

Report to the UN Secretary-General on the question of a moratorium on the use of the death penalty, pursuant to UN General Assembly Resolution 75/183

22 April 2022

Reporting organisation:



Harm Reduction International (HRI) is a leading NGO dedicated to reducing the negative health, social and legal impacts of drug use and drug policy. HRI promotes the rights of people who use drugs and their communities through research and advocacy to help achieve a world where drug policies and laws contribute to healthier, safer societies.

Since 2007, HRI has been at the forefront of advocating for the abolition of the death penalty for drug-related offences worldwide, including via the [Death Penalty for Drug Offences: Global Overview](#) series.

## Introduction

Harm Reduction International (HRI) welcomes the opportunity to comment on crucial issues and developments concerning the use of the death penalty; and urges the Secretary-General to continue prioritising this issue. We further reaffirm the call for a moratorium on the death penalty as a step towards its definitive abolition worldwide.

This submission will provide information on developments since 1 July 2020, with a focus on drug offences. Because of a widespread lack of transparency on the phenomenon, all figures are minimum confirmed figures, likely to represent only a fraction of actual death sentences, executions, and death row populations. Unless specified, all information is from *The Death Penalty for Drug Offences: Global Overview 2021*.<sup>1</sup>

### a) Global trends

As of March 2022, 35 countries and territories prescribe the death penalty as a punishment for drug offences in their legislation, in violation of international human rights and drug control law.<sup>2</sup> In 12 countries, death is the mandatory punishment for at least certain drug offences.<sup>3</sup>

After a drastic drop in known drug-related executions in 2020 (30 executions confirmed, of which 25 in Iran<sup>4</sup>), a 336% increase was recorded in 2021. HRI's 2021 Global Overview reported a minimum of 131 drug-related executions; all carried out in Iran. Executions were also likely carried out in China, and likely in Vietnam and North Korea, but no approximate figures are available.

A minimum of 237 death sentences for drug crimes were reported in at least 16 countries (an almost 30% increase from 2019 and an 11% increase from 2020), of which around a tenth were against foreign nationals. Notably, the number of low application countries (those which do not actively execute) in which drug-related death sentences were reported rose from three in 2020 to nine in 2021.

At least 3000 people are believed to be on death row for drug offences in at least 19 countries – likely many more. In 2021, this figure increased in Malaysia (+2%) and Indonesia (+30%), while a drop was observed in Thailand (-27%).

One alarming finding from 2021 is the high number of foreign nationals executed, sentenced to death and/or on death row for drug crimes. While not a new trend, it is of increasing concern. Individuals from ethnic minority backgrounds, women, and members of vulnerable groups continue to remain disproportionately affected by the imposition of the death penalty for drug offences around the world.

The shocking lack of information on the death penalty for drugs is another important trend confirmed in 2021. While the group of countries actively resorting to capital punishment as a central tool of drug control is shrinking, it is also more and more characterised by opacity and secrecy, if not outright censorship. Transparency and monitoring will thus be key challenges for anyone working towards abolition. This was reiterated by the latest Human Rights Council Resolution on the question of the

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<sup>1</sup> 'The Death Penalty for Drug Offences: Global Overview 2021' (London: Harm Reduction International, 2022), <https://www.hri.global/death-penalty-2021>.

<sup>2</sup> Bahrain, Bangladesh, Brunei Darussalam, China, Cuba, Egypt, India, Indonesia, Iran, Iraq, Jordan, Kuwait, Lao PDR, Libya, Mauritania, Malaysia, Myanmar, North Korea, Oman, Pakistan, Palestine, Qatar, Saudi Arabia, Singapore, South Korea, South Sudan, Sri Lanka, Sudan, Syria, Taiwan, Thailand, United Arab Emirates, United States of America, Vietnam, Yemen

<sup>3</sup> Brunei Darussalam, Iran, Jordan, Kuwait, Lao PDR, Malaysia, Myanmar, Oman, Singapore, Sudan, United Arab Emirates, Yemen.

<sup>4</sup> For more details on drug-related death sentences and executions in 2020, see 'The Death Penalty for Drug Offences: Global Overview 2020' (London: Harm Reduction International, 2021), [https://www.hri.global/files/2021/04/07/HRI\\_Death\\_Penalty\\_Report\\_2020\\_FINAL.pdf](https://www.hri.global/files/2021/04/07/HRI_Death_Penalty_Report_2020_FINAL.pdf).

death penalty, adopted in October 2021, which emphasised retentionist countries' obligations around transparency and information sharing.<sup>5</sup>

With the total abolition of the death penalty announced in Kazakhstan and Sierra Leone in 2021, the world moved closer to leaving the death penalty behind. However, countries where death can be imposed as a punishment for drug offences appear to be 'strongholds', resisting this trend. This is apparent when looking at which states recently removed the death penalty from their legislation: between 2007 and 2021, several countries abolished the death penalty, but none of them were countries that retain capital punishment for drug offences.

## **b) Key national developments since July 2020**

Figures collected by the Abdorrahman Boroumand Centre for Human Rights in **Iran** show a significant increase in confirmed drug-related executions in the country; from 25 in 2020 to 131 in 2021 (a 424% rise), against a 28% increase in total executions in the country. Drug-related executions in Iran represented a higher percentage of total executions than in 2020: from 10% to 42%. While the root causes of such a sharp surge are yet to be conclusively identified, this trend confirms experts' fears that the impact of the 2017 Amendments to the Law for Combating Illicit Drugs<sup>6</sup> may be temporary, and linked, at least to some degree, to political circumstances.

While there were no executions for drugs in **Malaysia**, the number of individuals on death row for drug offences rose from 912 in 2020, to 927 as of September 2021 (out of 1366 death row prisoners). Notably, at least 10 death sentences (of which six were against foreign nationals) were reversed, resulting in seven acquittals and three commutations. On 29 December 2021, the government indicated that "the Bill to amend laws on the death penalty, as well as other relevant laws, is expected to be tabled in Parliament by the third quarter of 2022."<sup>7</sup>

In **Pakistan**, Parliament was supposed to consider a proposal by the Law Ministry that would remove death as a punishment for drug possession and trafficking above certain quantities, replacing it with life imprisonment. If adopted, Pakistan would become the first country in over 15 years to remove the death penalty for drug offences from its books. Such a decision could also benefit the dozens of Pakistani nationals currently on death row, or facing capital punishment, abroad, potentially facilitating repatriations. Recent developments in the country, however, dampen hope that this process will still continue.

In the **Philippines**, attempts are ongoing to reintroduce capital punishment, as part of the government's infamous 'war on drugs'. In March 2021, the House of Representatives adopted House Bill 7814, which envisages the reinstatement of the death penalty for certain drug crimes, in violation of the country's obligations under the second Optional Protocol of the ICCPR.<sup>8</sup> The Bill is currently scheduled for discussion at the Senate, however, it may be postponed ahead of the Presidential elections in May 2022. What happens next is unclear. While the withdrawal of Senate Bill no. 27 from

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<sup>5</sup> Human Rights Council, 'Resolution adopted by the Human Rights Council on 8 October 2021: Question of the death penalty', UN Doc. HRC/RES/48/9 (15 October 2021), <https://undocs.org/a/hrc/res/48/9>.

<sup>6</sup> For more details on the reform, see: 'The Death Penalty for Drug Offences: Global Overview 2018' (London: Harm Reduction International, 2019), [https://www.hri.global/files/2019/02/22/HRI\\_DeathPenaltyReport\\_2019.pdf](https://www.hri.global/files/2019/02/22/HRI_DeathPenaltyReport_2019.pdf), p. 10 -11.

<sup>7</sup> Minister in the Prime Minister's Department (Parliament and Law) (29 December 2021), 'Press statement: Government to decide on death penalty after briefing by Special Committee'.

<sup>8</sup> Republic of the Philippines Commission on Human Rights (3 March 2021), 'Statement of Commissioner Karen Gomez-Dumpit on the Passage of House Bill No. 7814, providing the "Presumption of Guilt" and Reintroduction of the Death Penalty as amendments to the Comprehensive Dangerous Drugs Act of 2022', <https://bit.ly/3J8d1RZ>.

consideration<sup>9</sup> may signal that support for this move is dwindling in Parliament, Ferdinand Marcos Jr., one of the favourites in the upcoming presidential election, has in the past expressed his support for the death penalty for drug trafficking.<sup>10</sup> It is worth noting that reintroducing the death penalty may have dire consequences not only for Filipinos in the country, but also for migrant workers: a 2021 report by the NGOs Migrant Care and Reprieve concluded that there are 62 Philippines nationals facing the death penalty worldwide - 49 of which are in Malaysia alone - and 37% of this total are being tried for drug offences.<sup>11</sup>

No drug-related executions were carried out in **Saudi Arabia** in 2021, for the first year in over a decade. This development, due to an ongoing moratorium on drug-related executions in the Kingdom, is significant, especially considering that in 2019, 84 drug-related executions were reported, with more likely to have taken place. However, as the moratorium has not yet been formalised or finalised via law reform, executions may restart at any time. According to civil society organisations such as the European Saudi Organisation for Human Rights,<sup>12</sup> death sentences continue to be imposed and people on death row for drug crimes have not undergone retrials or seen their sentences commuted. Absent more substantial reforms, these individuals are still at imminent risk of execution.

There were also no executions in **Singapore** for the second year in a row. Though the COVID-19 pandemic certainly played a role, the fact that one of the most committed retentionist countries refrained from carrying out executions is significant. Four notices of executions against individuals on death row for drug trafficking, however, were issued between November 2021 and February 2022. As of 10 March 2022, the executions have been halted pending judicial review.<sup>13</sup> On 31 March 2022, the family of Nagaenthran K Dharmalingam, one of the four individuals who had received such notice, was notified that the recently submitted request for clemency was rejected, meaning a new notice of execution may be issued at any time.

In January 2021, the government of **Sri Lanka** announced that the death sentences of all individuals convicted after 1998 would be commuted by presidential pardon, except those imposed for 'large-scale drug trafficking' (a category which is not clearly defined under Sri Lankan law). Limited information is available on whether and how this discriminatory policy was implemented, and it does not appear that any collective pardon has yet been issued.

In **Vietnam**, 87 drug-related death sentences were reported by media and courts in 2021, likely a fraction of those imposed. According to a government report, a sharp increase in death sentences - roughly 30% - is leading to overcrowding.<sup>14</sup>

### c) Final remarks

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<sup>9</sup> Melvin Gascon (10 November 2021), 'Lacson withdraws bill reimposing death penalty' *Inquirer.net*, <https://newsinfo.inquirer.net/1512757/lacson-withdraws-bill-reimposing-death-penalty>.

<sup>10</sup> Jovic Yee (17 February 2016), 'Bongbong Marcos backs death penalty for drug trafficking' *Inquirer.net*, <https://newsinfo.inquirer.net/765499/bongbong-marcos-backs-death-penalty-for-drug-trafficking>.

<sup>11</sup> Migrant Care and Reprieve (2021), 'Worked to Death: A study on migrant workers and capital punishment' (Kuala Lumpur: Migrant Care and London: Reprieve), [https://reprieve.org/wp-content/uploads/sites/2/2021/11/ResearchReport\\_WorkedToDeath.pdf](https://reprieve.org/wp-content/uploads/sites/2/2021/11/ResearchReport_WorkedToDeath.pdf).

<sup>12</sup> ESOHR (2022), 'Saudi Executions in 2021: Fluctuating Political Stability' (ESOHR), <https://www.esohr.org/wp-content/uploads/2022/01/Saudi-executions-in-2021.pdf>.

<sup>13</sup> For more information, see: 'Recap of Nagen's Court of Appeal Hearing' *Transformative Justice Collective* (2 March 2022), <https://transformativejusticecollective.org/2022/03/02/recap-of-nagens-court-of-appeal-hearing/>; 'No law or treaty bars execution of people with IQ under 70: Court of Appeal' *The Straits Times* (9 March 2022), <https://www.straitstimes.com/singapore/courts-crime/no-law-or-treaty-bars-execution-of-people-with-iq-under-70-court-of-appeal>.

<sup>14</sup> Vietnam Net (10 September 2021), 'The Ministry of Public Security put into use 11 death penalty execution houses' [translated] *Vietnam Net*, <https://vietnamnet.vn/vn/thoi-su/bo-cong-an-dua-vao-su-dung-11-nha-thi-hanh-an-tu-hinh-tiem-thuoc-doc-773540.html>.

While the world moves closer to fully abolishing the death penalty, countries that retain the penalty for drug offences remain resistant. They are also some of the most opaque when it comes to data on their use of the death penalty. The trends and developments identified in 2021 confirm that any progress is fragile and often temporary if not sustained by long-term, comprehensive reforms. They also illustrate that executions are just the 'tip of the iceberg' - the most visible element of a broader punitive system which should be reformed in its entirety. Finally, they are a stark reminder of the inherently political nature of capital punishment, and that abolition of the death penalty should be approached not as the end goal, but rather as an essential milestone in the broader reform of drug policy and the criminal legal system.