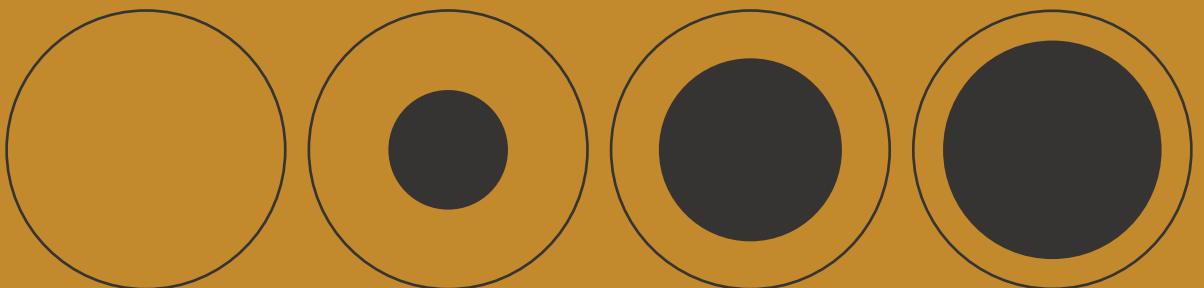


THE DEATH PENALTY FOR DRUG OFFENCES: GLOBAL OVERVIEW 2022





**The Death Penalty for Drug Offences:
Global Overview 2022**

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Harm Reduction International (HRI) envisions a world in which drug policies uphold dignity, health and rights. We use data and advocacy to promote harm reduction and drug policy reform. We show how rights-based, evidence-informed responses to drugs contribute to healthier, safer societies, and why investing in harm reduction makes sense.

HRI is an NGO with Special Consultative Status with the Economic and Social Council of the United Nations.

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This report would not be possible without data made available or shared by leading human rights organisations and individual experts and advocates, many of whom provided advice and assistance throughout the drafting process. We would specifically like to thank the Abdorrahman Boroumand Centre for Human Rights in Iran, Ambika Satkunanathan, the Anti-Death Penalty Asian Network (ADPAN), the European Saudi Organisation for Human Rights (ESOHR), Justice Project Pakistan (JPP), Lembaga Bantuan Hukum Masyarakat (LBHM), Project 39A (National Law University, Delhi), Reprieve, and Transformative Justice Collective.

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Any errors are the sole responsibility of Harm Reduction International.

INTRODUCTION

Harm Reduction International (HRI) has monitored the use of the death penalty for drug offences worldwide since our first ground-breaking publication on this issue in 2007. This report, our twelfth on the subject, continues our work of providing regular updates on legislative, policy and practical developments related to the use of capital punishment for drug offences, a practice which is a clear violation of international standards. The *Global Overview 2022* presents an analysis of key developments related to the death penalty for drug offences in 2022, with a focus on analysing and disseminating available figures on drug-related executions and death sentences. It consists of an overview for each category of states, including case studies where relevant, as well as supplementary analysis of international and national policy developments.

Harm Reduction International opposes the death penalty in all cases without exception.

METHODOLOGY

Drug offences (also referred to as drug-related offences or drug-related crimes) are drug-related activities categorised as crimes under national laws. For the purposes of this report, this definition excludes activities which are not related to the trafficking, possession or use of controlled substances and related inchoate offences (inciting, assisting or abetting a crime).

In the 35 states that retain the death penalty for drug offences, capital punishment is typically applied for the following offences: cultivation and manufacturing, and the smuggling, trafficking or importing/exporting of controlled substances. However, in some of these states, the following drug offences may also be punishable by the death penalty (among others): possession, storing and hiding drugs, financing drug offences, inducing or coercing others into using drugs.

HRI's research on the death penalty for drug offences excludes countries where drug offences are punishable with death only if they involve, or result in, intentional killing. For example, in Saint Lucia (not included in this report), the only drug-related offence punishable by death is *murder committed in connection with drug trafficking* or other drug offences.¹

The death penalty is reported as 'mandatory' when it is the only punishment that can be imposed following a conviction for at least certain categories of drug offences (without regard to the particular circumstances of the offence or the offender). Mandatory sentences hamper judicial sentencing discretion, and thus, according to international human rights standards, they are inherently arbitrary.²

1 Article 86(1)(d)(vi), Criminal Code of Saint Lucia (Act 9 of 2004 in force from 1 January 2005).

2 UN Human Rights Committee, 'General Comment 36 on the Right to Life', UN Doc. CCPR/C/GC/36 (3 September 2019), para 37; UN Commission on Human Rights, 'Civil and Political Rights, Including the Questions of Disappearances and Summary Executions: Report of the Special Rapporteur, Philip Alston', UN Doc. E/CN.4/2005/7 (22 December 2004), para. 63-4 and 80.

The numbers that have been included in this report are drawn from and cross-checked against official government reports (where available) and state-run news agencies; court judgments; non-governmental organisations (NGO) reports and databases; United Nations (UN) documents; media reports; scholarly articles; and communications with local activists and human rights advocates, organisations, and groups. Unless specified, the source for all figures and information provided in this report is an internal HRI dataset on death sentences and executions for drug offences, available upon request from the authors. Every effort has been taken to minimise inaccuracies, but there is always the potential for error. HRI welcomes information or additional data not included in this report.

Identifying current drug laws and controlled drugs schedules in some countries can be challenging due to limited reporting and recording at the national level, together with language barriers. Some governments make their laws available on official websites; others do not. Where it was not possible for HRI to independently verify a specific law, the report relies on credible secondary sources.

With respect to data on death row³ population, death sentences, and executions, the margin for error is even greater. In many countries, information about the use of the death penalty is shrouded in secrecy, or opaque at best. For this reason, many of the figures cited in this report cannot be considered comprehensive, and instead must be considered as the minimum number of confirmed sentences, executions, or individuals on death row; real numbers are higher, in some cases significantly so. Where information is incomplete, there has been an attempt to identify the gaps. In some cases, information among sources is discordant due to this lack of transparency. In these cases, HRI has made a judgement based on available evidence.

When the symbol '+' is found next to a number, it means that the reported figure refers to the minimum confirmed number, but according to credible reports the actual figure is likely to be higher. Global and yearly figures are calculated by using the minimum confirmed figures.

3 We acknowledge that there is no consensus regarding the definition of 'death row' and that different authorities and organisations may collect data differently. The information provided by HRI may include figures collected by countries and organisations according to different criteria.

CATEGORIES

HRI has identified 35 countries and territories that retain the death penalty for drug offences in law. Only a small number of these countries carry out executions for drug offences regularly. In fact, six of these states are classified by Amnesty International as abolitionist in practice.⁴ This means that they have not carried out executions for any crime in the past ten years (although in some cases death sentences are still pronounced), and “are believed to have a policy or established practice of not carrying out executions.”⁵ Other countries have neither sentenced to death nor executed anyone for a drug offence, despite having dedicated laws in place.

To demonstrate the differences between law and practice among states with the death penalty for drug offences, HRI categorises countries into high application, low application, or symbolic application states.



High Application States are those in which executions of individuals convicted of drug offences were carried out, and/or at least ten drug-related death sentences per year were imposed in the past five years.



Low Application States are those where, although no executions for drug offences were carried out in the past five years, death sentences for drug offences were imposed on nine or fewer individuals in the same period. Bangladesh, Egypt, Iraq, Kuwait, and State of Palestine are low application countries confirmed to have carried out executions in 2022, but not for drug offences. The section below, therefore, only provides figures on death sentences and death row populations.



Symbolic Application States are those that have the death penalty for drug offences within their legislation but have not carried out executions nor sentenced individuals to death for drug crimes in the past five years. Myanmar, South Sudan, and the USA are symbolic application countries confirmed to have carried out executions in 2022, but not for drug offences.



A fourth category, **insufficient data**, denotes instances where there is simply not enough information to classify the country accurately.

⁴ Brunei Darussalam, Lao PDR, Mauritania, Myanmar, South Korea, and Sri Lanka. See ‘Death Sentences and Executions in 2021’ (London: Amnesty International, 2022), page 63 <https://www.amnesty.org/en/documents/act50/5418/2022/en/>

⁵ Ibid., pag. 58.

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FOREWORD

Kirsten Han

Journalist and Death Penalty Abolitionist

Abdul Kahar bin Othman. He was 68 years old and spent the bulk of his life shuttling in and out of prison. His brother said that, when he was released after a long sentence, he looked like a lost child in a city that had rapidly developed without him.

Nagaenthran K Dharmalingam. In the last week of his life, he met his nephews and niece for the first time. Despite the pleasure of finally seeing them, it had been so many years since he'd last seen children, his senses were a little overwhelmed by their loud chattering.

Kalwant Singh. He called his niece Kellvina "Baby Girl", because he'd raised her in the Cameron Highlands in Malaysia, even when he was just a teenager himself. "Isn't he handsome?" his sister asked us repeatedly when we stood over his casket. He was.

Norasharee bin Gous. Hundreds of people turned up for his funeral, so many that not everyone could enter the mosque. A friend told me that many of them would have done anything for him, because he had taken care of them.

Nazeri bin Lajim. He was a soft-spoken, sensitive soul, whose favourite song was Sweet Child of Mine by Guns N Roses. His drug use began from a young age, and even predates Singapore's death penalty for drug offences. If he could have been released from prison, he would have remarried his ex-wife, who remained his most regular visitor until his execution.

Abdul Rahim bin Shapiee. The afternoon before his scheduled hanging, he participated in a joint hearing with 23 other death row prisoners, suing the state for breaching their right to access to justice. The hearing was held on Zoom, and when the court stood down for the judges to deliberate, he got to see and joke with his buddies on death row in the virtual room. It was a rare chance for them, because death row prisoners spend most of their time in single cells. After keeping everyone waiting for seven hours, the judges dismissed the case and Rahim was hanged hours later. Because of that wait, he lost precious visitation time with his family and missed his last meal.

These are some of the men hanged in Singapore this year for non-violent drug offences. There are others whose names I can't mention, because we don't have consent from their families to make their cases public. In total, 11 men were executed by the state from March to October this year.

I begin with them today because this is where our struggle against the death penalty for drugs should begin, always.

The death penalty is a system that forces us to forget our humanity. It pushes us to think of other human beings as undesirable and disposable. The Singapore Prison Service keeps death row prisoners in situations of severe isolation. Access to them is generally limited to immediate family members and lawyers – journalists and activists aren't allowed to visit them, even if they consent to or desire such visits. Their correspondence is strictly surveilled. They are only allowed one visit, about an hour long, every week.

They are rendered voiceless even though they are the ones whose lives are on the line.

Because they are so often nameless and faceless, it is easy for everyone else to treat the death penalty as an abstract, theoretical debate. It is easy for members of the public to write them off as merely “drug traffickers” and “criminals”. It is easy to accept their executions when their existence has been erased long before they are taken to the gallows.

As activists and abolitionists, a key part of our work is to push back against this dehumanisation. In support of and in solidarity with the loved ones of death row prisoners, we bring their names, their faces, and their messages to the people. We remind people that everyone is more than their mistakes, more than their regrets.

We need to reduce the psychological distance. We have to remind everyone that the death penalty is not an academic question. It is a cold, harsh reality with the highest stakes. Those who seek to kill resent this work that we do. They hate that we tell the stories of people on death row, showing up the capital punishment system for what it really is: a cruelty disproportionately enacted upon the vulnerable and the marginalised.

By their own admission, the real drivers of the global illicit drug trade – the drug lords who exploit and move product with impunity – aren't the ones

being arrested and punished in Singapore. Yet they hate how we highlight this truth with the stories we tell. They would prefer to hide the data and shroud the death penalty regime in secrecy and silence.

When they choose opacity over transparency, they are hiding their shame. They hide the fact that the majority of death row prisoners are ethnic minorities – a skew so blatant that just reading out the names of people on death row, as we did in April this year, makes it clear for all to see. When they bind all the prison officers and counsellors to silence with the Official Secrets Act, they seek to hide the pain and trauma that is inflicted in Changi Prison and ripples outwards, all in the name of a supposed deterrent effect unsubstantiated by evidence.

The death penalty is an extraordinary injustice that only works when people can be persuaded to turn away, avert their gaze, and accept state violence. We must make them turn back, pay attention, and recognise the inhumanity. Only then can we make people think. Only then can we begin to change their minds. Only then can we remind them of the compassion in their hearts.

I end where I begin. I ask you to remember these names that those in power would like us to forget.

Abdul Kahar bin Othman. Executed 30 March, 2022.

Nagaenthran K Dharmalingam. Executed 27 April, 2022.

Kalwant Singh. Executed 7 July, 2022.

Norasharee bin Gous. Executed 7 July, 2022.

Nazeri bin Lajim. Executed 22 July, 2022.

Abdul Rahim bin Shapiee. Executed 5 August, 2022.

May our memory of them fuel the fight to prevent other names from being added to this list.

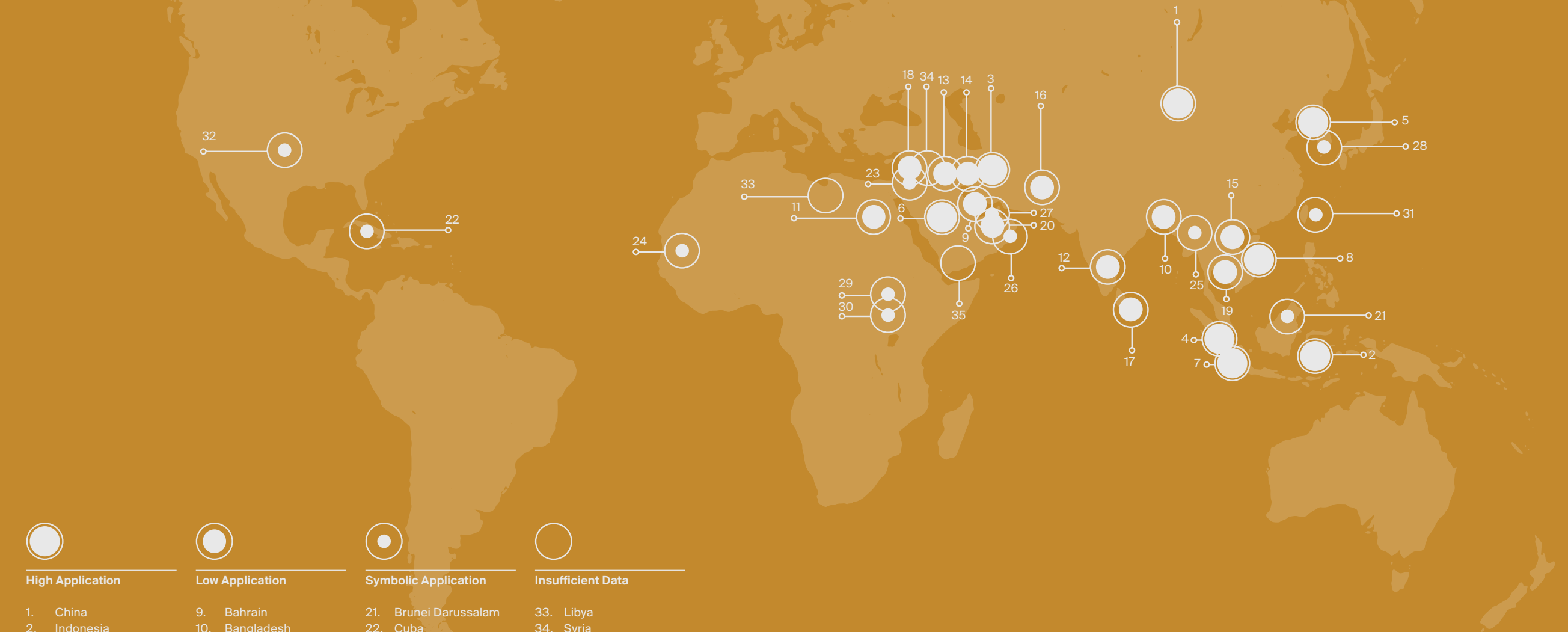
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Kirsten Han

Journalist and Death Penalty Abolitionist

COUNTRY BY COUNTRY



High Application

1. China
2. Indonesia
3. Iran
4. Malaysia
5. North Korea (DPRK)
6. Saudi Arabia
7. Singapore
8. Vietnam



Low Application

9. Bahrain
10. Bangladesh
11. Egypt
12. India
13. Iraq
14. Kuwait
15. Lao PDR
16. Pakistan
17. Sri Lanka
18. State of Palestine (Gaza)
19. Thailand
20. United Arab Emirates



Symbolic Application

21. Brunei Darussalam
22. Cuba
23. Jordan
24. Mauritania
25. Myanmar
26. Oman
27. Qatar
28. South Korea
29. South Sudan
30. Sudan
31. Taiwan
32. United States of America



Insufficient Data

33. Libya
34. Syria
35. Yemen

EXECUTIVE SUMMARY

The *Global Overview 2021* revealed that 2021 had ended as a year of mixed progress. On one side, the number of countries executing people for drug crimes had reached a decade-low, owing mostly to a halt in drug-related executions in Saudi Arabia and, to some extent, the COVID-19 pandemic. On the other side, a significant increase in confirmed executions had been recorded, largely attributable to a surge in Iran.⁶ **In the course of 2022, the situation sharply deteriorated.**

As of December 2022, Harm Reduction International (HRI) recorded **at least 285 executions for drug offences globally during the year, a 118% increase from 2021, and an 850% increase from 2020.** Executions for drug offences are confirmed or assumed to have taken place in six countries: Iran, Saudi Arabia, Singapore, plus in China, North Korea and Vietnam - on which exact figures cannot be provided because of extreme opacity. Therefore, this figure is likely to reflect only a percentage of all drug-related executions worldwide. Confirmed death sentences for drug offences were also on the rise; with **at least 303 people sentenced to death in 18 countries. This marks a 28% increase from 2021.**

These setbacks were not completely unexpected, nor unpredictable. After defending its barbaric policy on the death penalty throughout 2021, Singapore issued execution warrants against individuals convicted of drug trafficking in February 2022. These were eventually stayed after legal appeals and pleas from families and civil society, but more execution warrants quickly followed. In Saudi Arabia, civil society had warned of the risk of resumption in drug-related executions since the partial moratorium was announced in 2021. When the Kingdom carried out the worst mass execution in its history in March 2022, the risk became even more apparent. Similarly, Iranian civil society warned of the risk of a spike in executions, absent persistent international pressure.

This regression was met with robust resistance on the ground, as 2022 also featured strong activism from civil society and victims' families. In

Singapore, a wave of protests kicked off - one that has rarely been seen in the country due to extreme limitations on assemblies and routine intimidation of activists. This reaffirmed the key role of civil society in promoting the abolition of the death penalty. The same activism materialised online. Groups such as the Transformative Justice Collective shed light on the vulnerability and marginalisation of those facing execution (thus countering the over-simplistic narrative of the state);⁷ and launched the 'Stop the Killings'⁸ campaign for a moratorium on the use of capital punishment. These initiatives were met with hostility and reprisals by the government. Singaporean human rights defenders were interrogated for potential offences under the Public Order Act 2009 for their advocacy work against the death penalty - a case later dropped;⁹ while lawyers representing people on death row faced arbitrary disciplinary action and were ordered to pay prohibitive costs for failed applications.¹⁰ The Singaporean government also publicly responded to those criticising the resumption in executions, including a UN Special Procedure mandate holder and civil society groups.¹¹

Similar hostility towards human rights defenders was also observed in Bangladesh, where the government cancelled the NGO licence of Odhikar, a prominent NGO already under significant pressure, and virtually the only group monitoring and reporting on the use of capital punishment in the country. While not directly related to the organisation's anti-death penalty work, this new attack risks further limiting the availability of information on capital punishment in a country where transparency is already lacking.¹²

In Iran, families of people on death row reportedly confronted an increasingly repressive state apparatus by carrying out peaceful protests against the rising number of executions. In response, some were arrested and detained.¹³

7. For example, Kokilia Annamalai (4 July 2022), 'I will fight till the noose is around my neck' *Transformative Justice Collective*, <https://transformativejusticecollective.org/2022/07/04/i-will-fight-till-the-noose-is-around-my-neck/>.

8. <https://sites.google.com/view/stopthekilling?pli=1>.

9. CIVICUS (28 June 2022), 'Singapore: Drop investigations and cease harassment against human rights defenders' *CIVICUS*, <https://www.civicus.org/index.php/media-resources/news/5881-singapore-drop-investigations-and-cease-harassment-against-human-rights-defenders>.

10. Davina Tham (23 June 2022), 'M Ravi among 2 lawyers ordered to pay costs over death row inmates' case alleging ethnic bias' *Channel News Asia*, <https://www.channelnewsasia.com/singapore/m-ravi-court-order-pay-costs-death-row-inmates-ethnic-bias-2765996>.

11. For example: 'Statement by the Permanent Mission of Singapore Regarding Statement from UN Special Procedures Mandate Holders on the Death Penalty in Singapore' (24 May 2022), available at: <https://www.mfa.gov.sg/Overseas-Mission/Geneva/Mission-Updates/2022/05/Statement-by-PM-Singapore-UN-SPMH-on-the-Death-Penalty-in-Singapore>; 'Statement by the Ministry of Home Affairs in Response to the International Drug Policy Consortium's Article on the Use of Capital Punishment Against Drug-Related Offences' (25 November 2022), available at: <https://bit.ly/3lgO689>.

12. Amnesty International (7 June 2022), 'Bangladesh: Deregistration of NGO Odhikar detrimental to human rights work'. Available at: <https://www.amnesty.org/en/latest/news/2022/06/bangladesh-deregistration-of-ngo-odhikar-detrimental-to-human-rights-work/>.

13. HRANA (14 September 2022), 'Report: Prisoners' Families Demonstrate as Executions Surge' *HRANA*, <https://www.en-hrana.org/report-prisoners-families-demonstrate-as-executions-surge/>

In the context of these regressive trends, **institutional actors and fellow states have failed to adequately respond.** The death penalty for drug offences received some attention in intergovernmental fora throughout 2022 (including within a UN Secretary General’s report to the Human Rights Council).¹⁴ Some executions were met with statements of condemnation from various actors, including the Office of the High Commissioner for Human Rights, the European Union, and other diplomatic missions. But, these responses were largely ad-hoc and symbolic, and widely insufficient. In addition, the UN Office on Drugs and Crime (UNODC) – the only UN agency with an explicit mandate on drug-related matters – failed to take any public position on this practice for the second year in a row. The fact that these blatant violations of international standards and official commitments avoided almost all political, diplomatic, or economic repercussions sends a dangerous message to retentionist countries that executions, and therefore death sentences, can continue with impunity.

While more countries abolished the death penalty in 2022, the use of capital punishment for drug offences is going in a markedly different direction, impinging on the likelihood of achieving global abolition. Despite the adoption of a new UN General Assembly Resolution for a moratorium on the use of the death penalty, with historic support from 125 countries (compared to 123 in 2020), known executions for drug offences are back to amounting to over 30% of all global executions – the highest recorded figures since 2017.

These figures are a call to action to all actors involved in the fight for abolition, but primarily to governments and to intergovernmental actors: to acknowledge the barrier that punitive drug policies represent for the global fight towards abolition, and to identify and pursue new, influential strategies to promote the respect of international standards on the death penalty.

2022 IN A SNAPSHOT

KNOWN EXECUTIONS FOR DRUG OFFENCES GLOBALLY (2012–2022)



- **35 countries retain the death penalty for a range of drug offences worldwide.** In 2022, drug-related executions were confirmed in four countries (China, Iran, Saudi Arabia, Singapore). Executions are assumed to have been carried out in North Korea and Vietnam, but state secrecy and censorship in these countries does not enable confirmation of a minimum figure.

- **Two countries resumed drug-related executions** after a short hiatus: Singapore, after a two-year pause, and Saudi Arabia, which reneged on its 2021 declaration of a moratorium on executions for non-violent offences.

- At least **285 drug-related executions were carried out in 2022** (excluding figures from China, Vietnam, and North Korea). Despite being a gross underestimation, this still represents a 118% increase from 2021, and a staggering 850% increase from 2020.

- **Drug offences were responsible for roughly 32% (or one in three) of all executions confirmed globally.** This is the highest recorded figure in six years.

- Almost nine out of ten confirmed executions for drug offences took place in **Iran.**

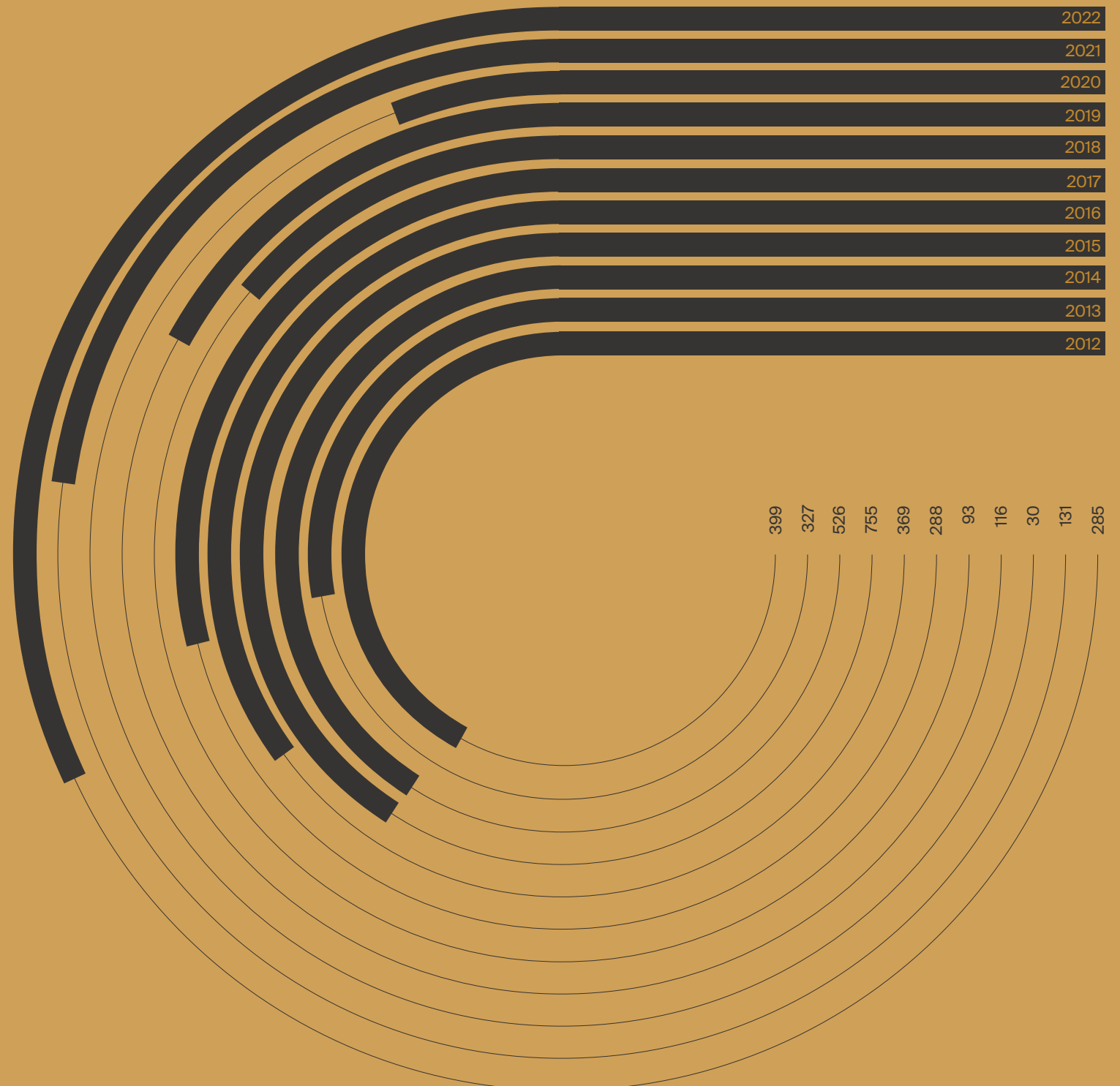
- **303 death sentences for drug offences were confirmed** in 18 countries (dozens more are likely). This represents a 28% increase in reported sentences from 2021.

- **At least 3700 people are currently on death row** for drug offences in 19 countries.

- **People who are marginalised,** including because of their socioeconomic status, ethnicity, drug use, mental and/or intellectual disability, and nationality, continue to be disproportionately impacted by the death penalty for drug offences. For example, in Iran, 40% of those executed for drug offences identified as Baluchi. This ethnic group represents around 2% of the total population.

- **Two countries** (Cuba and Sri Lanka) **expanded the applicability of the death penalty** for drug offences in law in 2022.

- **Transparency** remains a critical issue that hinders monitoring of the death penalty for drug offences, and as a consequence advocacy towards death penalty abolition. Throughout 2022, states not only failed to publish complete figures on the death penalty for drug offences, but also actively repressed civil society groups, activists and lawyers monitoring and challenging the use of capital punishment.



THE DEATH PENALTY FOR DRUG OFFENCES AT INTERGOVERNMENTAL FORA

The death penalty for drug offences was addressed at several intergovernmental fora throughout 2022. At the Human Rights Council, the practice was assessed - among others - by the Special Rapporteur on Iran,¹⁵ the High Commissioner for Human Rights,¹⁶ and the UN Secretary General through his report on the 'question of the death penalty.' The report noted the considerable increase in the application of the death penalty for drug-related offences globally in 2021, as well as the overrepresentation of persons from vulnerable and marginalised groups, minorities, foreign nationals and women among people facing the death penalty for drug offences. After reiterating that the death penalty for drug offences violates international standards, the recommendation was renewed to states to "refrain from using [the death penalty] for crimes not involving intentional killing, such as drug-related offences."¹⁷

This measure was also on the agenda of the UN Commission on Narcotic Drugs (CND), the UN policymaking body responsible for drug-related matters. At its regular session in March 2022, at least 12 countries and a regional group (the European Union) expressed their opposition to capital punishment in plenary sessions.¹⁸ Another opportunity for discussion arose with the thematic intersessional session of September 2022, which addressed human rights issues. Here, strong statements against the death penalty for drug offences were delivered by civil society, the European Union, Australia, the National Drug

15. Human Rights Council, 'Situation of human rights in the Islamic Republic of Iran. Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Javaid Rehman', UN Doc. A/HRC/49/75 (13 January 2022); Harm Reduction International (2022), '50th Session of the Human Rights Council: Drug Policy Highlights', https://hri.global/wp-content/uploads/2022/10/HRC_50th_Drug_policy_highlights.pdf.

16. 49th Session of the Human Rights Council, Item 2: 'Annual Report and Oral Update by the High Commissioner for Human Rights on the activities of her Office and recent human rights developments: Statement by Michelle Bachelet' (7 March 2022), available at: <https://reliefweb.int/report/afghanistan/49th-session-human-rights-council-item-2-annual-report-and-oral-update-high>.

17. Human Rights Council, 'Question of the death penalty. Report of the Secretary-General.'

18. For more details, see: Statements at the Opening and General Debate, 65th session of the Commission on Narcotic Drugs, 14-18 March 2022, available at: https://www.unodc.org/unodc/en/commissions/CND/session/65_Session_2022/general_debate_statements.html; CND Blog, available at: <https://cnblog.org/category/plenary-sessions/> (last accessed on 8 February 2022).

Coordinator of Portugal, the International Narcotics Control Board, and the Office of the High Commissioner for Human Rights.

At the regional level, the new conclusions of the Council of the European Union on a human-rights based approach in drug policies encourage all Member States, bodies, and agencies to “strongly oppose imposition of disproportionate and inhumane penalties for drug-related offences, such as the death penalty.”¹⁹

Another noteworthy international development was the adoption of a new UN General Assembly Resolution on a moratorium on the use of the death penalty,²⁰ with historic support from 125 countries (compared to 123 in 2020), and 37 votes against (one less than in 2020). Such record-high endorsement contributes to building international consensus on the urgency of abolishing capital punishment for all offences.²¹ Among the countries in which death remains a possible punishment for drug offences only one (Myanmar) changed its position in support of the resolution. Yemen returned to its previous position against the resolution, after abstaining in 2020.

19. Council of the European Union, ‘Council conclusions on human rights-based approach in drug policies, 15818/22 (9 December 2022), <https://data.consilium.europa.eu/doc/document/ST-15818-2022-INIT/en/pdf>.
20. UN General Assembly, ‘Moratorium on the use of the death penalty. Resolution adopted by the General Assembly on 15 December 2022’, UN Doc. A/RES/77/222 (6 January 2023). December 2022, <https://data.consilium.europa.eu/doc/document/ST-15818-2022-INIT/en/pdf>.
21. For more on the trend, see: WCADP (20 December 2022), ‘9th Resolution for a moratorium on the death penalty: the trend is growing’ *World Coalition Against the Death Penalty*, <https://worldcoalition.org/2022/12/20/9th-resolution-for-a-moratorium-on-the-death-penalty-the-trend-is-growing/>.

UNGA resolutions on moratorium of the death penalty: voting record of countries that retain the death penalty for drug offences.

+ = in favour;
 - = against;
 abs = abstention

	2018	2020	2022
Bahrain	-	-	-
Bangladesh	-	-	-
Brunei Darussalam	-	-	-
China	-	-	-
Cuba	abs	abs	abs
Egypt	-	-	-
India	-	-	-
Indonesia	abs	abs	abs
Iran	-	-	-
Iraq	-	-	-
Jordan	abs	+	+
Kuwait	-	-	-
Lao PDR	abs	abs	abs
Libya	+	-	-
Malaysia	+	+	+
Mauritania	abs	abs	abs
Myanmar	abs	abs	+
North Korea	-	-	-
Oman	-	-	-
Pakistan	+	-	-
Palestine	n/a	n/a	n/a
Qatar	-	-	-
Saudi Arabia	-	-	-
Singapore	-	-	-
South Korea	abs	+	+
South Sudan	abs	abs	absent
Sri Lanka	+	+	+
Sudan	-	-	-
Syria	-	-	-
Taiwan	n/a	n/a	n/a
Thailand	abs	abs	abs
United Arab Emirates	abs	abs	abs
USA	-	-	-
Vietnam	abs	abs	abs
Yemen	-	abs	-

Attempts at Reinstatement: The Philippines

2022 saw national-level discussions on reinstating the death penalty for drug offences in the Philippines.

At the time of writing, a debate is ongoing in Parliament on reinstating the death penalty for drug traffickers. Indeed, six bills are pending in the House of Representatives (bills N 198, 501, 1543, 2459, 4121, 1278).²² In October 2022, bill N 198, which aims to reintroduce the death penalty as a punishment for high-level drug traffickers, was one of the 20 priority pieces of legislation to go before lawmakers for debate and resolution. If it passes senate scrutiny, it will be forwarded to the President for approval.²³

This is the last in a long list of attempts made in recent years by policymakers in the Philippines - currently an abolitionist country - to reintroduce capital punishment for drug offences. During Rodrigo Duterte's presidency, between 2016 and 2022, over 20 bills were proposed in Parliament to reintroduce the death penalty for drug offences, including for possession and sale. The country also witnessed a brutal crackdown on people suspected of using or selling drugs during this period, with the President issuing police with "shoot-to-kill" orders and encouraging citizens to kill people who use drugs.²⁴ The killings did not stop with the end of the Duterte government: a report by the Third World Studies Center at the University of the Philippines shows that under the new government of Ferdinand Marcos Jr., who took office in June 2022, around 127 people have been killed in "drug war incidents" between July and November 2022.²⁵ Despite promises to review drug policies with focus on rehabilitation, no steps appear to have been taken in that direction. On the contrary, the reintroduction of the death penalty for drug offences has remained high on the political agenda, moving the country closer to violating its obligations under the Second Optional Protocol of the ICCPR.²⁶

The potential revival of the death penalty in the Philippines reminds us of the urgent need for more comprehensive drug policies and reforms underpinned by human rights and dignity, in which abolition is not only a goal but also an essential milestone in the broader reform of the criminal legal system.

22. Texts available at: <https://www.congress.gov.ph/legisdocs/?v=bills>.

23. Raphael A. Pangalangan (25 August 2022), 'Reviving the death penalty' *Inquirer.Net*, <https://opinion.inquirer.net/156364/reviving-the-death-penalty>.

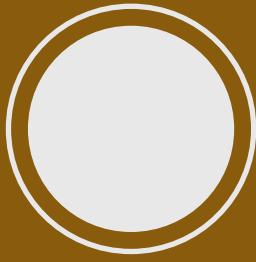
24. Preeti Jha (16 August 2020), 'Philippines Death Penalty: A fight to stop the return of capital punishment' *BBC News*, <https://www.bbc.co.uk/news/world-asia-53762570>.

25. Phil Robertson (17 November 2022), 'Philippines Undercounts Recent 'Drug War' Deaths' *Human Rights Watch*, <https://bit.ly/3HObYrr>.

26. Joseph Peter Calleja (7 October 2022), 'Death penalty revival bid goes to Philippine Senate' *UCA News*, <https://www.ucanews.com/news/death-penalty-revival-bid-goes-to-philippine-senate/99012>.

THE DEATH PENALTY FOR DRUG OFFENCES: GLOBAL OVERVIEW 2022

This section of the *Global Overview* provides an overview of how laws are enforced, applied, or changed in countries that have capital drug laws, by using the categorisation of high application, low application, symbolic application, and insufficient data. The information presented here updates and builds upon the data presented in previous editions of the *Global Overview*.²⁷



HIGH APPLICATION STATES

Country	Executions for drugs (%age of total)		Death sentences for drugs (%age of total)		People on death row for drugs (%age of total)	
	2022	2021	2022	2021	2022	2021
China	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Indonesia	0 (-)	0 (-)	122 (92%)	89 (78%)	266 (66%)	260 (66%)
Iran	252+ (44%)	131+ (42%)	Unknown	Unknown	2000+ (unknown)	2000+(unknown)
Malaysia	0 (-)	0 (-)	20+ (unknown)	15+ (unknown)	903 (67%)	927 (68%)
North Korea (DPRK)	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Saudi Arabia	22+ (15%)	0 (-)	Unknown	Unknown	Unknown	Unknown
Singapore	11 (100%)	0 (-)	9+ (100%)	10 (83%)	52 (82%)	30+ (60%)
Vietnam	Unknown	Unknown	89+ (84%)	87+ (73%)	Unknown	Unknown

The increase in and resumption of executions in high application countries during 2022 showed, once again, the political nature of the death penalty (including in its use against drug crimes), and the fragility of any progressive step, absent structural reforms. Meanwhile, institutional responses to these developments – or lack thereof – revealed the essential inability (if not unwillingness) of the international ecosystem to effectively respond to the violations of international standards and political commitments around the use of capital punishment, be that by governments through diplomacy or intergovernmental actors such as the UN.

Throughout 2022, **executions are confirmed or assumed to have taken place in China, Iran, North Korea, Saudi Arabia, Singapore, and Vietnam (six out of eight countries in this category).**

As in previous years, executions were confirmed in China, where drug offences remain among the main crimes for which people are sentenced to death. While state secrecy on the use of capital punishment prevents the provision of accurate figures on the phenomenon, a rapid scan of institutional websites and media shows several drug-related executions throughout the year (the actual figure is believed to be in the dozens, if not hundreds)²⁸. That the death penalty remains a mainstream tool of drug control in the country is once again confirmed by a review of the ‘top ten typical drug cases’ released by the Supreme Court on the occasion of the 2022 International Day Against ‘Drug Abuse and Illicit Trafficking’.²⁹ Three of the ten featured cases ended with a death sentence, and with the defendants (four, in total) being executed in 2022. One more case from that list resulting in an execution is that of a defendant who stabbed his parents during a “drug-induced hallucination”. The Supreme Court describes “accidents and disasters, seriously endangering social security and public safety” as a result of hallucination as a “typical” effect of drug use, and further refers to drugs as “the real demon that destroys human nature.”³⁰

Also in line with previous years, drug-related executions are also to be assumed to have taken place in North Korea and Vietnam, although none could be confirmed because of state secrecy or extreme censorship. North Korea expanded the applicability of the death penalty to the crime of stealing, illegally selling on the illicit market, or tampering with emergency medicines and raw materials, among measures to confront a worsening outbreak of COVID-19.³¹

28. Based on civil society estimations on the total number of yearly executions, both in general and for drug offences. Among others, see: China Against the Death Penalty (15 February 2022), ‘The Status Quo of China’s Death Penalty and the Civil Society Abolitionist Movement’ *World Coalition Against the Death Penalty*, <https://worldcoalition.org/2022/02/15/china-death-penalty-2022/>; ‘Life and Death: Access to Justice for the Poor in Death Penalty Cases’ (London: The Rights Practice, 2017), <https://www.rights-practice.org/Handlers/Download.ashx?DMF=4c39c7ea-7761-4744-a6ad-cee845bfd81a>.

29. The Supreme People’s Court of The People’s Republic of China (25 June 2022), <https://www.court.gov.cn/zixun-xiangqing-363401.html> [automatic translation].

30. Ibid. [automatic translation].

31. Colin Zwirko (31 July 2022), ‘North Korea: Death penalty for selling COVID medicine’ *Genocide Watch*, <https://www.genocidewatch.com/single-post/your-title-what-s-your-blog-about-42>.

Media reports indicate at least one person, a doctor, was executed later in the year for selling home-produced drugs, including penicillin.³²

A significant uptick in executions took place in Iran. Figures by the Abdorrahman Boroumand Centre for Human Rights in Iran - one of few independent organisations monitoring and reporting on capital punishment in the country³³ - reveal a staggering 92% increase in confirmed drug-related executions between 2021 and 2022. Iran's relentless resort to violence, repression, and capital punishment made international headlines throughout the year because of the brutal government crackdown on the wave of protests sparked by the killing of Mahsa Amini in September 2022.³⁴ This included the executions of political activists and dissidents, which were rightfully met with widespread condemnation. What garnered less attention was the rise in drug-related executions.³⁵ In fact, even in a year of exceptional upheaval and an equally exceptional resort to capital punishment such as 2022, almost half of all confirmed executions (44%) were carried out against individuals convicted of drug offences. Worryingly, this is the highest percentage recorded since the adoption of the 2017 Amendments to the Law for Combating Illicit Drugs.

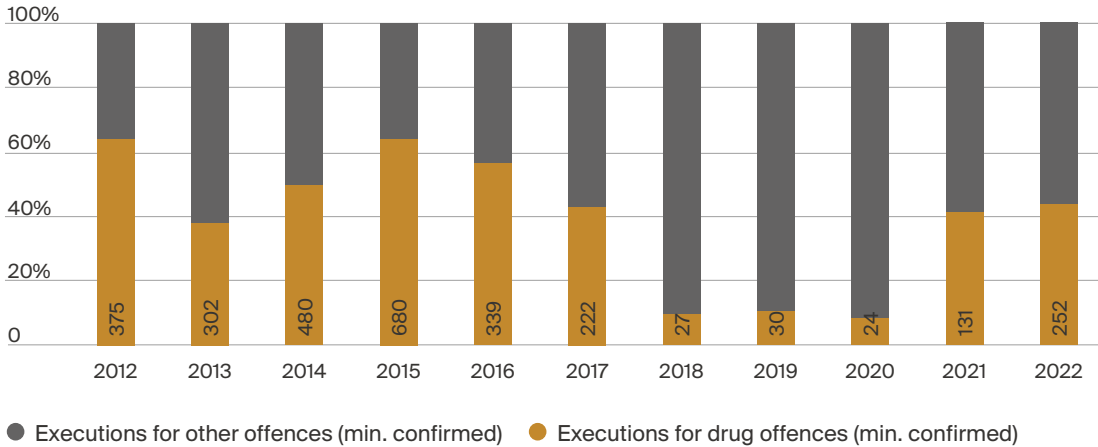
32. Seulkee Jang (14 November 2022), 'N. Korean authorities continue to conduct public executions of alleged criminals' *Daily NK*, <https://www.dailynk.com/english/n-korean-authorities-continue-to-conduct-public-executions-of-alleged-criminals/>.

33. For more details, see <https://www.iranrights.org/>.

34. Suzanne Kianpour (22 January 2023), 'The Women of Iran Are Not Backing Down' *Politico*, <https://www.politico.com/news/magazine/2023/01/22/women-rights-iran-protests-00069245>.

35. Farnaz Fassih and Cora Engelbrecht (12 January 2023), 'The People Executed or Sentenced to Death in Iran's Protest Crackdown' *New York Times*, <https://www.nytimes.com/article/iran-protests-death-sentences-executions.html>; Maryam Afshang (18 January 2023), 'Iran protests: 15 minutes to defend yourself against the death penalty' *BBC News*, <https://www.bbc.com/news/world-middle-east-64302726>.

MINIMUM CONFIRMED EXECUTIONS IN IRAN FOR DRUG AND OTHER OFFENCES, 2012-2022



Consistent with previous years, monitoring by the Abdorrahman Boroumand Centre indicates that around 40% of those executed for drug offences were of Baluchi ethnicity, despite them accounting for roughly 2% of the population of Iran.³⁶ As concluded by Iranian expert Roya Boroumand: “the disproportionate use of the death penalty against Iran’s Baluchi minority epitomizes the entrenched discrimination and repression they have faced for decades and further highlights the inherent cruelty of the death penalty, which targets the most vulnerable populations in Iran and worldwide.”³⁷

All figures on Iran should be used with caution. Transparency is extremely limited, and most information comes from civil society organisations and activists, many of whom face considerable threats. The government is notorious for trumping up charges for political reasons, including by exploiting and misusing drug laws. Nevertheless, the available figures clearly show that drug control remains key in the punitive arsenal of the state.

36. 'Iran, Baloch People' *Atlas of Humanity*, available at: <https://www.atlasofhumanity.com/baloch> (last accessed 8 February 2023).
 37. Amnesty International (27 July 2022), 'Iran: Horrific wave of executions must be stopped'. Available at: <https://www.amnesty.org/en/latest/news/2022/07/iran-horrific-wave-of-executions-must-be-stopped/#:~:text=The%20UN%20Special%20Rapporteur%20on,crimes%2C%20rape%20and%20armed%20robbery>



CASE STUDY

*By Abdorrahman
Boroumand Centre
for Human Rights in
Iran*³⁸

AN EXECUTION FOR DRUG OFFENCES IN IRAN

The case of Abol Reza Shafiei is emblematic of those who continue to be exposed to capital punishment for drug offences in Iran, years after the 2017 reform of the drug law, and against a backdrop of widespread failures of due process standards. On 18 December 2018, highway patrol officers acting on a lead regarding planned smuggling activity stopped Shafiei in his vehicle on the road from Abru Kuh to Shiraz, and recovered jugs of liquid methamphetamine, the dry weight of which came to 21.2 kilograms. Shafiei told law enforcement that he was a travelling salesman of mattresses and blankets, and that a customer had asked him to store and transport two 20-liter containers of bootlegged alcohol (a non-capital offence). This customer had helped Shafiei load the liquid into his car, promised to escort him on the drive, and paid Shafiei's children 150,000 tomans (approximately 15 USD at the time) after Shafiei accepted the job.

Shafiei was tried at Branch Two of the Revolutionary Court of Shiraz, which sentenced him to death on 28 June 2020. Branch 46 of the Supreme Court upheld the verdict at appeal on 29 September. Shafiei's court-appointed lawyer argued in his defence that Shafiei was not aware of the true nature of the substance he was transporting. The courts, citing forensic chemistry reports, found the recovered methamphetamine, to be pure, and seemingly held Shafiei responsible for knowledge of this fact: "there were no impediments or obstacles for him in ascertaining the nature of the drugs he had loaded [into the car]", wrote the Supreme Court in its decision. The courts also cited forensic reports which indicated "all the stages of chemical conversions from liquid to crystal meth had already been performed by the Defendant," despite being unclear how chemical results could possibly have established a role for Shafiei in such production.

Shafiei was executed at Adelabad Prison in Shiraz on 15 March 2022.

38. <https://www.iranrights.org/>.

Two other countries made headlines for resuming executions for drug offences in 2022, namely Saudi Arabia and Singapore. In Saudi Arabia, the moratorium on drug-related executions announced by Prince Mohammad Bin Salman in early 2020³⁹ abruptly ended in November 2022. By the end of the year, 22 individuals convicted of drug offences had been executed, as confirmed by the European-Saudi Organisation for Human Rights (ESOHR). In a worrying departure from usual practice, these include two executions that were carried out secretly and never officially announced.⁴⁰ Consequently, the actual figure may be even higher than reported. At least half of all those executed were foreign nationals: three from Pakistan, four from Syria, two from Jordan, and two from Yemen. These figures confirm the heightened vulnerability of foreign nationals to death sentences and executions, as reported by Harm Reduction International in previous years. A new report by ESOHR and Reprieve reveals that between 2010 and 2021, Saudi Arabia executed “nearly 3 times as many foreign nationals for drug-related offences as Saudi nationals, despite foreign nationals comprising only 35% of Saudi Arabia’s population.”⁴¹ The same report also sheds light on the marginal position in the drug market of many, if not most, foreign nationals executed for drug offences in the Kingdom, and the inherent ineffectiveness of this practice to reduce drug trafficking.

In Singapore, drug-related executions resumed, after a two-year hiatus, on 30 March 2022, with the hanging of Abdul Kahar bin Othman,⁴² a 68-year old Singaporean from a fragile socio-economic background with a long history of drug dependence.⁴³ Roughly one month later came the execution of Nagaenthran K Dharmalingam,⁴⁴ a young Malaysian with an intellectual disability whose execution had been scheduled in early 2022 and then suspended following legal challenges and significant international pressure.⁴⁵ By October 2022, Singapore had executed eleven people, all for drug offences.

This regression was not completely unexpected, nor unpredictable. The risk was possibly the most apparent in Singapore, where the government had staunchly defended its use of capital punishment against people involved in the drug market during 2021, in response to growing criticism of scheduled

39. Ajeng Larasati and Giada Girelli (2021), ‘The Death Penalty for Drug Offences: Global Overview 2020’ (London, Harm Reduction International), <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2020/>.
40. ESOHR (5 January 2023), ‘Shocking Information: Saudi Arabia Carrying Out Secret Executions’ *European Saudi Organisation for Human Rights*, <https://bit.ly/3xfUa3r>.
41. ESOHR and Reprieve (2023), ‘Bloodshed and Lies: Mohammed bin Salman’s Kingdom of Executions’ (London: Reprieve), <https://reprieve.org/wp-content/uploads/sites/2/2023/01/Bloodshed-and-Lies-Mohammed-bin-Salmans-Kingdom-of-Executions.pdf>.
42. Kirsten Han (2 April 2022), ‘Singapore’s first execution in two years’ *We, The Citizens*, <https://www.wethecitizens.net/singapores-first-execution-in-two-years/>.
43. Transformative Justice Collective (28 March 2022), ‘When will we stop killing “small people” who need care?’ *Transformative Justice Collective*, https://transformativejusticecollective.org/2022/03/28/when-will-we-stop-killing-small-people-who-need-care/?fbclid=IwAR3S6U8uVxQ2vOK8n8RTW7Qqa9egK3ZwG_Lc_IFRUYu83SdN5LBM18VUYAO.
44. Yvette Tan (27 April 2022), ‘Singapore executes man on drugs charge, rejecting mental disability plea’ *BBC News*, <https://www.bbc.com/news/world-asia-61239221>.
45. For more details on the case, see Girelli and Larasati (2022), ‘The Death Penalty for Drug Offences: Global Overview 2021’.

executions.⁴⁶ Three execution warrants were issued in February 2022. These first executions were eventually stayed, but more were issued and carried out, with the unflinching support of the most senior levels of government,⁴⁷ despite growing pleas by families and civil society.⁴⁸

Civil society had regularly denounced the risk of a resumption in drug-related executions in Saudi Arabia since the partial moratorium on executions was announced in 2020, noting the unofficial nature of the policy, the permanence of people convicted of drug offences on death row, and the fact that courts continued imposing death sentences for this category of crimes.⁴⁹ Fears of a resumption in drug-related executions came into even sharper focus after the execution of 81 people in March 2022 - the largest mass execution in the country's history. It was also anticipated by organisations such as ESOHR.⁵⁰

Similarly, activists have consistently warned of an ongoing surge in drug-related executions in Iran, absent sustained international pressure. As assessed by the organisation Iran Human Rights in its report on the death penalty in 2021:

“The 2017 Amendments to the Anti-Narcotics Law, which resulted from international pressure on the Islamic Republic to decrease drug-related executions, led to the most significant reduction in the number of implemented death sentences in the Islamic Republic’s history. However, the impact of the Amendment only lasted three years [...]. In 2021, the number of drug-related executions showed a fivefold increase compared to the previous three years. As this hike has not been met with appropriate international condemnations, the trend is likely to continue.”⁵¹

46. Ibid.

47. Among others, see: Chris Barrett (19 September 2022), “Tell us a better solution, we will listen”: Singapore defends spate of executions’ *The Sydney Morning Herald*, <https://www.smh.com.au/world/asia/tell-us-a-better-solution-we-will-listen-singapore-defends-spate-of-executions-20220916-p5biqf.html>; Reuters (28 April 2022), ‘Facing international criticism, Singapore defends Malaysian’s execution’ *Reuters*, <https://www.reuters.com/world/asia-pacific/facing-international-criticism-singapore-defends-malaysians-execution-2022-04-28/>

48. As an example, see Transformative Justice Collective (12 May 2022), ‘A plea for clemency from the sister of a death row prisoner’ *Transformative Justice Collective*, <https://transformativejusticecollective.org/2022/05/12/a-plea-for-clemency-from-the-sister-of-a-death-row-prisoner/>.

49. ESOHR (2022), ‘Saudi executions in 2021: Fluctuating political stability’ (Berlin: European Saudi Organisation for Human Rights), <https://www.esohr.org/wp-content/uploads/2022/01/Saudi-executions-in-2021.pdf>.

50. Cathrin Schaer (6 November 2021), ‘Is Saudi Arabia planning a mass execution?’ *DW*, <https://www.dw.com/en/saudi-arabia-planning-mass-execution/a-57857488>.

51. ECPM and Iran Human Rights (2021), ‘Annual Report on the Death Penalty in Iran 2021’ (IHRNGO and ECPM), <https://www.ecpm.org/app/uploads/2022/08/Rapport-iran-2022-gb-260422-MD3.pdf>.

International actors have failed to adequately respond to the surge in executions, with reactions being largely symbolic. Some executions in the three countries were met with statements of condemnation from the Office of the High Commissioner for Human Rights, the European Union, governments, and diplomatic missions.⁵² On its part, the UN Office on Drugs and Crime (UNODC) failed to take any public position on this practice for the second year in a row. However, these blatant violations of international human rights standards and institutional commitments never seemed to face any tangible political, diplomatic or economic repercussions. As ESOHR concludes, this was possibly best exemplified by the reverence of many Western governments towards Saudi Arabia in 2022:

“At the start of 2022, amid energy crises, global political upheavals, and the Ukraine war, the ‘diplomatic embargo’ on Saudi Arabia was broken. After French President Emmanuel Macron’s visit at the end of 2021, [Mohammad Bin Salman] inaugurated a season of diplomatic visits that had been ‘prohibited’ since the murder of journalist Jamal Khashoggi at the Saudi embassy in Istanbul, and human rights issues took a back seat to issues of energy and the economy.

Many countries had taken a step back in their public relationship with [Mohammad Bin Salman], under human rights pressure, in order to avoid tarnishing their image with a shameful relationship [...]. With the series of diplomatic pilgrimages to Saudi Arabia this year, the country quickly recovered from the consequences of the ban, and its response to human rights pressure shifted to greater boldness to commit further violations undeterred.”⁵³

The reasons for this may be many and varied, and deserve further analysis - ranging from the delicate geopolitical context and the political and economic power of these retentionist countries, to the low priority afforded to the death penalty as a foreign policy issue, and/or to drug control as a human rights concern. Nevertheless, it sent a clear message to retentionist countries: that executions, particularly as a tool of drug control, can continue with impunity.

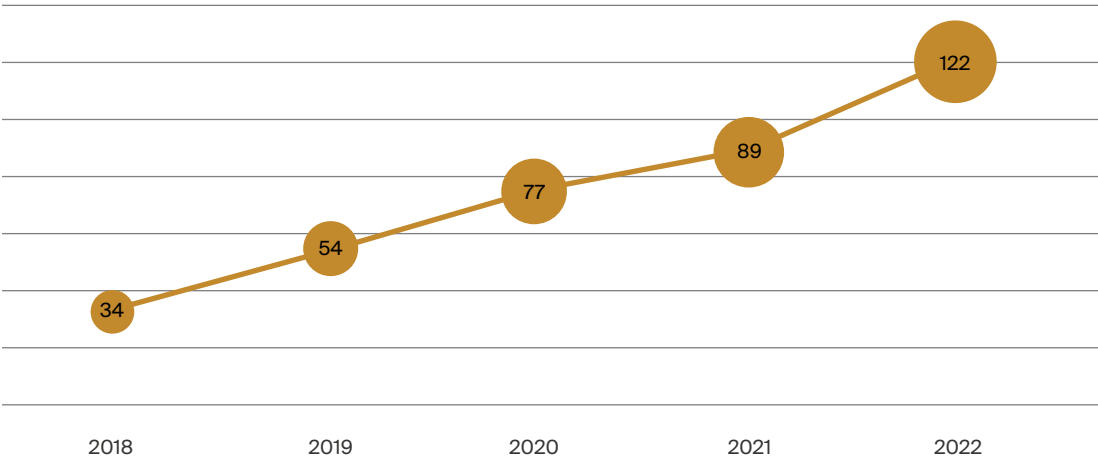
52. Among many others: OHCHR (22 November 2022), 'Saudi Arabia; Resumption of executions for drug-related offences'. Available at: <https://www.ohchr.org/en/press-briefing-notes/2022/11/saudi-arabia-resumption-executions-drug-related-offences>; OHCHR (1 December 2022), 'Saudi Arabia: UN experts call for immediate moratorium on executions for drug offences'. Available at: <https://www.ohchr.org/en/press-releases/2022/12/saudi-arabia-un-experts-call-immediate-moratorium-executions-drug-offences>; European External Action Service (27 April 2022), 'Singapore: Statement by the Spokesperson on the execution of Nagaenthran Dharmalingam'. Available at: https://www.eeas.europa.eu/eeas/singapore-statement-spokesperson-execution-nagaenthran-dharmalingam_en; Delegation of the European Union (1 August 2022), 'Joint Local Statement on forthcoming death penalty cases in Singapore'. Available at: https://www.eeas.europa.eu/delegations/singapore/joint-local-statement-forthcoming-death-penalty-cases-singapore_en.

53. ESOHR (27 December 2022), 'Human Rights in Saudi Arabia in 2022: A Tyrant with Immunity' *European Saudi Organisation for Human Rights*, <https://bit.ly/3xanuZm>.

The increase in confirmed executions was mirrored by a **parallel, though slight increase in confirmed death sentences for drug offences** in high application countries. While significant, it is crucial to keep in mind that figures on death sentences are even more uncertain, as these tend to be even less regularly reported and harder to confirm than executions.

The upward trend persisted in Indonesia, where according to data gathered by the NGO Reprieve, at least 122 drug-related death sentences were confirmed in 2022, compared to 89 in 2021 (+37%). Of these, at least three were imposed against foreign nationals (one from Afghanistan and two from Nigeria), and one against a woman.

CONFIRMED DEATH SENTENCES FOR DRUG OFFENCES IN INDONESIA, 2018-2022



At least 20 death sentences for drug offences were confirmed in Malaysia compared to 15 in 2021, and 89 in Vietnam (of which at least five women), two more than in 2021. In both cases, the actual figure is likely higher, due to the lack of official reporting. At least two foreign nationals were sentenced to death for drugs in Malaysia, and at least four in Vietnam (all Chinese), where the youngest person to be sentenced was only 20 years' old. Media reports on trials in Vietnamese courts reveal **histories of poverty and socioeconomic vulnerability**. For example, one article which delves into the background of three co-defendants notes:

“The defendants said that because of poverty, when they were promised a salary of hundreds of millions of dong, they closed their eyes and took a risk. [...] The [first] defendant soon lost his father, then had four younger brothers, so he could not get enough education. Getting married early makes the economic pressure heavier, while farming has a precarious income. [The second defendant explained that] both parents died early, so the defendant was not trained and taught. Because of the circumstances, the defendant left school early, so he did not have a stable job. According to [the third defendant], because of the large family with 9 children, life is poor. The defendant’s father was also involved in drugs, was arrested and is currently in prison.”⁵⁴

A similar background emerges for several of the people sentenced to death for drug trafficking in Singapore in 2022. Judgements suggest that at least three of them have a history of drug use, while one adduced poverty and needing resources to cover his wife’s medical expenses as the reason for engaging in the drug market. The judge accepted that “[the defendant] was working as a part-time mover with little or no income [...], may have been worried for his wife’s medical condition and was financially strapped”, but dismissed the claim that the crime was committed under duress of circumstances or necessity, and sentenced the defendant to the mandatory death penalty.⁵⁵

Reports of poverty and socioeconomic vulnerabilities among people sentenced to death confirm that those facing execution for drug offences are often people at the lowest level of the drug trade, who may have entered it out of coercion or simply because of dire economic needs. Against this backdrop, the criminal legal system becomes one more instrument of oppression, increasing

54. Tran Vu (2 April 2022), ‘Chuyen bun sau bn án t hình 3 thanh niên mi ngoài 20 tuổi’ *Nghe An*, <https://baonghean.vn/chuyen-buon-sau-ban-an-tu-hinh-3-thanh-nien-moi-ngoai-20-tuoi-post252046.html> [automatic translation].

55. ‘Public Prosecutor v Muhammad Hamir B Laka’ [2022] SGHC 203 (2022), https://www.ellitigation.sg/gd/s/2022_SGHC_203.

the risk of these people being sentenced to death; thus reaffirming that the 'war on drugs' is indeed a war on the poor.

Drug offences remain the main crimes for which individuals are on death row in several high application countries. In Malaysia, according to official figures reported in July 2022, over 67% of people on death row had been convicted of drug trafficking (903 out of 1343). Information for 2022 was not disaggregated by gender or nationality, however it is likely that - in line with previous years - most of the women and foreign nationals awaiting execution were convicted of drug crimes. Earlier in the year, several Nepali prisoners were repatriated, including some on death row for drugs.⁵⁶ A comparable percentage was reported in Indonesia, where the latest available figures indicated roughly 66% of all individuals on death row had been convicted of drug offences. Additionally, according to the Indonesian Ministry of Foreign Affairs, as of October 2021, 206 Indonesian nationals had been sentenced to death abroad, with the majority being for drug crimes. Of these, 188 are in Malaysia (with the majority of cases being drug-related). The rest are in Saudi Arabia, United Arab Emirates, Lao PDR, China, Vietnam, Myanmar, and Singapore. Of the 39 women awaiting execution abroad, 22 have been convicted for drug crimes.⁵⁷

The figure is even higher in Singapore. Data provided by the Transformative Justice Collective confirm that 82% of the death row population (52 of 63 people) is incarcerated for drug offences; including nine Malaysian nationals, and both of the two women on death row. A new bill adopted in late 2022 will make it harder for these individuals to file legal challenges to execution warrants, or get their case reviewed. Pursuant to the new Post-Appeal Applications in Capital Cases Bill, individuals awaiting capital punishment who have exhausted all appeals can only bring post-appeal and clemency petitions with the permission of the Court of Appeal, and only on the basis of material that could not have been presented before.⁵⁸ Activists in the country have condemned the reform for violating the due process rights of people on death row.⁵⁹

Other significant **policy developments** were witnessed in Indonesia and Malaysia. After lengthy debates, Indonesia adopted a new Criminal Code in

56. My Republica (8 January 2022), '25 Nepalis on death row rescued from Malaysia' *My Republica*, <https://myrepublica.nagariknetwork.com/news/25-nepalis-on-death-row-rescued-from-malaysia/>.

57. Anugrah Andriansyah (18 October 2021), 'Kemlu: 206 WNI terancam hukuman mati di luar negeri' *VOA*, <https://www.voaindonesia.com/a/kemlu-206-wni-terancam-hukuman-mati-di-luar-negeri/6275323.html>.

58. Parliament of Singapore, 'Post-Appeal Applications in Capital Cases Bill' no.34/2022. Available at: <https://www.parliament.gov.sg/docs/default-source/default-document-library/post-appeal-applications-in-capital-cases-bill-34-2022.pdf>; Al Jazeera (30 November 2022), 'Singapore tightens rules on last-minute death penalty appeals' *Al Jazeera*, <https://www.aljazeera.com/news/2022/11/30/singapore-tightens-rules-on-death-penalty-appeals>.

59. Transformative Justice Collective (30 November 2022), 'The Post-Appeal Applications in Capital Cases Bill: A brief' *Transformative Justice Collective*, <https://transformativejusticecollective.org/2022/11/30/the-post-appeal-applications-in-capital-cases-bill-a-brief/>.

December 2022, which will enter into force in 2025. The harshly criticised bill⁶⁰ introduces a system of 'probation' for people on death row: judges will have the option to sentence a person to death with a ten-year probation clause, based on (a) whether the defendant feels remorse, and (b) the role of the defendant in the crime. If within these ten years the person shows 'good behaviour' - a term for which there is no definition in the bill - the death sentence can be commuted to life imprisonment through Presidential Decree, following consideration by the Supreme Court. A death sentence can also be commuted to life imprisonment through Presidential decree if a clemency request is rejected, but the sentence is not carried out in the following ten years.⁶¹

Meanwhile, the Malaysian government confirmed its intention to abolish the mandatory death penalty,⁶² a decision commended by UN human rights experts.⁶³ In December 2022, the law minister indicated the reform would be adopted in the February 2023 parliamentary session, clarifying that capital punishment will remain in the books, but judges will be given discretion in imposing alternative punishments.⁶⁴ The practical impact of this amendment (if adopted) may be limited. The only available alternative to a capital conviction may be life imprisonment - an equally disproportionate and abusive punishment. Further, research suggests the limited judicial discretion introduced in 2017 in the Dangerous Drugs Act was seldom used by courts.⁶⁵

60. Among others, see: Adrial Akbar (5 December 2022), 'Massa Demo Tolak RKUHP Tiba di DPR, Bawa Bendera Kuning-Tabur Bunga' *Detik News*, <https://news.detik.com/berita/d-6443559/massa-demo-tolak-rkuhp-tiba-di-dpr-bawa-bendera-kuning-tabur-bunga>; Human Rights Watch (8 December 2022), 'Indonesia: New Criminal Code Disastrous for Rights'. Available at: <https://bit.ly/3m9Ee0y>;
61. Mahinda Arkyasa (ed.) (15 December 2022), 'Govt Explains Criminal Code's Death Penalty to Life Sentence Conversion' *Tempo.co*, <https://en.tempo.co/read/1668823/govt-explain-criminal-codes-death-penalty-to-life-sentence-conversion>; Kelly Buchanan (12 December 2022), 'Indonesia: New Criminal Code Passed by Parliament' *Library of Congress*, <https://www.loc.gov/item/global-legal-monitor/2022-12-11/indonesia-new-criminal-code-passed-by-parliament/>.
62. Kenneth Tee (10 October 2022), 'Explainer: A breakdown of the seven Bills tabled to abolish the mandatory death penalty' *Malay Mail*, <https://www.malaymail.com/news/malaysia/2022/10/10/explainer-a-breakdown-of-the-seven-bills-tabled-to-abolish-the-mandatory-death-penalty/32120>.
63. OHCHR (20 June 2022), 'Malaysia: UN experts welcome announcement to abolish mandatory death penalty'. Available at: <https://www.ohchr.org/en/press-releases/2022/06/malaysia-un-experts-welcome-announcement-abolish-mandatory-death-penalty>.
64. FMT (21 December 2022), 'Death penalty laws to be amended in February, says minister' *Free Malaysia Today*, <https://www.freemalaysiatoday.com/category/nation/2022/12/21/death-penalty-laws-to-be-amended-in-february-says-minister/>.
65. Sara Kowal, Dobby Chew and Mai Sato (19 July 2021), 'Discretion in law but not in practice: Malaysia's Dangerous Drugs Act' *Monash University*, <https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/discretion-in-law-but-not-in-practice-malysias-dangerous-drugs-act>.



REFORMING THE DEATH PENALTY IN INDONESIA'S NEW CRIMINAL CODE

On 6 December 2022, the House of Representatives of Indonesia approved a new Criminal Code, which will come into effect in 2025. The adoption marked the end of a five-decade-long process of reforming the old Criminal Code which had been adopted by the Netherlands as colonisers of the country. The reform process was kick-started by the Executive, with the creation of a team of experts to draft the new Criminal Code back in 1970. The process was paused and then resumed several times up until 2012, when the government submitted the first draft to Parliament.⁶⁶

Among other things stipulated in the 2012 draft was the so-called 'probation period' of ten years for death sentences. In short, this mechanism allows for postponing executions by ten years present certain conditions (including the fact that the person shows remorse, the limited role in the crime played, and other mitigation factors) with the possibility of commuting the death sentence to life or to 20 years of imprisonment at the end of the probation period.⁶⁷ This provision was retained in the draft Code as it underwent several rounds of scrutiny by Parliament.

The new Criminal Code, as a whole, remains problematic, as it contains articles that could potentially violate human rights while weakening the existing law on corruption.⁶⁸ On the death penalty specifically, it sends a mixed message. On the one hand, it indicates that there is a strong desire by parliamentarians to keep the death penalty in place. According to records from a public hearing in Parliament in 2015, representatives from the three main political parties expressed their position in favour of the death penalty, and all of them specifically mentioned the drug war as a key reason for their

66. Aryo Putranto Saptohutomo (ed.) (6 December 2022), 'Kilas Perjalanan RKUHP, Penantian Puluhan Tahun hingga Disahkan Jadi UU' *Kompas.com*, <https://nasional.kompas.com/read/2022/12/06/12251921/kilas-perjalanan-rkuhp-penantian-puluhan-tahun-hingga-disahkan-jadi-uu>.

67. Full text of the Code available at: <https://www.hukumonline.com/pusatdata/detail/17797/rancangan-undang-undang-2022/document/1f537f026be5cd3>.

68. Tirta (7 December 2022), '10 Pasal Bermasalah RKUHP, Kontrasepsi hingga Korupsi' *Tirto.id*, <https://tirto.id/10-pasal-bermasalah-rkuhp-kontrasepsi-hingga-korupsi-gzwp>.

support.⁶⁹ On the other hand, there now seems to be a better understanding of the many, recurring fair trial issues in capital cases, and the risk of sending innocent people to death. Two members of Parliament, Arsul Sani and Taufik Basari, defended the probationary death sentence by reiterating the spirit of moving away from the death penalty as a core punishment to an alternative, probationary one.⁷⁰ Sani stated at one of the meetings that “it is time to dismiss, or stop using, the death penalty.”⁷¹ This might signal a higher sensitivity to the issue, and shows the critical role members of Parliament can play on wedge issues, even if in a minority position.

There was and continues to be hope for stronger support for abolition in Indonesia, both in Parliament and by the Executive. The probationary death sentence represents an attempt to reach a compromise with civil society’s call for abolition. Albeit minor, the probationary death sentence could play an important role in shielding death row prisoners from execution and promoting commutations.

69. Transcripts available at: <https://reformasikuhp.org/rdpu-r-kuhp-pada-8-september-2015/>.

70. Transcripts available at: https://reformasikuhp.org/data/wp-content/uploads/2022/12/Rapat-Kerja-Komisi-III-DPR-dengan-Menkuham_Poin-Poin.pdf. See slide: Sabrina Asril (ed.) (12 December 2022), ‘Hotman Paris Pertanyakan Hukuman Mati dalam KUHP Baru, Ini Respons Anggota DPR’ Kompas.com, <https://nasional.kompas.com/read/2022/12/12/23460621/hotman-paris-pertanyakan-hukuman-mati-dalam-kuhp-baru-ini-respons-anggota>.

71. Komisi III (25 May 2022), ‘Pidana Mati Tidak Boleh Dijatuhkan Sembarangan’ Dewan Perwakilan Rakyat Republik Indonesia, <https://www.dpr.go.id/berita/detail/id/38992/t/Pidana+Mati+Tidak+Boleh+Dijatuhkan+Sembarangan>.



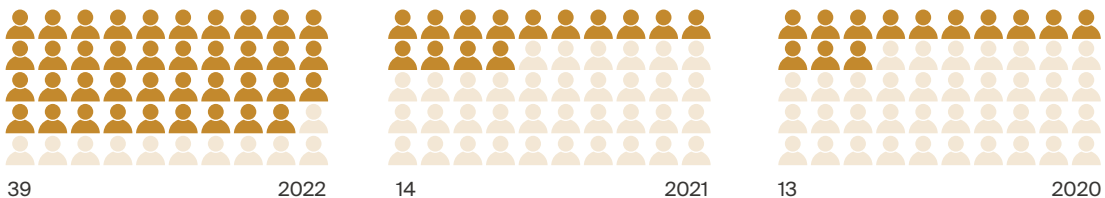
LOW APPLICATION STATES

	People on death row for drugs (%age of total)	People on death row for drugs (%age of total)	Death sentences for drugs (%age of total)	Death sentences for drugs (%age of total)
Country	2022	2021	2022	2021
Bahrain	4 (15%)	3 (11%)	1+ (50%)	0 (-)
Bangladesh	13+ (0.6%)	3+ (0.1%)	6+ (1.7%)	3+ (0.9%)
Egypt	unknown (-)	11+ (4%)	0 (-)	11+ (3%)
India	4+ (0.7%)	1 (0.2%)	4 (2%)	0 (-)
Iraq	10+ (0.1%)	6+ (0.6%)	3+ (10%)	2+ (2%)
Kuwait	8 (16%)	3+ (6%)	5+ (45%)	1+ (20%)
Lao PDR	300+ (unknown)	300+ (unknown)	39 (unknown)	14+ (unknown)
Pakistan	unknown	unknown	0 (-)	2 (1.5%)
Sri Lanka	60+ (6%)	60+ (6%)	0 (-)	2 (6%)
State of Palestine (Gaza)	2+ (1%)	6+ (2.7%)	1+ (8%)	1 (5%)
Thailand	121 (62%)	115 (63.5%)	unknown (-)	2+ (20%)
United Arab Emirates	7+ (3.5%)	5+ (2.5%)	3+ (37.5%)	1+ (11%)

Countries are classified as low application if no executions for drug offences were carried out in the past five years, but death sentences for that category of crimes continued to be imposed. Despite low application countries receiving less media and political attention than high application ones, national developments in this cluster of countries have a unique potential to sway debates and trends on the death penalty for drug offences. Indeed, high application countries tend to be more resistant to change and more staunchly defensive of capital punishment, while in symbolic application countries the marginal use of the death penalty for drug offences makes it unlikely for it to become a priority issue, or subject of targeted intervention. In contrast, several practical developments and policy reforms took place or were announced in low application countries, both positive and negative, which may significantly impact the imposition of capital punishment in the near future, as well as the global trend.

With regards to trends, a significant **increase in confirmed death sentences for drug offences** was recorded in this category between 2021 and 2022 - from 39 to 62. This 59% increase is noteworthy, though it must be situated in a context of opacity and lack of official information on capital punishment, meaning all figures are to be considered as minimum, partial, and only indicative. This is probably best exemplified by the country driving this trend - Lao PDR - where a significant jump in drug-related death sentences was recorded (+178% from 2021, +200% from 2020). This may be linked to the intensification of punitive approaches to drug control in the country, since the declaration of the 'drug problem' as a 'National Agenda' in mid-2021.⁷² However, it is also likely due to the fact that this is the first time in five years that data on drug-related death sentences were provided by an official source.⁷³ As more and more information emerges on the frequent imposition of death sentences for drug offences in the country, Lao PDR may soon be reclassified as high application.

CONFIRMED DEATH SENTENCES IN LAO PDR



72. Phayboune Thanabouasy (17 May 2021), 'Lao Government Declares Drug Problem a National Agenda' *The Lao Times*, <https://laotiantimes.com/2021/05/17/lao-government-declares-drug-problem-a-national-agenda/>.

73. Pasaxon (26 December 2022), 6:851 'Pasaxon', https://www.pasaxon.org.la/pasaxon-detail.php?p_id=81924&act=politic-detail.

A weighty increase in confirmed death sentences for drug offences was also noted in other countries, such as Bangladesh and India. In Bangladesh, the death penalty was imposed for drug trafficking against at least six people (likely more) - five men and one woman. Two of these are of Rohingya ethnicity, including reportedly the first Rohingya refugee in Cox's Bazaar (home to thousands of refugees) to be sentenced to death.⁷⁴ Media sources covering the case denounced the racist character of the judgement, which stated:

“Despite being sheltered in Bangladesh, the Rohingya Yabarkabari is trying to destroy the country by smuggling drugs [...]. Without capital punishment, the State would have to unnecessarily keep him in jail for 30 years out of public funds, and for the same reason, will lose money in his life imprisonment [...]. On the contrary, his death sentence would result in the permanent removal of a notorious drug dealer from society and the state, while also setting an example.”⁷⁵

Racist remarks in capital drug cases, and in drug law enforcement more generally, are not unusual. In 2003, Humphrey Jefferson, a Nigerian national, was sentenced to death in Indonesia for drug trafficking. One of the reasons for the court to impose death as punishment was that “black people from Nigeria are often the target of police surveillance for drug trafficking” in the country.⁷⁶ Mr Jefferson was executed in 2016. Concerns over the racist nature of drug control have increasingly been raised not only by civil society and community organisations, but also by UN bodies. This includes the UN Working Group of Experts on People of African Descent, which in 2019 concluded that “the war on drugs has operated more effectively as a system of racial control than as a mechanism for combating the use and trafficking of narcotics”; and that drug policy is being employed “to justify excessive surveillance, criminalisation and the targeting of people of African descent worldwide.”⁷⁷ In this context, racially-charged death sentences are among the most extreme manifestations of racist drug control.

In India, media sources report that four people were sentenced to death in November 2022, 11 years after first being arrested for trafficking Phensedyl, a codeine-based cough syrup banned in the country.⁷⁸ As an increase in the

74. The Business Standard (9 June 2022), 'Rohingya man sentenced to death in drugs case' *The Business Standard*, <https://www.tbsnews.net/bangladesh/court/rohingya-man-sentenced-death-drugs-case-436702>.

75. Samaya Anjum (30 June 2022), 'Rohingya Man Sentenced to Death in Bangladesh' *The Diplomat*, <https://thediplomat.com/2022/06/rohingya-man-sentenced-to-death-in-bangladesh/>.

76. LBHM (27 July 2016), 'Rilis Pers - Eksekusi Humphrey Jefferson Tidak Sah'. Available at: <https://lbhmasyarakat.org/rilis-pers-eksekusi-humphrey-jefferson-tidak-sah/>.

77. UN News (14 March 2019), 'Drug laws must be amended to 'combat racial discrimination', UN experts say' *UN News*, <https://news.un.org/en/story/2019/03/103472>.

78. The Financial Express (25 November 2022), 'Court sentences four to death for drug trafficking' *The Financial Express*, <https://thefinancialexpress.com.bd/national/crime/court-sentences-four-to-death-for-drug-trafficking-1668334157>.

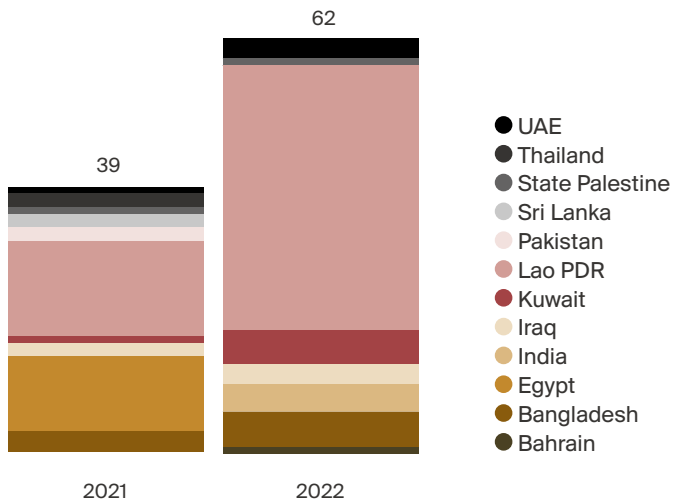
smuggling of this product is reported between India and Bangladesh, more death sentences for its trafficking are likely to be imposed in the near future.⁷⁹ These were the first drug-related death sentences confirmed in the country since 2016. Thus, India has been reclassified from symbolic to low application.

A rise in confirmed death sentences was also noted in some Gulf countries, such as Kuwait and the United Arab Emirates (UAE). In the former, at least five people received a capital sentence for (intent of) trafficking - compared to one death sentence confirmed in 2021. All those sentenced are foreign nationals, from Iran and India. As the country resumed executions in 2022 after a four-year hiatus, their fate and the fate of the other individuals on death row remains uncertain. In the UAE, three foreign nationals received death sentences for drug trafficking: two men from the Philippines, and one woman from Israel, whose sentence attracted significant media attention. The woman maintained her innocence and claimed her confession was coerced. She eventually received diplomatic assistance and her sentence was 'commuted', or 'reversed', reportedly to life imprisonment.⁸⁰ Notably, it is likely the number of confirmed death sentences in the Emirates is an underestimation of all those imposed: while only ten drug-related death sentences between 2016 and 2021 could be confirmed, other sources reported 31 in the same period.⁸¹

A similar underestimation is to be assumed for Iraq, where the judiciary reported three drug-related death sentences throughout 2022, compared to the two confirmed for 2021. However, other judicial sources reportedly indicated that ten drug cases resulted in a sentence of death between September 2021 and December 2022,⁸² meaning five death sentences were never officially reported.

79. India News (12 August 2022), 'After cattle, smuggling of phensedyl and yaba tablet spikes in eastern states' *The Hindustan Times*, <https://www.hindustantimes.com/india-news/after-cattle-smuggling-of-phensedyl-and-yaba-tablets-spikes-in-eastern-states-101660321139046.html>; Shiv Sahay Singh (16 February 2022), 'Phensedyl smuggling remains a challenge on the India-Bangladesh border' *The Hindu*, <https://www.thehindu.com/news/cities/kolkata/phensedyl-smuggling-remains-a-challenge-on-the-india-bangladesh-border/article65052971.ece>.
80. Jack Khoury (7 July 2022), 'Israeli Gets Life in UAE Prison After Death Sentence Overturned' *Haaretz*, <https://bit.ly/317dg0l>.
81. Jocelyn Hutton, Carolyn Hoyle and Lucy Harry (25 November 2022), 'Qatar's death row and the invisible migrant workforce deemed unworthy of due process' *The Conversation*, <https://theconversation.com/qatars-death-row-and-the-invisible-migrant-workforce-deemed-unworthy-of-due-process-191017#:~:text=Qatar%20retains%20the%20death%20penalty,at%20Central%20Prison%2C%20in%20Doha>.
82. Mustaqila (29 December 2022), '. 10 ' *Mustaqila*, <https://bit.ly/3YjM2uL>.

MINIMUM CONFIRMED DEATH SENTENCES IN LOW APPLICATION COUNTRIES (2021–2022)



Death row figures appear to have remained mostly stable between 2021 and 2022, although the same lack of transparency mentioned above applies to these data. Notably, the only low application country for which official, disaggregated, and updated figures are provided is Thailand. In all other cases, total figures are based on news and/or civil society reports, and year-by-year estimations.

Drug offences appear to be the main crime for which people are on death row in two countries - Lao PDR, and Thailand. In the latter, 62% of all people on death row, and 78% of all women on death row, are awaiting execution for drug offences. After a steady decrease in the death row population in the country between 2018 and 2021 (both in total and for drug offences specifically), figures remained roughly unchanged between 2021 and 2022.

The number of people on death row for drugs may also be on the rise in the State of Palestine, where one death sentence for drug possession and selling was announced in October potentially bringing the total number of prisoners awaiting execution for drugs to seven. The judgement cited deterrence as a key justification for the imposition of capital punishment, stating that “the ruling aims to achieve general deterrence against drug dealers and

preserve the Palestinian fabric.”⁸³ Despite being frequently used as a rationale for imposing the death penalty, there is no evidence that capital punishment deters drug-related or other crimes more than any other form of punishment.⁸⁴

Similarly, in Bahrain, at least one person was sentenced to death for drug trafficking in 2022, accused of smuggling 50 kgs of hashish from Iran. Adding to earlier sentences, there are likely at least four people on death row for drug offences in the Kingdom, of which three are at imminent risk of execution. The use of capital punishment in the country attracted significant attention throughout the year: Pope Francis spoke against the death penalty in its official visit in November,⁸⁵ and a new report by the NGOs Bahrain Institute for Rights and Democracy (BIRD) and Human Rights Watch shed further light on the torture and other human rights abuses characterising capital trials.⁸⁶

While no drug-related death sentences could be confirmed in Egypt, past practice indicates that it is not unlikely that some of the over 500 death sentences reported by civil society in 2022 were for drug crimes. As further indication that capital punishment is still imposed for drug offences in the country, the commutation of the death sentence of seven Pakistani nationals for drug trafficking to life imprisonment was announced in June 2022.⁸⁷

Other low application countries experienced significant **policy developments** in 2022 potentially affecting the imposition of the death penalty for drug offences, with two antithetical examples witnessed in South Asia. In Pakistan, where no drug-related death sentences were confirmed and retention of capital punishment for drug control is mostly symbolic, several attempts were made to remove death as a punishment for drug possession and trafficking, as detailed in the following case study.

83. Ultra Palestine (10 October 2022), 'عرة: أول حكم بالإعدام شققاً لتاجر مخدرات', *Ultra Palestine*, <https://bit.ly/3lo9ecQ>.

84. Among others, see: Human Rights Council, 'Capital punishment and the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty. Yearly supplement of the Secretary-General to his quinquennial report on capital punishment', UN Doc. A/HRC/42/28 (28 August 2019).

85. Philip Pulella and Ghaida Ghantous (3 November 2022), 'In Bahrain, pope speaks out against death penalty and discrimination' *Reuters*, <https://www.reuters.com/world/bahrain-popes-message-may-get-caught-shiite-sunni-muslim-divide-2022-11-03/>.

86. Human Rights Watch and BIRD (2022), "The Court is Satisfied with the Confession": Bahrain Death Sentences Follow Torture, Sham Trials' (New York: Human Rights Watch), <https://www.hrw.org/report/2022/10/10/court-satisfied-confession/bahrain-death-sentences-follow-torture-sham-trials>.

87. Hands Off Cain (14 June 2022): 'Egypt: 7 Pakistanis sentenced to death commuted to life imprisonment' *Hands Off Cain*, <http://www.handsoffcain.info/notizia/egypt-7-pakistanis-sentenced-to-death-commuted-to-life-imprisonment-60353541>.



TOWARDS ABOLITION OF THE DEATH PENALTY FOR DRUGS IN PAKISTAN

As reconstructed by the leading NGO Justice Project Pakistan,⁸⁸ a first legislative proposal to remove death as a punishment for drug offences had been tabled in October 2021 by the then-law minister. This was followed by a new proposal in January 2022 - then abandoned because of a sudden change in government - and then tabled again in August 2022. In December 2022, news emerged that the latest proposal had been adopted by the National Assembly (the lower house of the Parliament). The Bill, which essentially replaces the death penalty with life imprisonment for drug trafficking, justifies the amendment with the fact that

“The death penalty is used in a disproportionate manner under the CNSA [Control of Narcotic Substances Act, 1997] that violates the fundamental right to life which happens to be the most basic of all human rights. The risk of executing innocent people in narcotics cases exists and the arbitrary application of the death penalty can never be ruled out under the said law.”⁸⁹

If approved by the Senate and the President, the Bill will effectively enter into force, leading to the first abolition of the death penalty for drug offences in a retentionist country in at least 15 years. While its practical effects are undetermined (it is unclear whether anyone has a final capital conviction for a drug crime in the country), its symbolic significance and its potential influence both on Pakistan’s international standing, and on the use of the death penalty for drug offences in the region and beyond, should not be underestimated.

88. Justice Project Pakistan (2022), ‘Death Penalty in Pakistan: Data Mapping Capital Punishment’ (Pakistan: Justice Project Pakistan).

89. Full text available at: https://na.gov.pk/uploads/documents/62f3d2dce5d9b_762.pdf (last accessed 9 February 2023).

Diametrically different reforms were adopted in Sri Lanka, where the government continued intensifying its violent ‘war on drugs’, in pursuit of an abusive while ineffective strategy centred around militarisation, repression, and discrimination. A key juncture was the adoption of the Poisons, Opium and Dangerous Drugs (Amendment) Act No. 41 of 2022, which added methamphetamine as a substance the possession, import/export, or trafficking over five grams of which can be punished with death⁹⁰ (a similar law had been passed in 2018 in Bangladesh, another South Asian country pursuing a violent ‘war on drugs’).⁹¹ The Bill also clarified that if a death-eligible drug offence is committed by a person under the age of 18, the punishment will be imprisonment for a maximum of ten years and compulsory rehabilitation followed by probation.⁹² While legislators expand the applicability of capital punishment in violation of international standards, the current unofficial moratorium seems to remain in place: in late August 2022, Sri Lanka’s President Ranil Wickremesinghe informed the Attorney General that he does not intend to sign execution warrants.⁹³ This represents a positive signal for the hundreds of people on death row in the country, of which at least 60 (but likely many more) are there for drug offences; however, it is a purely political decision which may change at any time, absent formal commitments through legislative reform.

Another landmark drug policy reform was adopted in Thailand, which effectively legalised the possession and cultivation of cannabis in mid-2022, becoming the first country in Asia to do so.⁹⁴ Though not directly impacting the use of capital punishment, such a decision is encouraging much needed debate on the merits of extremely punitive approaches to drugs, including the retention of the death penalty, both within and beyond domestic borders.⁹⁵

UN bodies and mechanisms addressed the use of capital punishment

by several countries in this category throughout 2022. Iraq’s compliance with its international human rights obligations was reviewed by both the Human Rights Committee and the Committee Against Torture (CAT). The former recommended that, absent abolition, the death penalty be only imposed for the most serious crimes (thus excluding drug offences) and never be mandatory.

90. Parliament of the Democratic Socialist Republic of Sri Lanka, ‘Poisons, Opium and Dangerous Drugs (Amendment) Act’, Bill No. 149 (Published in the Gazette on 23 August 2022), <https://www.parliament.lk/uploads/bills/gbills/english/6277.pdf>.
91. See: Giada Girelli (2019), ‘The Death Penalty for Drug Offences: Global Overview 2018’ (London: Harm Reduction International), <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2018/>.
92. Parliament of the Democratic Socialist Republic of Sri Lanka, ‘Poisons, Opium and Dangerous Drugs (Amendment) Act’.
93. Colombo Page (1 September 2022), ‘President informs the Supreme Court that he will not sign the death sentences’ *Colombo Page*, <http://www.handsoffcain.info/notizia/sri-lanka-president-informs-the-supreme-court-that-he-will-not-sign-the-death-sentences-60358046>.
94. Tassanee Vejpongsa and Grant Peck (10 June 2022), ‘Thailand makes marijuana legal, but smoking discouraged’ *AP News*, <https://apnews.com/article/politics-health-business-thailand-marijuana-a9b9eed0e06f0b006f886a4a9d69198>.
95. As an example, see: BBC News (21 June 2022), ‘Thailand cannabis: From a war on drugs to weed curries’ *BBC News*, <https://www.bbc.com/news/61836019>; Gloria Lai (18 July 2022), ‘Thailand breaks away from Southeast Asia’s brutally punitive drug policies’ *New Mandala*, <https://www.newmandala.org/thailand-breaks-away-from-southeast-asias-brutally-punitive-drug-policies/>.

The latter noted the lack of comprehensive data regarding the measure, and expressed concern for deplorable detention conditions of people on death row; before recommending that the country establish a moratorium, commute death sentences, and review domestic legislation.⁹⁶ During the dialogue, Iraq alleged that death is only imposed as a sentence for “certain crimes deemed particularly serious” and not for less grave offences - but this is contradicted by its retention of capital punishment for drug crimes.

CAT also reviewed the performance of Palestine and the UAE. In both cases, it expressed similar concerns about the imposition of the death penalty for “less serious offences” (in the case of Palestine) and for the length of detention on death row (in the UAE). Accordingly, it recommended that the two states intensify efforts to abolish the death penalty, including by establishing a moratorium.⁹⁷

For its part, at the 49th Human Rights Council in early 2022, Thailand communicated its views on the recommendations received at the third round of Universal Periodic Review, held in November 2021. Encouragingly, the country accepted some recommendations related to the death penalty, particularly those promoting national debate and engagement with civil society, such as to: “take necessary steps towards the full abolition of the death penalty”, “conduct awareness-raising campaigns with the aim of educating the public on human rights and alternatives to the death penalty”, and “consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights”.⁹⁸

Finally, during her official visit to Bangladesh in August 2022, then-UN High Commissioner for Human Rights Michelle Bachelet encouraged the country to reduce the scope of the application of capital punishment and work towards a moratorium.⁹⁹

96. Committee Against Torture, ‘Concluding observations on the second periodic report of Iraq’ UN Doc. CAT/C/IRQ/CO/2 (15 June 2022), para. 30-31.

97. Committee Against Torture, ‘Concluding observations on the initial report of the State of Palestine’ UN Doc. CAT/C/PSE/CO/1 (23 August 2022), para. 48-49; Committee Against Torture, ‘Concluding observations on the initial report of the United Arab Emirates’ UN Doc. CAT/C/ARE/CO/1 (22 August 2022), para. 37-38.

98. Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Thailand. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review’, UN Doc. A/HRC/49/17/Add.1 (17 February 2022).

99. OHCHR (17 August 2022), ‘UN High Commissioner for Human Rights Michelle Bachelet concludes her official visit to Bangladesh’, Available at: <https://www.ohchr.org/en/statements/2022/08/un-high-commissioner-human-rights-michelle-bachelet-concludes-her-official-visit>.



SYMBOLIC APPLICATION COUNTRIES

Twelve countries are currently classified as symbolic application, as their legislation allows for death to be imposed as a penalty for certain drug-related offences, but they do not appear to have carried out executions nor sentenced individuals to death for these offences in the past five years. As no one has been executed in **Brunei Darussalam** in 65 years, and the last confirmed death sentence for drug offences dates back to 2017, the country has been reclassified from ‘low’ to ‘symbolic’ application.

No one is confirmed to be on **death row for drug offences** in these countries, though this cannot be categorically excluded, due to widespread opacity and lack of official figures. For example, the status of the latest individual sentenced to death for drug trafficking in Brunei remains unclear, and drug-related death sentences may have been passed by the Martial Court in Myanmar which have not been reported by media, civil society, or official sources.

In July 2022, Myanmar made international headlines - and attracted universal condemnation¹⁰⁰ - for resuming **executions** after 34 years, hanging four political prisoners.¹⁰¹ This setback raises concerns for the safety of the over 100 people sentenced to death since the military takeover in early 2021,¹⁰² and it may signal a more mainstream use of capital punishment in the country; although currently its imposition appears to be mostly targeted against political opponents. Meanwhile, 2022 was dubbed by experts in the USA as “the year of botched executions”, after a string of failed or cruelly administered protocols.¹⁰³ These, coupled with lethal injection drugs-supply issues,¹⁰⁴ are further dispelling the alleged humanity of drug-induced executions, and forcing debates on execution methods in the country. Once again, former President Donald Trump called for the execution of “drug dealers”, spreading misinformation on the state of the drug market in the USA as well as on the effectiveness of the death penalty for drugs in retentionist countries.¹⁰⁵

100. Among others, see: UN News (25 July 2022), ‘Myanmar junta’s execution of four democracy activists condemned by UN’ *UN News*, <https://news.un.org/en/story/2022/07/1123172>; ASEAN (27 July 2022), ‘ASEAN Chairman’s Statement on the Execution of Four Opposition Activists in Myanmar’. Available at: <https://asean.org/asean-chairmans-statement-on-the-execution-of-four-opposition-activists-in-myanmar/>.
101. NPR (25 July 2022), ‘Myanmar carries out its first executions in decades, including democracy activists’ *NPR*, <https://www.npr.org/2022/07/25/1113369138/in-its-first-executions-in-nearly-50-years-myanmar-executes-4-democracy-activist>.
102. OHCHR (2 December 2022), ‘Myanmar: UN Human Rights Chief alarmed at death sentences by secretive military courts’. Available at: <https://www.ohchr.org/en/press-releases/2022/12/myanmar-un-human-rights-chief-alarmed-death-sentences-secretive-military>.
103. DPIC (2022), ‘The Death Penalty in 2022: Year End Report’ (US: Death Penalty Information Centre), <https://reports.deathpenaltyinfo.org/year-end/Year-End-Report-2022.pdf>.
104. Patricia Mcknight (13 May 2022), ‘Problem With Lethal Injection Drugs Prompts Ohio Gov to Postpone Execution’ *Newsweek*, <https://www.newsweek.com/problem-lethal-injection-drugs-prompts-ohio-gov-postpone-execution-1706630>.
105. Glenn Kessler (14 November 2022), ‘The debunked claims and faux ‘facts’ supporting Trump’s plan to execute drug dealers’ *The Washington Post*, <https://www.washingtonpost.com/politics/2022/11/14/debunked-claims-faux-facts-supporting-trumps-plan-execute-drug-dealers/>.

Another symbolic application state whose human rights record attracted significant attention in 2022 was Qatar, due to its hosting of the 2022 World Cup. Experts denounced the abysmal treatment of migrant workers in the country, including their disproportionate vulnerability to the death penalty. While no drug-related death sentences emerged in 2022, sources reported one previously unconfirmed capital conviction for drug trafficking between 2016 and 2021.¹⁰⁶

While no one appears to have been sentenced to death for drugs in Jordan, at least three **Jordanians were executed for drug crimes in Saudi Arabia**, and at least one more is considered at imminent risk of execution.¹⁰⁷ According to ESOHR, Hussein Abo Al-Kheir was sentenced to death for drug smuggling in 2015 after being held incommunicado and brutally tortured by law enforcement. He has remained on death row since.¹⁰⁸ Back in 2015, in a letter to the government of Saudi Arabia, several UN experts argued that the circumstances of his case would render his execution an extrajudicial killing. In April 2022, the UN Working Group on Arbitrary Detention found his detention arbitrary,¹⁰⁹ and later in the year both UN experts¹¹⁰ and the UK Minister of State for the Middle East, South Asia and the United Nations¹¹¹ called for Mr Al-Kheir's urgent release.

The **effectiveness of the death penalty as a drug control tool** was assessed by legislators in Taiwan (where the last confirmed death sentence for drug trafficking dates back to 2010), through a dedicated opinion survey commissioned by the Death Penalty Project and the Taiwan Alliance to End the Death Penalty. While policymakers defended the deterrent effect of capital punishment in general, when asked about the most likely measures to reduce drug offences, they cited interventions such as education, “efforts to reduce poverty and improve housing”, and better treatment, before death sentences and executions.¹¹²

Policymakers also had an opportunity to reconsider retaining the death penalty in Cuba, where a new Penal Code was adopted that entered into force in December 2022. Although no one has been executed in 19 years, and no one is on death row, legislators in the country decided to maintain death as a possible

106. Hutton, Hoyle and Harry (25 November 2022), 'Qatar's death row and the invisible migrant workforce deemed unworthy of due process'.

107. OHCHR (22 November 2022), 'Saudi Arabia: Resumption of executions for drug-related offences'.

108. ESOHR (2 December 2022), 'A Team of United Nations Specialists Confirms That Abu Al-Khair's Arrest is Arbitrary and Calls on Saudi Arabia To Stop All Drug Executions' *European Saudi Organisation for Human Rights*, <https://bit.ly/40G-DdN8>.

109. Human Rights Council, 'Opinion adopted by the Working Group on Arbitrary Detention at its ninety-third session, 30 March to 8 April 2022. Opinion No. 36/2022 concerning Hussein Abo al-Kheir (Saudi Arabia)' UN Doc. A/HRC/WGAD/2022/36 (20 October 2022), <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session93/2022-11-21/A-HRC-WGAD-2022-36-SaudiArabia-AEV.pdf>.

110. OHCHR (1 December 2022), 'Saudi Arabia: UN experts call for immediate moratorium on executions for drug offences'.

111. Dania Akkad (24 November 2022), 'UK minister called Saudi ambassador over Jordanian facing execution' *Middle East Eye*, <https://www.middleeasteye.net/news/uk-minister-raises-concerns-over-saudi-execution-spate>.

112. Carolyn Hoyle and Show-duan Hawang (2021), 'Legislators' Opinions on the Death Penalty in Taiwan' (London: The Death Penalty Project), <https://deathpenaltyproject.org/wp-content/uploads/2022/02/DPP-Taiwan-Legislators-opinions-Web-resolution.pdf>.

sentence for over 20 offences in the new Code, including drug-related ones; thus missing a critical chance to join the international trend towards abolition. Despite contravening international standards that prohibit retentionist countries from expanding the scope and applicability of the death penalty, the new Code expands the applicability of capital punishment for drug-related crimes to new circumstances, meaning when the crime is committed:

- Using minors under the age of 18 (rather than 16);
- In (the vicinity of) educational or sports institutions, correctional institutions or other places of detention, care centres or other places where children, adolescents and young people go for educational, sports and social activities;
- In connection with an organised group or transnational organised crime;
- With ‘relatively high’ quantities of drugs, or substances with similar effects; or
- By a person who at the time of the act has a criminal record for a similar offence.¹¹³

Earlier in the year, Cuba had been reviewed by the UN Committee Against Torture, which had recommended the declaration of a formal moratorium with a view to abolition.¹¹⁴

In addition to Cuba, three other symbolic application states had their **use of capital punishment reviewed by UN human rights mechanisms or processes in 2022**. The UN Human Rights Committee, in its first Concluding Observations on Qatar, expressed concern for the retention of the death penalty “for offences that do not meet the threshold of the ‘most serious crimes’” (such as drug offences), and recommended that the country takes “all measures necessary to ensure that it is imposed only for the most serious crimes, involving intentional killing.”¹¹⁵ South Sudan and Sudan, both retentionist countries that routinely carry out executions and sentence people to death (though seemingly not for drug crimes) underwent the third cycle of Universal Periodic Review at the UN Human Rights Council in early 2022. Both countries received several recommendations on capital punishment, ranging from urging abolition and

113. Gaceta Oficial de la Republica de Cuba, Ley 151/2022 ‘Codigo Penal’ (GOC-2022-861-093, published on 1 September 2022, art. 253(2). Available at: <https://faolex.fao.org/docs/pdf/cub212824.pdf> [translated].

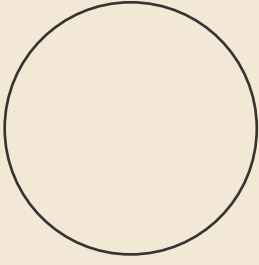
114. Committee Against Torture, ‘Concluding Observations on the third period report of Cuba’ UN Doc. CAT/C/CUB/CO/3, para.38-39.

115. Committee Against Torture, ‘Concluding Observations on the initial report of Qatar’, UN Doc. CCPR/C/QAT/CO/1, para. 20-21.

imposing a moratorium to strengthening awareness-raising campaigns; none was accepted.¹¹⁶

No notable developments were recorded in the remaining countries in this category: no sentences, executions, or individuals on death row for drug offences were reported in Mauritania, Oman, nor South Korea - where the Constitutional Court began reviewing the legality of capital punishment.¹¹⁷

116. Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: South Sudan', UN Doc. A/HRC/50/14 (28 March 2022) combined with Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: South Sudan. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review', UN Doc. A/HRC/50/14/Add.1 (1 June 2022); Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Sudan', UN Doc. A/HRC/50/16 (20 April 2022) combined with Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Sudan. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review', UN Doc. A/HRC/50/16/Add.1 (20 April 2022).
117. Shim Woo-hyun (14 July 2022), 'Constitutional court begins third review of death penalty' *The Korea Herald*, <https://www.koreaherald.com/view.php?ud=20220714000706>.



**INSUFFICIENT
DATA**

This category groups countries where the latest available information indicates that the death penalty most likely remains a possible punishment for certain drug offences, but where, due to conflict and unrest, it is simply impossible to discern trends, provide realistic figures, and/or even conclude whether reported death sentences or executions were carried out in application of criminal laws and pursuant to a final judgement rendered by a competent court.

No drug-related death sentences or executions were reported in **Libya**, and the fate of the four Syrian nationals reportedly sentenced to death for drug trafficking in 2019 (two of which were in absentia) remains unknown. While no executions for drug offences were reportedly carried out in **Syria**, at least four Syrian nationals were executed for drug offences in Saudi Arabia between November and December 2022.

In **Yemen**, news outlets reported the imposition of one death sentence for drug use and trafficking of amphetamines and cannabis resin in June 2022.¹¹⁸ This is the first drug-related death sentence noted by a reputable source in 11 years, and it confirms that drug offences remain punishable by death in the country. Meanwhile, at least two Yemeni nationals were executed for drug offences in Saudi Arabia in late 2022, meeting the strong condemnation of the Yemeni Ministry for Human Rights, who framed the Kingdom's denial of information to the families of the victims as "a crime under international and humanitarian conventions, covenants and laws."¹¹⁹ The Ministry also denounced the silence of the UN Security Council on the executions and called on the UN to take urgent action.¹²⁰

118. Al Jadeed Press (27 June 2022), 'أخبار العرب', المخدرات وتعاظم الاتجار وتعاظم المخدرات، *Al Jadeed Press*, <https://bit.ly/3jM3rxg>.

119. Althawra (2 January 2023), 'وزارة المقترين تدن جريمة إعدام النظام السعودي مواطنين يمينيين', *Althawra*, <https://althawrah.ye/archives/784293> [automatic translation].

120. Ibid.



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