopt the necessary measures to protect the life and personal integrity of Christa Pike; b) refrain from carrying out the death penalty on Christa Pike; c) ensure that Christa Pike’s detention conditions are consistent with international standards, giving special consideration to her personal conditions; and, d) agree on the measures to be adopted with the beneficiary and her representatives. The precautionary measures are still in effect.

8. They contend that the imposition of the death penalty itself and the time spent on death row is not contrary to the American Declaration. Specifically, they indicate that individuals suffering from mental illness can be lawfully executed if they understand the reasons for their conviction, as is the case of Ms. Pike. Additionally, they assert that the delay in her execution is the natural result of the appeals process, which does not constitute a form of cruel and unusual punishment.

III. ADMISSIBILITY

A. Preliminary question

9. The Commission notes that the State expressed its disagreement with the Commission's decision to defer the analysis of the admissibility of the petition until the discussion and decision on the merits in application of Resolution 1/16. The State argued that the criterion applied (related to the subject matter of the petition or its recommendation of precautionary measures) does not constitute an exception that justifies the treatment of admissibility and merits in a single stage in accordance with the provisions of Article 36.3 of the Commission's Rules of Procedure.

10. In this regard, the Commission emphasizes that, as indicated in its Resolution 1/16, paragraph b) mentions circumstances in which "in cases of seriousness and urgency, or when the Commission considers that the life or personal integrity of a person may be in imminent danger". Among the exceptional circumstances included in the Resolution are petitions concerning the use of the death penalty. The IACHR explained that the establishment of this circumstance as grounds for deferral was based "on the need to implement decisive measures to reduce the procedural backlog and thus ensure that the passage of time does not prevent the Commission's decisions from having a useful effect".⁴ In addition, the Inter-American Commission highlights that the parties had the opportunity to present their arguments regarding both the admissibility and the merits of the case, and the Commission will analyze and rule on them without incurring a violation of the right of defense.

11. The Commission considers that this criterion applies in the present case since the State has not demonstrated that the deferral decision has affected its right to a defense, and it has had the opportunity to present its arguments regarding both the admissibility and the merits of the case, which are analyzed in the following sections of this report. The Commission takes note of the State's claim that the deferral decision was adopted based on an inadmissible petition, making it an inappropriate use of the procedural rule. In this regard, the Commission emphasizes that the purpose of the power established in Article 36(3) is precisely to allow the treatment of admissibility issues to be deferred to the time of the debate and decision on the merits, as has been done in the present case.

12. Regarding the fourth instance doctrine claim by the State, the Commission recalls that in previous cases, it has established the following:

it is competent to declare a petition admissible and rule on the basis of it when the petition refers to a judgment by a domestic court handed down without regard to due process or which apparently violates any other right guaranteed by the Convention. The Commission recalls that it has admitted petitions when it transpires from the arguments of the parties *prima facie* that the court judgments or procedures followed could have been arbitrary or might have involved arbitrary unequal treatment or possible discrimination.⁵

13. In that sense, the adequacy of all the processes followed at the internal level, as state acts, can be analyzed by the IACHR, an analysis that corresponds to the substance of the matter. Based on the above, the IACHR rejects the previous objection presented by the State.

⁴ IACHR, Resolution 1/16 of October 18, 2016.

⁵ IACHR, Report No. 64/14, Petition 806-06, Admissibility, Laureano Brizuela Wilde, Mexico, July 25, 2014, para. 43.

B. Competence, duplication of procedures and international *res judicata*

Competence <i>Ratione personae</i> :	Yes
Competence <i>Ratione loci</i> :	Yes
Competence <i>Ratione temporis</i> :	Yes
Competence <i>Ratione materiae</i> :	Yes, American Declaration of the Rights and Duties of Man (ratification of the OAS Charter on June 19, 1951)
Duplication of procedures and international <i>res judicata</i> :	No

C. Exhaustion of domestic remedies and timeliness of the petition

14. For admissibility purposes, the Commission must evaluate whether domestic remedies are adequate and effective, that is, whether they provide a real opportunity for the alleged human rights violation to be remedied and resolved by the national authorities before resorting to the Inter-American System.⁶ The exceptions to the rule of exhaustion of domestic remedies provided for in Article 31 of its Rules of Procedure are: i) the domestic legislation of the state concerned does not afford due process of law for the protection right or rights that have allegedly been violated; ii) the party alleging violation of his rights has been denied access to the remedies or was prevented from exhausting them; or iii) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies. Therefore, determining whether or not the exceptions to the rule of exhaustion of domestic remedies provided in said provision are applicable to a particular case requires an examination carried out in advance of and separate from the analysis of the merits of the case since it depends on a different standard of assessment to that used to establish whether or not there has been a violation of the right to fair trial, and due process of law.

15. The IACHR notes that the object of the petition relies on the following aspects: i) legal representation in the trial was inadequate and failed to investigate and present substantial mitigating evidence; ii) solitary confinement for over 25 years; and iii) Tennessee's execution methods and protocols.

16. The Commission notes that after Ms. Pike's conviction she s the following remedies: i) on November 26, 1998, the Court of Criminal Appeals of Tennessee confirmed Ms. Pike's convictions and sentence to death (*infra* para. 33); ii) on April 25, 2010, the Court of Criminal Appeals of Tennessee denied Ms. Pike relief on four claims: the post-conviction court should have recused itself, the Petitioner's trial and appellate counsel were ineffective, the Petitioner is ineligible for the death penalty; and the death penalty is unconstitutional (*infra* para. 33); iii) on November 3, 2016, the United States District Court denied Ms. Pike petition for a writ of habeas corpus regarding different claims: that her lawyers were grossly ineffective during the trial stage as well as during the guilt/innocence phase of her capital trial, that she was deprived of the right to unconflicted counsel, that the imposition of the death penalty violated the U.S. Constitution because of her mental illness (*infra* para. 34); iv) on August 22, 2019 United States Court of Appeals of the Sixth Circuit, confirmed the denial of a writ of habeas corpus (*infra* para. 34). In addition, the IACHR notes that Ms. Pike petitioned the U.S. Supreme Court for a writ of *certiorari* based on these claims, which was denied on June 8, 2020 (*infra* para. 35).

17. In this regard, the Commission has repeatedly held that if the alleged victim raised the issues by any lawful and appropriate alternative under the domestic juridical system and the State had the opportunity to remedy the matter within its jurisdiction, the purpose of the international rule of exhaustion of domestic remedies has thus been served.⁷ In the instant case the State did not indicate there were other remedies to be exhausted. Based on the aforementioned, the Inter-American Commission concludes that the petitioners properly exhausted domestic remedies under Article 31(1) of its Rules of Procedure, taking into account that the last decision was adopted on June 8, 2020, as established in the previous paragraph. In addition, the petition was presented on November 17, 2020. Thus, the Commission finds that in the circumstances, the petition has been submitted within the requirement specified in Article 32(1) of its Rules of Procedure.

⁶ IACHR, Report No. 89/21, Petition 5-12, Admissibility, Cananea Mine Workers and their families, Mexico, March 28, 2021, par. 32; Report No. 317/21, Petition 1841-14, Admissibility, M and C, Costa Rica, November 4, 2021, par. 25.

⁷ IACHR, Report No. 54/14, Petition 684-14, Admissibility, Russel Bucklew and Charles Warner, United States, July 21, 2014, para. 28.

18. Finally, regarding the petitioner's argument regarding abuses during her childhood, the Commission notes that it does not have enough information to analyze the exhaustion of domestic remedies.

D. Colorable claim

20. The IACHR observes that the case relates to the following aspects: i) legal representation in the trial was inadequate and failed to investigate and present substantial mitigating evidence; ii) solitary confinement of over 25 years; iii) Tennessee's execution methods and protocols.

21. Given the foregoing, the Commission considers that the arguments presented by both parties require an in-depth analysis of the substance of the matter to be resolved. In this regard, the Commission considers that *prima facie*, the facts alleged by the petitioners would tend to establish violations of Articles I (right to life, liberty and security of the person), II (right to equality before law), XI (right to preservation of health), XVIII (right to fair trial), XXI (protection from arbitrary arrest), XXV (right to humane treatment while in custody), and XXVI (right to due process of law).

IV. FINDINGS OF FACTS

A. Regarding Christa Pike

22. According to the petitioners i) Christa Pike is a survivor of child abuse, domestic violence, and multiple rapes; ii) at the time of her arrest, Ms. Pike was 18 years old; iii) had "neurological impediments" and was "mentally ill".⁸ The State did not dispute this information.

23. Dr. Jonathan Henry Pincus, who conducted interviews with Ms. Pike, practiced physical examinations and studied previous clinical examinations practiced on her, concluded that she was born with "neurological abnormalities" in her brain, which also caused her to suffer from epilepsy as a 14-month-old baby, and diagnosed her with obsessive-compulsive disorder.⁹ After conducting a psychiatric evaluation in 2001, 2002, and 2007, Dr. William Kenner, diagnosed Ms. Pike with bipolar disorder and posttraumatic stress disorder (PTSD) caused by the prevalence of physical and sexual violence in her early childhood. Because of bipolar disorder, Ms. Pike would experience maniac periods where her decision-making abilities would be influenced by feelings of "omnipotence and grandiosity", followed by periods of depression and suicidal ideation.¹⁰

24. According to the petitioners, Ms. Pike met Tadaryl Shipp while they were both attending the Job Corps program and began a romantic relationship when they were 18 and 17 years old, respectively. They explained that Mr. Shipp was mentally and physically abusive towards Ms. Pike.¹¹

25. The petitioners described that Ms. Pike was fixated on Mr. Shipp, which led her to have issues with another student, Colleen Slemmer, who apparently was interested in him. They mentioned that one night, Christa woke up and realized Ms. Slemmer was in her room "with a box cutter going through her things". They stated that on January 12, 1995, Mr. Shipp and Ms. Pike went on a walk with Ms. Slemmer and killed her.¹²

B. Christa Pike's trial

26. There is no controversy that Ms. Pike was on trial for capital murder. The Commission has no information about the start date or duration of the trial. The petitioners argued that the State appointed her public attorneys who were inexperienced and unprepared to defend her. Ms. Pike's trial lead counsel, William Talman, testified that he had never previously worked on a capital case.¹³ Julie Martin Rice was appointed 55 days before the

⁸ Petitioners Brief, November 11, 2020.

⁹ Annex 1. Declaration of Dr. Jonathan Henry Pincus, Petitioners Brief, November 11, 2020, Exhibit B.

¹⁰ Annex 2. Declaration of Dr. William Kenner, Petitioners Brief, November 11, 2020, Exhibit I.

¹¹ Petitioners Brief, November 11, 2020.

¹² Petitioners Brief, November 11, 2020.

¹³ Annex 3. Declaration of William Talman, Petitioners Brief, November 11, 2020, Exhibit Z.

trial began; she indicated that at the time of the trial, she had been a lawyer for less than four years and had no experience in murder cases.¹⁴ The State did not dispute this information.

27. According to the petitioners, Mr. Talman and Ms. Rice failed to investigate and present “crucial” mitigating evidence during the trial. They added Ms. Pike’s counsel failed to i) seek a continuance to better prepare the case; ii) present Ms. Pike’s social history report; iii) present expert testimony of the mitigating specialist who elaborated the report to inform the jury about the traumatic consequences of the repeated abuses Ms. Pike endured; iii) present evidence of Ms. Pike’s brain damage; iv) present adequate and accurate evidence of Christa’s mental illness; v) prepare the expert witnesses called to provide their findings on Ms. Pike’s mental health; v) present witness testimonies to illustrate the type of childhood Ms. Pike had and the symptoms she exhibited of mental illness; and vi) prepare the witnesses and investigate properly the context of Ms. Pike’s life and relevance of said testimonies.¹⁵ The State did not dispute this information.

28. Ms. Pike’s public defense hired Dr. McCoy as a “mitigation specialist” to conduct an investigation into her life history¹⁶. She explained that she carried out different interviews with family and friends and examined Ms. Pike’s education and health records. Dr. McCoy produced a “three-volume social history report”.¹⁷ The petitioners indicated that at the last minute, Mr. Talman chose not to submit the report and to not have Dr. McCoy testify in the case. Instead, he called Ms. Pike’s parents and aunt, who were present at the hearing, as witnesses.¹⁸

29. According to Dr. McCoy’s testimony, Mr. Talman presented the report late to the prosecution, and when they objected, he asked her to lie and claim that she had submitted the report the night before. She added that since she opposed doing so, Mr. Talman “was very distraught, in a total meltdown”, and in the end, she was not called to testify. Dr. McCoy said about the delay in submitting the report to the prosecution, “I assumed that if you get picked to be the first chair in a death penalty case, you know what the Rules of Evidence are”.¹⁹ The petitioners clarified that “under the Tennessee rules of evidence, counsel is only required to disclose material used by expert witnesses if it contains opinion evidence and if the expert witness is going to give their opinion during the testimony”.²⁰ The State did not dispute this information.

30. During the trial’s penalty phase, Ms. Pike’s public defense counsel called only three witnesses: her mother, her father, and her aunt.²¹ The petitioners explained that they were called “on the spot” because they were the only people at the court that day after Mr. Talman decided not to have Dr. McCoy testify. They pointed out that all three witnesses were “complicit in Christa’s abuse during her childhood and teenage years and thus had their own motives to downplay the tragedies Ms. Pike suffered during her lifetime” and that the entire penalty phase of the case lasted “barely a day”.²²

31. The petitioners stated that the public trial counsel also failed to present the testimonies of Christa’s friends and different professionals who had interacted with Christa during her childhood, such as social workers, teachers and instructors. They understand that these witnesses would have been able to provide important mitigating testimony to humanize Ms. Pike. The petitioners alleged that Ms. Pike’s public defense neglected to investigate and present evidence of her “brain damage,” PTSD, and bipolar disorder resulting from the physical and sexual abuse she endured throughout her life.²³ The State did not dispute this information.

¹⁴ Annex 4. Declaration of Julie Martin Rice, Petitioners Brief, November 11, 2020, Exhibit AA.

¹⁵ Petitioners Brief, November 11, 2020.

¹⁶ Annex 3. Declaration of William Talman, Petitioners Brief, November 11, 2020, Exhibit Z.

¹⁷ Annex 5. Declaration of Dr. Diana McCoy, Petitioners Brief, November 11, 2020, Exhibit M.

¹⁸ Petitioners Brief, November 11, 2020.

¹⁹ Annex 5. Declaration of Dr. Diana McCoy, Petitioners Brief, November 11, 2020, Exhibit M.

²⁰ Petitioners Brief, November 11, 2020.

²¹ Annex 3. Declaration of William Talman, Petitioners Brief, November 11, 2020, Exhibit Z.

²² Petitioners Brief, November 11, 2020.

²³ Petitioners Brief, November 11, 2020.

32. On March 30, 1996, a jury convicted Christa Pike of the offense of capital murder, and the trial court set punishment at death.²⁴ On November 26, 1997, the Tennessee Court of Criminal Appeals confirmed Ms. Pike's conviction and sentence on direct appeal.²⁵

33. After Ms. Pike was convicted, her new post-conviction lawyers retained several mental health experts who conducted mental health evaluations. Dr. William Kenner, a clinical and forensic psychiatrist, conducted several clinical interviews with Ms. Pike and diagnosed her with bipolar disorder and PTSD.²⁶ Dr. Jonathan Pincus, a professor of neurology at Georgetown University School of Medicine, pointed out that Ms. Pike had a heterotopia in her right frontal temporal lobe and damage to the basal ganglia at the center of her brain. He agreed with the bipolar disorder diagnosis and concluded that Ms. Pike also suffered from obsessive-compulsive disorder. Dr. Pincus noted that access to Christa's social history was necessary to provide an accurate diagnosis.²⁷

34. The IACHR notes that following her conviction, Ms. Pike petitioned for post-conviction relief and filed federal writs of habeas corpus. On November 26, 1997, the Court of Criminal Appeals of Tennessee affirmed Ms. Pike's sentence and found that it "was not imposed in an arbitrary fashion, the evidence supports the jury's findings of the aggravating circumstances, and the evidence supports the jury's findings that the aggravating circumstances outweigh any mitigating circumstances". They also concluded that "considering both the circumstances of the crime and the nature of the appellant, convinces us that the sentence of her death is neither excessive nor disproportionate to the penalty imposed in similar cases".²⁸ On October 5, 1998, the Supreme Court of Tennessee affirmed Ms. Pike's conviction and sentence.²⁹ On April 25, 2010, the Court of Criminal Appeals of Tennessee denied Ms. Pike relief on four claims: the post-conviction court should have recused itself, the Petitioner's trial and appellate counsel were ineffective, the Petitioner is ineligible for the death penalty; and the death penalty is unconstitutional.³⁰

35. On January 10, 2012, Ms. Pike filed a federal petition for a writ of habeas corpus.³¹ On November 3, 2016, the State District Court for the Eastern District of Tennessee denied it. On August 22, 2019, the United States Court of Appeals for the Sixth Circuit upheld the decision.³²

34. Ms. Pike petitioned the U.S. Supreme Court for a writ of *certiorari*, which was denied on June 8, 2020.³³

C. Conditions of confinement

36. The petitioners informed that after being sentenced to death, Ms. Pike was placed in solitary confinement.³⁴ The State did not dispute this information.

37. According to Dr. Winters, a mental health provider at the Tennessee Prison for Women who has treated Christa, Ms. Pike spends 22 to 23 hours a day in a room smaller than the size of a parking space, "blocked from the outside world".³⁵ The petitioners added that i) her cell includes a narrow bed; ii) a small round seat connected to a pole at its foot; iii) the door is covered with a plate of glass and has a small window that allows constant, bright fluorescent light to shine through; iv) all furniture is metal and bolted to the floor; v) only one small outward facing slit in the wall three to four feet tall and three to four inches wide; vi) she is exclusively allowed outside of her cell three times a week to shower and five times a week to participate in an hour of

²⁴ Annex 6. Judgment of November 26, 1997, Tennessee Court of Criminal of Appeals, State Communication September 20, 2021.

²⁵ Annex 6. Judgment of November 26, 1997, Tennessee Court of Criminal of Appeals, State Communication September 20, 2021.

²⁶ Annex 2. Declaration of Dr. William Kenner, Petitioners Brief, November 11, 2020, Exhibit I.

²⁷ Annex 1. Declaration of Dr. Jonathan Henry Pincus, Petitioners Brief, November 11, 2020, Exhibit B.

²⁸ Annex 6. Judgment of November 26, 1997, Tennessee Court of Criminal of Appeals, State Communication September 20, 2021.

²⁹ Annex 9. Judgment of October 5, 1998, Supreme Court of Tennessee, State Communication September 20, 2021.

³⁰ Annex 10. Judgment of April 25, 2010, Tennessee Court of Criminal of Appeals, State Communication September 20, 2021.

³¹ Annex 1. Judgment of November 3, 2016, State, State District Court for the Easter District of Tennessee, Communication September 20, 2021.

³² Annex 12. Judgment of November 3, 2016, State, State District Court for the Easter District of Tennessee, Communication September 20, 2021.

³³ Annex 12. Motion to Set Execution Date, filed August 27, 2020. Petitioners Brief, November 11, 2020

³⁴ Petitioners Brief, November 11, 2020.

³⁵ Annex 13. Affidavit of Dr. Ali Winters. Petitioners Brief, November 11, 2020. Exhibit XX.

“recreation.”; vii) “recreation” means being escorted by guards, “chained and manacled, to a cage -a sort of human kennel- no bigger than her cell just outside of the prison”. They explained that once she is in the “cage”, this is her only opportunity to speak directly to other inmates who may be in nearby cages at the same time.³⁶ The State did not dispute this information.

38. According to the petitioners, being in solitary confinement has caused “irreparable damage” to Ms. Pike.³⁷ Dr. Ali Winters stated that she has lost her long-distance vision and all sensitivity to light due to the permanent beam of fluorescent light that shines through her doorway. She has also developed a hypersensitivity to sound and smell. Dr. Winters described that Ms. Pike no longer can tolerate intrusion or change, and becomes distressed if a guard so much as changes his aftershave. Regarding her pre-existent mental health condition, Dr. Winters observed that it has been exacerbated and that she “has lost all ability to concentrate or focus, has rapid and explosive mood changes, and displays consistent emotional instability”. She described that Christa’s life is punctuated by cycles of hypomanic agitation where she will pace endlessly through her cell, bang on her door, or convulse and tense her whole body. Those sleepless, manic phases alternate with periods of depression characterized by hopelessness and powerlessness. She highlighted the fact that in June 2020, Christa had a suicide attempt during her solitary confinement.³⁸ The State did not dispute this information.

39. Dr. Winters indicated that Ms. Pike almost never has access to the touch of another human being. She illustrated that the last time she had a physical interaction with a person who was not a guard or a doctor was in 2016 when she had a contact visit with her family and legal team. She explained that the people she usually interacts with are inmates who have been punished or sanctioned by the prison for severe mental health issues. She understands that this lack of physical touch has led her to a “permanent state of disjunct, unable to connect with her environment, and unable to find stability or comfort in her life”.³⁹

40. The petitioners maintained that when Ms. Pike was sentenced, she was assigned to a prison system that did not have a female death row ward, so the Tennessee Department of Corrections (TDOC) adopted a new policy, mandating that inmates under a sentence of death be housed in Maximum Security Administrative Segregation. They highlight that men on death row are housed together outside of solitary confinement, are allowed to work, and have regular access to their spiritual advisors and their legal teams with contact visits.⁴⁰

D. Tennessee’s execution protocol

41. According to the petitioners, under the Tennessee protocols, Ms. Pike can choose the method of her execution between electrocution and lethal injection. Regarding the latter, they object that the State refuses to disclose how they procured the drugs and that they have not practiced autopsies on the last four persons who were executed following this method. They added that Ms. Pike cannot make an informed decision without this information because they have not demonstrated that the chosen drugs are effective. They emphasize that midazolam renders the person unconscious but does not shield them from pain.⁴¹ They explain that following the Supreme Court decision on *Glossip v. Gross*,⁴² the burden of proof was shifted and that inmates have to demonstrate the unconstitutionality of the execution methods and prove that a less harmful method exists.⁴³

42. The petitioners claimed that electrocution presents significant risks of pain and trauma, but it is chosen in Tennessee because it implies a lower risk of botched execution. They stressed that the process of electrocution is “dehumanizing and humiliating” because of the following:

The protocol requires the individual being electrocuted to be completely shaved in the final hours before their execution. The individual is then strapped to the electric chair with sponges soaked with saltwater to increase electrical conductivity. They are in this position, shaved completely, and in full view of the

³⁶ Petitioners Brief, November 11, 2020.

³⁷ Petitioners Brief, November 11, 2020.

³⁸ Annex 13. Affidavit of Dr. Ali Winters. Petitioners Brief, November 11, 2020. Exhibit XX.

³⁹ Annex 13. Affidavit of Dr. Ali Winters. Petitioners Brief, November 11, 2020. Exhibit XX.

⁴⁰ Petitioners Brief, November 11, 2020.

⁴¹ Petitioners Brief, November 11, 2020.

⁴² SCOTUS, *Glossip v. Gross*, 576 U.S. 863 (2015), June 29, 2015. Available at: <https://supreme.justia.com/cases/federal/us/576/863/>.

⁴³ Petitioners Brief, November 11, 2020.

witnesses, as they make their final statements. They are also in full view of the witnesses as the execution is carried out to completion.⁴⁴

43. On August 27, 2020, the Attorney General of the State of Tennessee asked the Tennessee Supreme Court to set an execution date for Ms. Pike.⁴⁵ The Commission does not have information on whether a date has been set.

44. The Commission observes that it does not have more updated information on Ms. Pike's current status. From publicly accessible media outlets, the Commission has become aware of the following:

- On April 21, 2022, the day Oscar Smith was set to be executed in Tennessee, "his execution was abruptly called off". The governor, Bill Lee, announced that he was granting Smith a temporary reprieve "due to an oversight in preparation for lethal injection". He put all executions on hold, including Ms. Pike's execution, and asked for an independent review of the state's lethal injection protocols.⁴⁶
- In July 2022, Ms. Pike sued the Tennessee Department of Corrections, alleging that the state had kept her in *de facto* solitary confinement for over a quarter century and denouncing the differences between men and women on death row.⁴⁷
- On December 28, 2022, a third-party report was publicly released and determined that "the state repeatedly failed to follow its own protocols in performing seven executions and preparing for an eighth between 2018 and 2022". The report revealed that the TDOC once "considered obtaining execution drugs from a veterinarian" and never provided its execution protocol to the compounding pharmacy that ultimately supplied the drugs. Although the protocol required testing for potency, sterility, and endotoxin contamination, the report found that TDOC "repeatedly violated this requirement from 2018 onward", conducting endotoxin testing in only one of eight pending lethal injection executions. Additionally, in one instance, TDOC failed to perform potency testing, and in another, one of the drugs did not pass the potency test.⁴⁸
- On August 30, 2023, Ms. Pike filed a Motion to Reopen Petition for Post-Conviction Relief based on a recent Tennessee Supreme Court case finding that automatic life sentences on juveniles convicted of first-degree murder violate the Eighth Amendment prohibition against cruel and unusual punishment. On August 30, 2023, Ms. Pike filed a Motion to Reopen Petition for Post-Conviction Relief in Knox County.⁴⁹
- On September 16, 2024, Ms. Pike reached a settlement with the state of Tennessee that "will give her equivalent opportunities to the men on death row, including a job, shared meals with other incarcerated women, and more time out of her cell".⁵⁰
- On December 27, 2024, the TDOC completed a multi-year lethal injection protocol review and announced that instead of the previous three-drug cocktail, lethal injection executions will use a single-drug *barbiturate pentobarbital*.⁵¹ The new protocol has not been made public.⁵² With the new revised protocol, executions in Tennessee are expected to resume shortly.⁵³

⁴⁴ Petitioners Brief, November 11, 2020.

⁴⁵ Annex 12. Motion to Set Execution Date, filed August 27, 2020. Petitioners Brief, November 11, 2020

⁴⁶ Nashville Banner, Tennessee Revised Its Death Penalty Protocols and These Inmates Now Face Execution, January 8, 2025. Accessible at: <https://nashvillebanner.com/2025/01/08/tennessee-death-penalty-protocols/>.

⁴⁷ Death Penalty Information Center, Rulings for Two Death-Sentenced Prisoners Recognize Devastating Harm Caused by Solitary Confinement, September 30, 2023. Accessible at: <https://deathpenaltyinfo.org/rulings-for-two-death-sentenced-prisoners-recognize-devastating-harm-caused-by-solitary-confinement>.

⁴⁸ Death Penalty Information Center, Report: Tennessee Repeatedly Violated Execution Protocol Since 2018, January 4, 2023. Accessible at: <https://deathpenaltyinfo.org/report-tennessee-repeatedly-violated-execution-protocol-since-2018>.

⁴⁹ On application for permission to appeal from the Judgment of the Court of Criminal Appeals, filed on July 16, 2024. Accessible at: <https://jlc.org/sites/default/files/attachments/2024-07/2024.07.16%20Application%20for%20Permission%20to%20Appeal.pdf>.

⁵⁰ Death Penalty Information Center, Rulings for Two Death-Sentenced Prisoners Recognize Devastating Harm Caused by Solitary Confinement, September 30, 2023. Accessible at: <https://deathpenaltyinfo.org/rulings-for-two-death-sentenced-prisoners-recognize-devastating-harm-caused-by-solitary-confinement>.

⁵¹ Tennessee Department of Corrections, TDOC Completes Lethal Injection Protocol Review, December 27, 2024. Accessible at: <https://www.tn.gov/correction/news/2024/12/27/tdoc-completes-lethal-injection-protocol-review.html>.

⁵² Death Penalty Information Center, Tennessee to Resume Executions with Single-Drug Lethal Injection Protocol, January 3, 2025. Accessible at: <https://deathpenaltyinfo.org/tennessee-to-resume-executions-with-single-drug-lethal-injection-protocol>.

⁵³ Nashville Banner, Tennessee Revised Its Death Penalty Protocols and These Inmates Now Face Execution, January 8, 2025. Accessible at: <https://nashvillebanner.com/2025/01/08/tennessee-death-penalty-protocols/>.

V. ANALYSIS OF LAW

A. Preliminary considerations

45. Before its analysis of the merits, the Inter-American Commission reiterates its previous rulings regarding the heightened scrutiny to be used in cases involving the death penalty. The right to life has received broad recognition as the supreme human right and as a *sine qua non* for the enjoyment of all other rights.

46. That gives rise to the particular importance of the IACHR's obligation to ensure that any denial of life that may arise from the enforcement of the death penalty strictly abides by the requirements set forth in the applicable instruments of the Inter-American human rights system, including the American Declaration. That heightened scrutiny is consistent with the restrictive approach adopted by other international human rights bodies in cases involving the imposition of the death penalty,⁵⁴ and it has been set out and applied by the Inter-American Commission in previous capital cases brought before it.⁵⁵ As the Inter-American Commission has explained, this standard of review is the necessary consequence of the specific penalty at issue and the right to a fair trial and all attendant due process guarantees, among others.⁵⁶ The Commission has said the following:

(...) due in part to its irrevocable and irreversible nature, the death penalty is a form of punishment that differs in substance as well as in degree in comparison with other means of punishment, and therefore, warrants a particularly stringent need for reliability in determining whether a person is responsible for a crime that carries a penalty of death.⁵⁷

47. The Inter-American Commission will therefore review the petitioner's allegations in the present case with a heightened level of scrutiny to ensure in particular that the rights to life, not to receive cruel, infamous or unusual punishment, to due process, and to a fair trial as prescribed under the American Declaration, have been respected by the State. With regard to the legal status of the American Declaration, the IACHR reiterates the following:

[t]he American Declaration is, for the Member States not parties to the American Convention, the source of international obligations related to the OAS Charter. The Charter of the Organization gave the IACHR the principal function of promoting the observance and protection of human rights in the Member States. Article 106 of the OAS Charter does not, however, list or define those rights. The General Assembly of the OAS at its Ninth Regular Period of Sessions, held in La Paz, Bolivia, in October 1979, agreed that those rights are those enunciated and defined in the American Declaration. Therefore, the American Declaration crystallizes the fundamental principles recognized by the American States. The OAS General Assembly has also repeatedly recognized that the American Declaration is a source of international obligations for the member states of the OAS.⁵⁸

⁵⁴ See, for example: I/A Court H. R., Advisory Opinion OC-16/99 (October 1, 1999), *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law*, para. 136; United Nations Human Rights Committee, *Baboheram-Adhin et al. v. Suriname*, Communications Nos. 148-154/1983, adopted on April 4, 1985, para. 14.3; Report of the United Nations Special Rapporteur on Extrajudicial Executions, Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights Resolution 1994/82, *Question of the Violation of Human Rights and Fundamental Freedoms in any part of the World, with particular reference to Colonial and Other Dependent Countries and Territories*, UN Doc.E/CN.4/1995/61 (December 14, 1994), para. 378.

⁵⁵ IACHR, Report No. 57/96, *Andrews, United States*, IACHR Annual Report 1997, para. 170-171; Report No. 38/00 *Baptiste, Grenada*, IACHR Annual Report 1999, paras. 64-66; Report No. 41/00, *McKenzie et al., Jamaica*, IACHR Annual Report 1999, paras. 169-171.

⁵⁶ IACHR, *The death penalty in the Inter-American System of Human Rights: From restrictions to abolition*, OEA/Ser.L/V/II.Doc. 68, December 31, 2011, para. 41.

⁵⁷ IACHR, Report No. 78/07, *Case 12.265, Merits (Publication)*, Chad Roger Goodman, *The Bahamas*, October 15, 2007, para. 34.

⁵⁸ IACHR, Report No. 44/14, *Case 12,873, Report on Merits (Publication)*, Edgar Tamayo Arias, *United States*, July 17, 2014, para. 214.

B. Right to a fair trial, due process of law and equality before the law (articles XVIII⁵⁹, XXVI⁶⁰ and II⁶¹ of the American Declaration)

a. General considerations

48. Adequate legal representation is a fundamental component of the right to a fair trial. The IACHR has found that “[t]he right to due process and to a fair trial includes the right to adequate means for the preparation of a defense, assisted by adequate legal counsel”.⁶² According to the Commission, “[t]he State cannot be held responsible for all deficiencies in the conduct of State-funded defense counsel. National authorities are, however, required [...] to intervene if a failure by legal aid counsel to provide effective representation is manifest or sufficiently brought to their attention. Rigorous compliance with the defendant’s right to competent counsel is compelled by the possibility of the application of the death penalty.”⁶³

49. The appointment of an attorney by the state does not, in and of itself, ensure effective assistance of counsel. At the same time, while the State is responsible for ensuring that such assistance is effective, it is not responsible for what may be understood as decisions of strategy or for every possible shortcoming. Rather, the Commission must evaluate whether the assistance of counsel was effective in the overall context of the process and taking into account the specific interests at stake.⁶⁴

50. The Commission has established that “the fundamental due process requirements for capital trials include the obligation to afford a defendant a full and fair opportunity to present mitigating evidence for consideration in determining whether the death penalty is the appropriate punishment in the circumstances of his or her case.”⁶⁵ The Commission has also indicated that due process protections, under the Declaration:

(...) guarantee an opportunity to make submissions and present evidence as to whether a death sentence may not be a permissible or appropriate punishment in the circumstances of the defendant’s case, in light of such considerations as the offender’s character and record, subjective factors that might have motivated his or her conduct, the design and manner of execution of the particular offense, and the possibility of reform and social readaptation of the offender.⁶⁶

51. It may be noted that the fundamental nature of this guarantee has been reflected in practice guidelines for lawyers. The American Bar Association has prepared and adopted guidelines and related commentaries that emphasize the importance of investigating and presenting mitigating evidence in death penalty cases.⁶⁷ According to these guidelines, the duty of counsel in the United States to investigate and present mitigating evidence is now well-established and “[b]ecause the sentencer in a capital case must consider in mitigation, anything in the life of the defendant which might militate against the appropriateness of the death penalty for the defendant,” penalty phase preparation requires extensive and generally unparalleled investigation into

⁵⁹ Article XVIII of the American Declaration provides: “Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.”

⁶⁰ Article XXVI of the American Declaration provides: “Every accused person is presumed to be innocent until proved guilty. Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.”

⁶¹ Article II of the American Declaration provides: “All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.”

⁶² IACHR, The death penalty in the Inter-American System of Human Rights: From restrictions to abolition, OEA/Ser.L/V/II.Doc. 68, December 31, 2011, p. 123.

⁶³ IACHR, The death penalty in the Inter-American System of Human Rights: From restrictions to abolition, OEA/Ser.L/V/II.Doc. 68, December 31, 2011, p. 123.

⁶⁴ IACHR, Report No. 79/15, Case 12.994. Merits (Publication), Bernardo Aban Tercero, United States, October 28, 2015, para. 111.

⁶⁵ IACHR, Report No. 90/09, Case 12.644, Admissibility and Merits (Publication), Medellín, Ramírez Cárdenas and Leal García, United States, August 7, 2009, para. 134.

⁶⁶ IACHR, Report No. 90/09, Case 12.644, Admissibility and Merits (Publication), Medellín, Ramírez Cárdenas and Leal García, United States, August 7, 2009, para. 134.

⁶⁷ American Bar Association, *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (Revised editions) (February 2003), Guideline 10.7 – Investigation. Available at: <http://www.abanet.org/legalservices/downloads/sclaid/deathpenaltyguidelines.pdf>.

personal and family history.⁶⁸ The Guidelines also emphasize that the “mitigation investigation should begin as quickly as possible, because it may affect the investigation of first phase defenses (e.g., by suggesting additional areas for questioning police officers or other witnesses), decisions about the need for expert evaluations (including competency, mental retardation, or insanity), motion practice, and plea negotiations.”⁶⁹

52. In addition, the UN Special Rapporteur on violence against women, its causes and consequences, indicated that “[n]umerous studies in the United States illustrate a strong correlation between incarceration and prior abuse, and the nexus with women’s involvement in the activities for which they were incarcerated including drug use, prostitution and intimate involvement with criminals”⁷⁰.

53. The IACHR has established that, while the American Declaration does not expressly prohibit the imposition of the death penalty in the case of persons with mental and intellectual disabilities, such a practice is in violation of the rights and basic principles recognized in Articles I and XXVI of the American Declaration.⁷¹ The IACHR has also ruled that:

States have a special duty to protect persons with mental and intellectual disabilities, a duty that is reinforced in the case of persons under State custody. Moreover, it is a principle of international law that persons with mental and intellectual disabilities, either at the time of the commission of the crime or during trial, cannot be sentenced to the death penalty. Likewise, international law also prohibits the execution of a person sentenced to death if that person has a mental or intellectual disability at the time of the execution.⁷²

54. Regarding people with mental and or intellectual disabilities, the IACHR remarks that States have a special duty to protect them, a duty that is reinforced in the case of persons under State custody. Given its special duty to protect them, in death penalty cases the State has the obligation to have procedures in place to identify those accused or convicted persons who have a mental or intellectual disability. In this regard, the State has two main obligations. First, it has the duty to survey all records and information in its possession concerning the mental health of a person accused of a capital offense. Second, the State must provide any person with the means necessary to have an independent mental health evaluation done in a timely manner.⁷³ Moreover, when there is an indication that an accused or convicted person in a death penalty case might have a mental or intellectual disability, the State has the obligation, at any time during the proceedings, to address the claim on the merits.

55. Also, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment indicated that international law considers the imposition and enforcement of the death penalty in the case of persons with mental disabilities as particularly cruel, inhuman and degrading.⁷⁴ Likewise, the U.N. Special Rapporteur on arbitrary executions stated that “[i]t is a violation of death penalty safeguards to impose capital punishment on individuals suffering from psychosocial disabilities.”⁷⁵

⁶⁸ American Bar Association, *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (Revised editions) (February 2003), Guideline 10.7 – Investigation, at 82.

⁶⁹ American Bar Association, *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (Revised editions) (February 2003), Guideline 10.7 – Investigation, at 83.

⁷⁰ Report of the Special Rapporteur on violence against women, its causes and consequences, Pathways to, conditions and consequences of incarceration for women, 21 August 2013, A/68/340, citing: See Judith Green and Kevin Pranis, “Hard hit: the growth in the imprisonment of women, 1977-2004: The Punitiveness Report, Part I, Growth trends and recent research”, Institute on Women & Criminal Justice, 2006; American Civil Liberties Union (ACLU), Prison Rape Elimination Act of 2003, 29 April 2011, available from www.aclu.org; Avon Global Center for Women and Justice at Cornell Law School and Women in Prison Project of the Correctional Association of New York, “From protection to punishment: post-conviction barriers to justice for domestic violence survivor-defendants in New York State” (2011); Angela Browne, Brenda Miller and Eugene Maguin, “Prevalence and severity of lifetime physical and sexual victimization among incarcerated women”, *International Journal of Law and Psychiatry*, vol. 22, Nos. 3-4 (May-August 1999), pp. 301-322.

⁷¹ IACHR, Report No. 44/14, Case 12,873, Merits (Publication). Edgar Tamayo Arias. United States, July 17, 2014, para. 152.

⁷² IACHR, Report No. 44/14, Case 12,873, Merits (Publication). Edgar Tamayo Arias. United States, July 17, 2014, para. 159.

⁷³ See in this respect, IACHR, Report No. 52/13, Cases 11.575, 12.333, and 12.341, Merits (Publication), Clarence Allen Lackey et al, Miguel Angel Flores, and James Wilson Chambers, United States, July 15, 2013, para 206.

⁷⁴ Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/67/279, August 9, 2012, para. 58.

⁷⁵ Office of the High Commissioner for Human Rights, “Death row: U.N. expert urges U.S. authorities to stop execution of two persons with psychosocial disabilities”, July 17, 2012.

b. Analysis of the case

56. Regarding the ineffective assistance of court-appointed counsel, the Commission must evaluate whether the assistance of public counsel to Ms. Pike was effective, considering the specific interests at stake. The Commission observes that in Ms. Pike's case, the interests at stake included the application of the death penalty, and the assistance of counsel must be evaluated in that context. The Commission takes note of several elements that demonstrate omissions, mistakes, and irregularities in Ms. Pike's public counsel.

36. In first place, William Talman and Julie Rice - the public defense for Ms. Pike's trial- testified that they had never served as lead counsel on a capital case before. Notably, Ms. Rice indicated that at the time of the trial, she had been a lawyer for less than four years and had no experience in murder cases (*supra* para. 26). The Commission observes that the State has not demonstrated or presented evidence that credits Mr. Talman's or Ms. Rice's capacity to act in a capital case. Moreover, the State has not proved that the necessary support was given to the public counsel in order to carry out their job efficiently.

57. In second place, Ms. Pike's public defense did not seek a continuance to prepare the case better and properly examine all the evidence and prepare potential witnesses. In this sense, the Commission highlights that Ms. Rice was appointed merely 55 days before the trial began and that the counsel had issues with presenting evidence on time throughout the trial (*supra* paras. 26 & 29). The State has not explained the reasons why the public defense chose not to ask for a continuance or whether they were able to prepare a competent defense strategy within the set time.

58. In third place, according to petitioners, Ms. Pike's public defense overlooked critical mitigating evidence and failed to call witnesses and mitigation specialists to testify about Ms. Pike's abuse in detail. Supporting this claim, the IACHR notices that the mitigation specialist, Dr. McCoy, testified that she dedicated extensive time and resources to conduct a series of interviews and research Ms. Pike's life to prepare a three-volume social history report. Dr. McCoy added that she was supposed to testify in the case in order to present the found mitigating evidence during the sentencing phase of the trial. However, she explained that Mr. Talman unilaterally decided not to submit the report as evidence and did not call her to testify as an expert witness (*supra* paras. 28 & 29). The State has made no observations on this matter and has not addressed how this defense strategy was in Ms. Pike's interests and adequately ensured her due process rights. The Commission also highlights that the trial team failed to introduce a gender perspective in order to explain the trauma and implications on Ms. Pike's mental health from the abuses she suffered.

59. In fourth place, according to the petitioners, Ms. Pike's legal counsel failed to present her medical and educational records, and the testimonies of Christa's friends as well as different professionals who had interacted with Christa during her childhood. The Commission observes that the social history report prepared by Dr. McCoy took into consideration previously conducted interviews with social workers, teachers, and instructors who had worked with Ms. Pike (*supra* paras. 30 & 31). The Commission considers that these documents and testimonies could have helped illustrate Ms. Pike's life and the implications of her mental disabilities. On the contrary, the Commission notices that the only witnesses who testified were Christa's parents, a questionable choice given their interest in downplaying Christa's abuse (*supra* para. 30). The State has provided no explanation as to why the public defense chose to call only these three witnesses, without properly preparing them to testify.

60. In fifth place, during the sentencing phase, Ms. Pike's lawyers neglected to investigate and present evidence of her "brain damage," PTSD, and bipolar disorder resulting from the physical and sexual abuse she endured throughout her life (*supra* para 31). Additionally, the experts who analyzed Ms. Pike for the trial were not given access to her social history, which was a necessary context to diagnose her correctly (*supra* paras. 31 & 33). The IACHR highlights that after Ms. Pike was convicted, several mental health experts conducted mental health evaluations of the alleged victim. The Commission's remarks that Ms. Pike's public defense failed to present those experts with the necessary context and documentation to diagnose her properly. This is evident by the later diagnosis she received, including PTSD and dissociative disorder resulting from the abuse she endured throughout her life (*supra* paras. 33 & 34)

61. The IACHR also recalls that, as previously established, the fundamental due process requirements for capital trials include the obligation to afford a defendant a full and fair opportunity to present mitigating evidence for consideration in determining whether the death penalty is the appropriate punishment in the circumstances of the specific case. In the instant case, the Commission considers the public defense failed to request expert evidence timely, which fell below minimally adequate standards of representation, as the preparation requires extensive and generally unparalleled investigation into personal and family history in this type of case.

62. For the aforementioned reasons and considering the State's failure to comply with the international obligations to i) provide adequate legal representation; and ii) adopt measures to avoid the use of gender stereotypes and dismiss the context of violence against Ms. Pike since her childhood [this sentence is incomplete]. As a consequence, the Inter-American Commission concludes that the United States violated Ms. Pike's rights to due process and a fair trial under Articles XVIII and XXVI of the American Declaration and right to equality before the law under article II of the same instrument.

63. Furthermore, the Commission finds that the State -through the appointed public defense- did not offer Ms. Pike an opportunity to present new evidence regarding her mental or intellectual disability since the analysis on the merits was made based on evaluations that did not provide a complete diagnosis of her mental health. Based on the above-mentioned international and inter-American standards, when there is an indication that an accused or convicted person in a death penalty case might have a mental or intellectual disability, the State has the obligation, at any time of the proceedings, to address the claim on the merits.

64. Based on the above consideration as well as previous decisions⁷⁶, and given the heightened degree of scrutiny that it has applied in death penalty cases, the Inter-American Commission concludes that the United States also violated Articles I and XXVI of the American Declaration to the detriment of Ms. Pike by denying any opportunity to present evidence regarding her mental and intellectual disability and be heard on the merits of that evidence.

C. The deprivation of liberty on death row, the right of protection against cruel, infamous or unusual punishment and equality before the law (articles I⁷⁷, XI⁷⁸, XXV⁷⁹, XXVI⁸⁰ and II⁸¹ of the American Declaration)

1. General considerations

65. Regarding death row, the Commission remarks that the long-term deprivation of liberty on death row is referred to within both international human rights and comparative law as the "death row phenomenon" and infringes a person's right not to be subject to cruel, inhuman, or degrading punishment. Such treatment violates the prohibition of cruel, inhuman or degrading punishment in Constitutions and multiple international treaties, including the American Declaration (Articles XXV and XXVI).⁸²

⁷⁶ IACHR, Report No. 456/21, Case 13.829, Admissibility and Merits, Ramiro Ibarra Rubi, United States of America, 31 December, 2021, paras. 112 & 113.

⁷⁷ Article I of the American Declaration provides: "[...] Every human being has the right to life, liberty and the security of his person."

⁷⁸ Article XI of the American Declaration provides: "[...] Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources."

Article XXVI of the American Declaration provides: "[...] Every person accused of an offense has the right [...] not to receive cruel, infamous or unusual punishment."

⁷⁹ Article XXV of the American Declaration provides: "[...] Every individual who has been deprived of his liberty has the right [...] to humane treatment during the time he is in custody."

Article XXVI of the American Declaration provides: "[...] Every person accused of an offense has the right [...] not to receive cruel, infamous or unusual punishment."

⁸⁰ Article XI of the American Declaration provides: "The right to the preservation of health and well-being – every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources."

⁸¹ Article II of the American Declaration provides: "All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor."

⁸² IACHR, Report No. 71/18, Case 12.958, Merits, Russell Bucklew, United States, May 10, 2018, paras. 86-90. In this report the Commission has cited a number of developments in the inter-American and other protections systems, including the regional and United Nations systems.

66. The Commission acknowledges several international developments on the matter of the death row phenomenon. The United Nations Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment understands the concept of the death row phenomenon as the following:

(...) it consists of a combination of circumstances that produce severe mental trauma and physical deterioration in prisoners under sentence of death.⁸³ Those circumstances include the lengthy and anxiety-ridden wait for uncertain outcomes, isolation, drastically reduced human contact and even the physical conditions in which some inmates are held. Death row conditions are often worse than those for the rest of the prison population, and prisoners on death row are denied many basic human necessities.⁸⁴

67. More recently, the U.N. Human Rights Committee, in its General Comment No. 36, addressed the death row phenomenon in light of Article 7 (prohibition of torture or cruel, inhuman, or degrading treatment or punishment) of the International Covenant on Civil and Political Rights and established the following:

Failure to provide individuals on death row with timely notification about the date of their execution constitutes, as a rule, a form of ill-treatment, which renders the subsequent execution contrary to article 7 of the Covenant. Extreme delays in the implementation of a death penalty sentence that exceed any reasonable period of time necessary to exhaust all legal remedies may also entail the violation of article 7 of the Covenant, especially when the long time on death row exposes sentenced persons to harsh or stressful conditions, including solitary confinement, and when sentenced persons are particularly vulnerable due to factors such as age, health or mental state.⁸⁵

68. The Commission takes note of the case *Pratt and Morgan v. The Attorney General for Jamaica* (1993), in which the Judicial Committee of the Privy Council (JCPC) understood that “in any case [in which the death sentence is imposed and] in which execution is to take place more than five years after sentence, there will be strong grounds for believing that the delay is such as to constitute ‘inhuman or degrading punishment or other treatment’”. They also found that “[t]he appropriate order in the present case is that the sentence of death of each appellant should be commuted to life imprisonment”.⁸⁶ In a similar case, the JCPC found the following:

(...) the reason why execution [of a person] following the lapse of a prolonged period of time after sentence of death would constitute inhuman punishment is that the condemned man has suffered the agony of mind of facing the prospect of execution over that period.⁸⁷

69. In the case of *Soering vs. The United Kingdom*, the European Court of Human Rights, in its interpretation of the norm banning cruel, inhuman, and unusual punishment and in reference to the death penalty, pointed out the following:

The manner in which it is imposed or executed, the personal circumstances of the condemned person and a disproportionality to the gravity of the crime committed, as well as the conditions of detention awaiting execution, are examples of factors capable of bringing the treatment or punishment received by the condemned person within the proscription under Article 3.⁸⁸

⁸³ United Nations. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. 9 August 2012. A/67/279, para 42. Citing: Patrick Hudson, “Does the death row phenomenon violate a prisoner’s rights under international law?”, *European Journal of International Law*, vol. 11, No. 4 (2000), pp. 834-837.

⁸⁴ United Nations. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. 9 August 2012. A/67/279. para 42.

⁸⁵ United Nations. Human Rights Committee. General Comment No. 36. CCPR/C/GC/36, para. 40.

⁸⁶ *Pratt and Morgan v. The Attorney General for Jamaica and another (Jamaica)*, Privy Council Appeal No. 10 of 1993, judgment issued by the Judicial Committee of the Privy Council on November 2, 1993, para. 85. As mentioned in IACtHR, *Matter of James et al. with regard to Trinidad and Tobago*, Provisional measures, Order of May14, 2013, para. 10.

⁸⁷ *Henfield v. Attorney General of the Commonwealth of The Bahamas (Bahamas)*, Privy Council Appeal Nos. 26 y 37 of 1996, judgment issued by the Judicial Committee of the Privy Council on October 14, 1996, para. 9. As mentioned in IACtHR, *Matter of James et al. with regard to Trinidad and Tobago*, Provisional measures, Order of May14, 2013, para. 10.

⁸⁸ ECtHR. Case of *Soering v. The United Kingdom*. Report No. 14038/88. Judgment, July 7, 1989. para. 104.

70. The European Court found that the death row phenomenon is cruel, inhuman, and degrading treatment and is characterized by a prolonged period of detention while awaiting execution, during which prisoners sentenced to death suffer severe mental anxiety, extreme psychological tension, and trauma.⁸⁹

71. The European Court was referring to an average of six to eight years on death row from the imposition of the penalty to execution, and it mentioned how proceedings and appeals after the imposition of the death penalty themselves have a bearing on the aforementioned wait time on death row. The court acknowledged that the lapse of time between sentence and execution is inevitable; however, the consequence is that the condemned prisoner has to endure for many years the conditions on death row and the anguish and mounting tension of living in the ever-present shadow of death.⁹⁰

72. The Court further recognized that some element of delay between imposition and execution of the sentence and the experience of severe stress in conditions necessary for strict incarceration are inevitable and considered elements like the very long period of time spent on death row in such extreme conditions, with the ever present and mounting anguish of awaiting execution of the death penalty, which brought the delay into the realm of exposed real risk of treatment going beyond the threshold set by Article 3.⁹¹

73. Regarding the prolonged solitary confinement, the Inter-American Commission has determined that deprivation of liberty under certain conditions on death row, including solitary confinement for four years, constituted inhuman treatment.⁹² According to international human rights standards, persons deprived of liberty on death row should not be subjected to solitary confinement as a regular condition of imprisonment, but only in exceptional circumstances and solely as a disciplinary punishment in those instances and under the same conditions in which these measures apply to the rest of the inmates.⁹³

74. The IACHR has established that solitary confinement should only be used on an exceptional basis, for the shortest amount of time possible and only as a measure of last resort.⁹⁴ The Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas underscore the exceptional nature of the practice of solitary confinement and indicates the following:

Solitary confinement shall only be permitted as a disposition of last resort and for a strictly limited time, when it is evident that it is necessary to ensure legitimate interests relating to the institution's internal security, and to protect fundamental rights, such as the right to (...) integrity of persons deprived of liberty or the personnel.⁹⁵

75. In assessing whether solitary confinement falls within the ambit of Article 3 (Prohibition of torture) in a particular case, the European Court of Human Rights will consider "the stringency of the measure, its duration, the objective pursued and its effects on the person concerned."⁹⁶ At the same time, it has found that "where conditions of detention comply with the Convention and the detainee has contact with the outside world, through visits and contact with prison staff, the prohibition of contact with other prisoners will not breach Article 3 provided that the regime is proportional to the aim to be achieved, and the period of solitary detention is not excessive."⁹⁷ Similarly, the United Nations Human Rights Committee has concluded that solitary confinement is justifiable only in case of urgent need, in exceptional circumstances and for limited periods of time.⁹⁸

⁸⁹European Court of Human Rights, *Soering v. United Kingdom*. Judgment of July 7, 1989. Series A, Vol. 161. Likewise, the Supreme Court of the United States of America recognised in *Furman v. Georgia* that the time spent awaiting the execution of a death sentence destroys the human spirit and constitutes psychological torture that often leads to insanity. Cf. *Furman v. Georgia*, 408 U.S. 238, 287-288 (1977).

⁹⁰ ECtHR. Case of *Soering v. The United Kingdom*. Report No. 14038/88. Judgment, July 7, 1989. para. 106.

⁹¹ ECtHR. Case of *Soering v. The United Kingdom*. Report No. 14038/88. Judgment, July 7, 1989. para. 111.

⁹² CIDH, Report No. 58/02. Merits. Case 12.275. Denton Aitken. Jamaica. October 21, 2000, paragraphs 133 and 134.

⁹³ IACHR, *Report on the human rights of persons deprived of liberty in the Americas*, OEA/Ser.L/V/II.Doc.64., December 31, 2011, para. 517.

⁹⁴ IACHR, *Report on the human rights of persons deprived of liberty in the Americas*, OEA/Ser.L/V/II.Doc.64., December 31, 2011, para. 411.

⁹⁵ IACHR, Resolution 1/08, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XXII (3).

⁹⁶ European Commission of Human Rights, *Dhoest v Belgium*, Application No. 10448/83, May 14, 1987, para. 118.

⁹⁷ Torture in International Law: a guide to jurisprudence, APT and CEJIL, 2008, p. 81.

⁹⁸ Human Rights Committee, Concluding Observations on Denmark, UN Doc. CCRP/CO/70/DNK, 2000, para. 12.

76. On October 18, 2011, the U.N. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called for the prohibition of indefinite solitary confinement and prolonged solitary confinement, which he defined as for any period in excess of 15 days.⁹⁹ The Special Rapporteur concluded that 15 days “is the limit between ‘solitary confinement’ and ‘prolonged solitary confinement’ because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become irreversible.” The U.N. Special Rapporteur also observed that “even a few days of solitary confinement will shift an individual’s brain activity towards an abnormal pattern characteristic of stupor and delirium.”¹⁰⁰ Also, the Rapporteur has stated that, consistent with human rights standards, “no prisoner, including those serving life sentence and prisoners on death row, shall be held in solitary confinement merely because of the gravity of the crime”.¹⁰¹

77. Concerning the cell size, the U.N. Special Rapporteur indicates that, while there is no universal instrument that specifies a minimum acceptable size, domestic and regional jurisdictions have sometimes ruled on the matter. According to the European Court of Human Rights in *Ramírez Sanchez v. France*, a cell measuring 6.84 square meters (73.6 square feet) is “large enough” for single occupancy. However, the Special Rapporteur disagrees, “especially if the single cell should also contain, at a minimum, toilet and washing facilities, bedding and a desk”.¹⁰²

78. Solitary confinement can have severe psychological effects, ranging from depression to paranoia and psychosis, as well as physiological effects such as cardiovascular problems and profound fatigue.¹⁰³ The European Court has held that protracted sensory isolation, coupled with social isolation, can destroy the personality and constitutes a form of inhuman treatment¹⁰⁴. The United Nations Human Rights Committee has expressed its concern over the practice in some maximum security prisons in the United States “to hold detainees in prolonged cellular confinement, and to allow them out-of-cell recreation for only five hours per week, in general conditions of strict regimentation in a depersonalized environment”.¹⁰⁵ For its part, in a death penalty case in which the victims were held in solitary confinement for protracted periods, the Inter-American Commission established that the State failed to ensure respect for the inherent dignity of the human person, regardless of the circumstance, and the right not to be subjected to cruel, inhuman or degrading treatment or punishment.¹⁰⁶

79. In *Chinchilla Sandoval v. Guatemala*, the Inter-American Court of Human Rights set important precedents regarding the treatment and rights of people with disabilities. While the Court mainly addressed the importance of ensuring accessibility, it also emphasized that the State’s positive obligation was not limited to guaranteeing physical infrastructure but extended to ensuring proper healthcare.¹⁰⁷ Additionally, the Court emphasized that failing to provide accessible conditions for persons with disabilities in detention violates their right to dignity and constitutes discrimination.¹⁰⁸

⁹⁹ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, January 18, 2010, A/HRC/19/61, para. 26.

¹⁰⁰ United Nations, General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment, August 5, 2011, A/66/268, paragraphs 26 and 55.

¹⁰¹ Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, August 9, 2013, A/68/295, para. 61.

¹⁰² United Nations, General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment, August 5, 2011, A/66/268, para. 49.

¹⁰³ Shalev, Sharon, *A sourcebook on solitary confinement*, Mannheim Centre for Criminology, LSE, 2008, pp. 15 and 16. Available at: http://solitaryconfinement.org/uploads/sourcebook_web.pdf, cited in IACHR, Report on the human rights of persons deprived of liberty in the Americas, OEA/Ser.L/V/II.Doc.64., December 31, 2011, para. 492.

¹⁰⁴ *European Court of Human Rights, Case of Ramírez Sánchez v. France, (Application no. 59450/00), Judgment of July 4, 2006, Grand Chamber*, para. 120-123.

¹⁰⁵ United Nations, Human Rights Committee, CCPR/C/USA/CO/3, September 15, 2006, para. 32.

¹⁰⁶ I/A Court H.R., *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago Case*. Judgment of June 21, 2002. Series C No. 94, paragraphs 154-156.

¹⁰⁷ IACtHR. *Case of Chinchilla Sandoval et al. v. Guatemala*, Preliminary Objection, Merits, Reparations and Costs, Judgment of February 29, 2016, Series C No. 312, para. 208 et seq

¹⁰⁸ IACtHR. *Case of Chinchilla Sandoval et al. v. Guatemala*, Preliminary Objection, Merits, Reparations and Costs, Judgment of February 29, 2016, Series C No. 312, para. 312.

2. Analysis of the case

80. The Commission observes there is no controversy that Ms. Pike was sentenced to death on March 30, 1996 (*supra* para. 32). The IACHR remarks that according to the standards set up above, the very fact of spending over 28 years on death row is, by any account, excessive, and is aggravated by the prolonged expectation that the death sentence could be executed; and further exacerbated by the conditions under which Ms. Pike is detained as it will be analyzed below. Consequently, the IACHR concludes that Ms. Pike's death row situation constituted cruel, inhuman, or degrading treatment or punishment; therefore, the Commission considers that the State is responsible for the violation of the rights established in Articles I, XXV and XXVI of the American Declaration.

81. In addition, the IACHR highlights that Ms. Pike has spent over two decades in solitary confinement, awaiting execution until this date. In particular, the petitioners informed that the Tennessee Department of Corrections has kept Ms. Pike in permanent solitary confinement (*supra* para. 36-37). Such information has not been contested by the State. Also, according to the petitioners: i) Ms. Pike spent at least 24 hours a day in a room smaller than the size of a parking space, "blocked from the outside world"; ii) her cell includes a narrow bed, a door covered with a plate of glass that has a small window that allows constant, bright florescent light to shine through, and a small unlockable flap to deliver food; iii) she is exclusively allowed outside of her cell three times a week to shower and five times a week to participate in an hour of "recreation."; iv) "recreation" means being escorted by guards, "chained and manacled, to a cage—a sort of human kennel—no bigger than her cell just outside of the prison" (*supra* para. 37).

82. The Commission stresses that Dr. Winters, the mental health provider working at Ms. Pike's place of detention, has testified to the extensive physical and psychological consequences that solitary confinement has had on the victim. She mentioned loss of long-distance vision, sensitivity to light, and hypersensitivity to sound and smell, among others (*supra* para. 38). The State has not denied these allegations nor provided any type of information regarding the appropriateness of the solitary confinement or the measures in place to ameliorate the consequences it can have on the health of the detainees.

83. Moreover, Dr. Winters observed that Christa's mental health and pre-existing disorders had been exacerbated and that she "has lost all ability to concentrate or focus, has rapid and explosive mood changes, and displays consistent emotional instability". She described that Christa's life is punctuated by cycles of hypomanic agitation where she will pace endlessly through her cell, bang on her door, or convulse and tense her whole body. Those sleepless, manic phases alternate with periods of depression characterized by hopelessness and powerlessness. The Commission underlines that Dr. Winters also testified that in June 2020, Christa had a suicide attempt during her solitary confinement (*supra* para. 39). However, the State has not provided information related to how the victim's mental health is taken care of while in solitary confinement. The IACHR also highlights that the State has not presented documentation to demonstrate that Ms. Pike receives any type of health service or that measures have been put in place to address her needs.

84. In addition, the Commission recalls the petitioners described that Ms. Pike is the only woman sentenced to the death penalty in Tennessee. They added that because of her situation, the Tennessee Department of Corrections adopted a new policy, mandating that inmates under a sentence of death be housed in Maximum Security Administrative Segregation. Following this protocol, she is housed alone, does not have access to other inmates, is not allowed to work, is not allowed to meet with a spiritual advisor, and cannot have contact visits with her legal team. On the contrary, the Commission takes note of the TDOC protocols presented by the petitioners, which illustrate that men on death row are housed together and are allowed the abovementioned activities (*supra* para. 40). The Commission notices that the State has not disputed such information nor provided any explanation for this differentiated treatment between men and women on death row in the state of Tennessee.

85. The Commission notices that the State claimed that existing national legislation establishes standards of care in line with international human rights for detainees. However, the State has provided no specific information on the content of said legislation or the protocols in place by the Tennessee Department of Corrections and how these guaranteed Ms. Pike's rights.

86. Therefore, based on the information available, the IACHR considers that the conditions in which Ms. Pike has been incarcerated, as well as the prolonged solitary confinement to which she is subjected, constitute inhumane treatment, a cruel, infamous, and unusual punishment, and an infringement of her rights in violation of articles I, XI, XXV and XXVI of the American Declaration and right to equality before the law under article II of the same instrument.

D. Right to life and the protection against cruel, infamous or unusual punishment with respect to the eventual execution of Christa Pike (articles I¹⁰⁹ and XXVI¹¹⁰ of the American Declaration)

87. Regarding the method of execution, the IACHR highlights that in capital cases, the State has an enhanced obligation to ensure that the person sentenced to death has access to all the relevant information regarding the manner in which he or she is going to die. In particular, the convicted person must have access to information related to the precise procedures to be followed, the drugs and doses to be used in case of executions by lethal injection, and the composition of the execution team, as well as the training of its members.¹¹¹

88. Any person subjected to the death penalty must have the opportunity to challenge every aspect of the execution procedure, and such information is necessary to file a challenge. The IACHR notes in this regard that the due process requirement is not limited to the conviction and post-conviction proceedings.¹¹² Therefore, the State has the duty to inform the person sentenced to death, in a timely manner, about the drug and method of execution that will be used so he or she is not precluded from litigating the right to be executed in a manner devoid of cruel and unusual suffering. Moreover, conducting executions without first providing prisoners access to information related to the precise procedures to be followed, the drugs and doses to be used in case of executions by lethal injection, and the composition of the execution team, as well as the training of its members, deprives a victim of his right to challenge the manner in which he is planned to be executed, in violation of his rights to petition authorities and to due process under Articles XXIV and XXVI of the American Declaration.¹¹³

89. Further, the IACHR highlights the reinforced special duty of the State to ensure that the method of execution does not constitute cruel, infamous or unusual punishment. In this regard, the U.N. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment stated that "[t]he fact that a number of execution methods have been deemed to constitute torture or CIDT, together with a growing trend to review all methods of execution for their potential to cause severe pain and suffering, highlights the increasing difficulty with which a state may impose the death penalty without violating international law".¹¹⁴

90. The IACHR also notes that the United Nations Committee Against Torture received substantiated information indicating that executions in the United States can be accompanied by severe pain and suffering and requested the State to "carefully review its execution methods, in particular lethal injection, in order to prevent severe pain and suffering".¹¹⁵

¹⁰⁹ Article I of the American Declaration establishes: Every human being has the right to life, liberty and the security of his person.

¹¹⁰ Article XXVI of the American Declaration provides: "Every accused person is presumed to be innocent until proved guilty. Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment."

¹¹¹ IACHR, Report No. 44/14, Case 12.873. Merits (Publication). Edgar Tamayo Arias. United States. July 17, 2014, para. 189.

¹¹² IACHR, Report No. 44/14, Case 12.873. Merits (Publication). Edgar Tamayo Arias. United States. July 17, 2014, para. 190.

¹¹³ IACHR, Report No. 456/21, Case 13.829, Admissibility and Merits, Ramiro Ibarra Rubi, United States of America, 31 December, 2021, para. 127.

¹¹⁴ The death penalty and the absolute prohibition of Torture and Cruel, Inhuman, and Degrading Treatment or Punishment, Juan E. Mendez, Human Right Brief, Volume 20, Issue 1, Article 1, p. 3.

¹¹⁵ Committee Against Torture, Considerations of Reports submitted by State Parties under Article 19 of the Convention, United States, CAT/C/USA/CO/2, July 25, 2006, para. 31.

91. The IACHR must ensure that any deprivation of life resulting from the imposition of the death penalty complies with the requirements of the American Declaration¹¹⁶. Throughout this report, the Commission established that Christa Pike, *inter alia*, was not afforded adequate legal representation on direct appeal, did not get a thorough review of her conviction, was disadvantaged by doubts as to her competence to stand trial; and that the 28 years that Ms. Pike has been on death row constitute cruel and inhumane treatment.

92. Under these circumstances, the IACHR has maintained that executing a person after proceedings that were conducted in violation of their rights would be extremely grave and constitute a deliberate violation of the right to life established in Article I of the American Declaration¹¹⁷. Further, based on the conclusions regarding the deprivation of liberty on death row, the eventual execution of the alleged victim would constitute, by any account, a violation of the right to protection against cruel, infamous, or unusual punishment. In light of the foregoing and taking into account the determinations made throughout this report, the IACHR concludes that the execution of Christa Pike would constitute a serious violation of her right to life and due process of law, established in Articles I and XXVI of the American Declaration.

93. About the lethal injection, the petitioners explain that the State refuses to disclose how they procured the drugs and that they have not practiced autopsies on the last four persons who were executed following this method. Therefore, they maintain that Ms. Pike cannot make an informed decision without this information because they have not demonstrated that the chosen drugs are effective (*supra* para. 41). The Commission observes that the protocols mentioned by the petitioners were revised and that on December 27, 2024, a new protocol was announced (*supra* para. 45). Moreover the IACHR considers that conducting executions without i) providing persons deprived of liberty access to information related to the precise procedures to be followed; ii) the drugs and doses to be used in case of executions by lethal injection; and iii) the composition of the execution team as well as the training of its members deprives victims of their rights to challenge the manner in which they are planned to be executed, can generate the violation of their rights under Articles XXIV and XXVI of the American Declaration.

94. Finally, regarding the execution procedures set in place by the Tennessee Department of Correction for death row inmates, the petitioners claim that none of the available methods of execution -lethal injection or electrocution- are in compliance with the American Declaration (*supra* paras. 4, 41, 42 & 44). The IACHR highlights that the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment understood the use of the electric chair as a “method of execution that inflicted unnecessary mental or physical suffering or humiliation,” found to violate the prohibition of torture and other cruel, inhuman or degrading treatment or punishment¹¹⁸. In addition, the Commission takes note of the decisions of the Supreme Court of Georgia in *Dawson v. State*¹¹⁹ and the Supreme Court of Nebraska in *State v. Mata*¹²⁰, where both courts ruled that the use of the electric chair violates their state constitutional prohibitions against cruel and unusual punishment. Therefore, the Commission understands that the use of the electric chair as a method of execution would constitute a type of cruel, inhuman, or degrading treatment or punishment in violation of the rights established in Articles I, XXV and XXVI of the American Declaration.

VI. REPORT No. 54/25 AND INFORMATION ABOUT COMPLIANCE

95. On April 15, 2025, the Commission approved Report No. 54/25 on the admissibility and merits of the instant case, which encompasses paragraphs 1 to 94 *supra*, and issued the following recommendations to the State:

¹¹⁶ IACHR, Report No. 53/13, Case 12.864, Merits (Publication), Ivan Teleguz, United States, July 15, 2013, para. 129.

¹¹⁷ IACHR, Report No. 11/15, Case 12.833, Merits (Publication), Félix Rocha Díaz, United States, March 23, 2015, para. 106.

¹¹⁸ United Nations General Assembly, High-level panel discussion on the question of the death penalty, Report of the United Nations High Commissioner for Human Rights, 4 July, 2017, A/HRC/36/27, para. 18.

¹¹⁹ Supreme Court of Georgia, *Dawson v. State*, October 5, 2001, 554 S.E.2d 137 (2001).

¹²⁰ Supreme Court of Nebraska, *State v. Mata*, February 8, 2008, 745 N.W.2d 229 (2008).

- a. Provide Christa Pike with effective reparation, including a review of her sentence, in accordance with the guarantees of the right to justice and the right to due process, as well as pecuniary compensation. Taking into account the conclusions of the IACHR regarding the time that Christa Pike has been on death row, the Commission recommends that her sentence be commuted. In addition, the State must ensure that Christa Pike is removed from solitary confinement.
- b. Review its laws, procedures, and practices at the federal and state level to ensure compliance with the provisions of the American Declaration, specifically to ensure that persons accused of capital crimes are tried and, if convicted, sentenced in accordance with the rights established in the American Declaration, and in particular that trial court-appointed counsel provides adequate legal representation in death penalty cases, including the presentation of mitigating evidence; and integrate a mental and intellectual disability perspective into judicial investigations and decision-making, ensuring accessibility, reasonable accommodations, and non-discriminatory treatment in legal proceedings.
- c. Ensure that solitary confinement is only used in exceptional circumstances for the shortest period possible not exceeding 15 days.
- d. Ensure compliance with the precautionary measures granted by the IACHR for persons facing the death penalty.
- e. Given the violations of the American Declaration the IACHR has established in the present case and in others involving application of the death penalty, the Inter-American Commission also recommends to the United States that it abolishes the federal death penalty.

96. Prior to the notification of the Report, on October 6, 2025, the petitioners informed the Commission that the State of Tennessee has scheduled an execution date in Christa Pike's case for September 30, 2026.

97. On October 15, 2025, the IACHR transmitted the report to the State with a time period of one month to inform the Commission on the measures taken to comply with its recommendations. To date, the Commission has not received any response from the United States regarding Report No. 54/25.

VII. ACTIONS SUBSEQUENT TO REPORT No. 175/26

98. On August 27, 2026, the Commission approved Final Merits Report No. 175/26, which encompasses paragraphs 1 to 97 *supra*, and issued its final conclusions and recommendations to the State. On August 31, 2026, the Commission transmitted the report to the State with a time period of one week to inform the Inter-American Commission on the measures taken to comply with its recommendations. To date, the IACHR has not received any response from the United States regarding Report No. 175/26.

99. On September 1, 2026, the petitioners stated that Christa Pike remains on death row, with her execution scheduled for September 30, 2026. They informed that, on June 12, 2026, Ms. Pike, through counsel, filed a motion before the Tennessee Supreme Court arguing that the State is not equipped to carry out Ms. Pike's execution in a manner consistent with the U.S. and Tennessee Constitutions, given her "unique physical, medical, and psychological conditions".

100. Furthermore, the petitioners indicated that a Special Master was appointed on July 10, 2026, and held a hearing from August 11 to 13, 2026, during which the State conceded Ms. Pike's history of abuse. The petitioners stated that the Special Master's August 20, 2026 findings confirmed that Ms. Pike suffers from bipolar disorder and PTSD resulting from that abuse, and that expert testimony established that the execution protocol, particularly the use of a potentially all-male restraint and extraction team, would replicate the conditions of her original assaults. They noted that, despite these findings, the Special Master concluded Ms. Pike did not demonstrate that she would experience unconstitutional needless suffering, leaving the execution date in place. Given this imminent risk, the petitioners urged the Commission to publish its Report.

VIII. FINAL CONCLUSIONS AND RECOMMENDATIONS

101. On the basis of determinations of fact and law, the Inter-American Commission concludes that the State is responsible for the violation of the rights to life, liberty, and personal security, the right to equality before the law, the preservation of health and well-being, fair trial, protection from arbitrary arrest, and due process of law established on articles I, II, XI, XVIII, XXI and XXVI of the American Declaration to the detriment of Christa Pike.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS REITERATES THAT THE UNITED STATES OF AMERICA,

1. Provide Christa Pike with effective reparation, including a review of her sentence, in accordance with the guarantees of the right to justice and the right to due process, as well as pecuniary compensation. Taking into account the conclusions of the IACHR regarding the time that Christa Pike has been on death row, the Commission recommends that her sentence be commuted. In addition, the State must ensure that Christa Pike is removed from solitary confinement.
2. Review its laws, procedures, and practices at the federal and state level to ensure compliance with the provisions of the American Declaration, specifically to ensure that persons accused of capital crimes are tried and, if convicted, sentenced in accordance with the rights established in the American Declaration, and in particular that trial court-appointed counsel provides adequate legal representation in death penalty cases, including the presentation of mitigating evidence; and integrate a mental and intellectual disability perspective into judicial investigations and decision-making, ensuring accessibility, reasonable accommodations, and non-discriminatory treatment in legal proceedings.
3. Ensure that solitary confinement is only used in exceptional circumstances for the shortest period possible not exceeding 15 days.
4. Ensure compliance with the precautionary measures granted by the IACHR for persons facing the death penalty.
5. Given the violations of the American Declaration the IACHR has established in the present case and in others involving application of the death penalty, the Inter-American Commission also recommends to the United States that it abolishes the federal death penalty.

IX. PUBLICATION

102. In light of the above and in accordance with Article 47.3 of its Rules of Procedure, the IACHR decides to make this report public, and to include it in its Annual Report to the General Assembly of the Organization of American States. The Inter-American Commission, according to the norms contained in the instruments which govern its mandate, will continue evaluating the measures adopted by the United States with respect to the above recommendations until it determines there has been full compliance.

Approved by the Inter-American Commission on Human Rights on the 18th day of the month of September 2026. Signed Edgar Stuardo Ralón Orellana, President; Andrea Pochak, First Vice President; José Luis Caballero Ochoa, Second Vice President; Marion Bethel and Gloria Monique de Mees, Commissioners.

The undersigned, Jorge Meza Flores, Assistant Executive Secretary of the Inter-American Commission on Human Rights, in keeping with Article 49 of the Commission's Rules of Procedure, certifies that this is an accurate copy of the original deposited in the archives of the IACHR Secretariat.

Jorge Meza Flores
Assistant Executive Secretary