

**Report to the UN Office on Drugs and Crime on
“Eleventh survey on capital punishment and on the implementation of the safeguards
guaranteeing protection of the rights of those facing the death penalty, covering the period 2019-
2023”**

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Reporting organisation:



Harm Reduction International (HRI) uses 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 organisation in Special Consultative Status with ECOSOC.

Country: Global

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Introduction

Harm Reduction International (HRI) welcomes the opportunity to comment on crucial issues and developments concerning the use of the death penalty and urges UNODC to prioritise 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 that have taken place in the period of 1 January 2019 to 31 December 2023; with a focus on the death penalty for drug offences.¹ More detailed information can be found in HRI's 'The Death Penalty for Drug Offences: Global Overview' for [2019](#), [2020](#), [2021](#), [2022](#) and [2023](#),² and in the [Special Issue 'A Decade-long Review of the Death Penalty for Drug Offences'](#).³

Section 1. States that completely abolished capital punishment by 31 December 2023

In the reporting period, no States retaining the death penalty for drug offences abolished this punishment completely.

Q4. Were there any attempts to reintroduce capital punishment [...] through changes in legislation during the survey period? If yes, what was the outcome?

During the reporting period, there were attempts to reintroduce the death penalty for drug offences in the **Philippines**, which abolished the death penalty in 2006 and is a signatory of the Second Optional Protocol to the ICCPR. Several bills were filed in the Philippine Congress, proposing the reintroduction of the death penalty for (among others) certain drug offences, but none of them were adopted. In 2022 alone, there were active debates in parliament about reinstating the death penalty for drug offences, with at least six bills being discussed.⁴ The Bill that made the most progress – though it was not adopted - in its discussion in Congress was House Bill 7814, which was passed by the House of Representatives (the lower house of the Filipino Congress) in March 2021 and that amends provisions of the Dangerous Drugs Act of 2022.

¹ For the purposes of this work, HRI defines drug offences as drug-related activities categorised as crimes under national laws. This definition excludes activities that are not related to the trafficking, possession or use of controlled substances and related inchoate offences (inciting, assisting or abetting a crime). For full definitions and methodology, see Girelli, Jofré and Larasati, 'The Death Penalty for Drug Offences: Global Overview 2022 (London: Harm Reduction International 2023), https://hri.global/wp-content/uploads/2023/03/HRI_DeathPenalty_Report2022_REV.pdf.

² All reports are accessible from this link: <https://hri.global/flagship-research/death-penalty/>.

³ Larasati and Jofré, 'A Decade-Long Review of the Death Penalty for Drug Offences' (London: Harm Reduction International, 2024), <https://hri.global/publications/special-issue-a-decade-long-review-of-the-death-penalty-for-drug-offences/>.

⁴ Girelli, Jofré and Larasati, 'The Death Penalty for Drug Offences: Global Overview 2022 (London: Harm Reduction International, 2023), p. 23. https://hri.global/wp-content/uploads/2023/03/HRI_DeathPenalty_Report2022_REV.pdf.

Section 2. States that retained capital punishment as of 1 January 2019

Q1. Crimes subject to capital punishment

By the end of 2023, 34 countries retained the death penalty for a range of drug offences in their legislation.⁵ The drug offences punishable by death vary by jurisdiction and include:⁶

- Production (also referred to manufacture, cultivate, prepare, transform a plant or substance, extract a substance, separate, refine or process);⁷
- Possession;⁸
- Trafficking (including the acts of: smuggling, receiving from a smuggler, purchasing, buying, selling, transporting, trans-shipping, causing the transit of, administering, distributing, importing, exporting, dealing in, carrying, offering to be sold, brokering, giving, receiving, sending, procuring, supplying, offering or advertising for sale, exchanging, accepting, being an intermediary in sale and purchase, acquiring or delivering).⁹
- Aiding and abetting, such as carrying a firearm or a hunting weapon with the intention of opposing [law enforcement] officials or acting as an intermediary.¹⁰

The type and quantity of controlled substances whose production, possession, and trafficking may lead to the death penalty also vary, sometimes significantly, between countries.

By the end of 2023, the death penalty was **mandatory** for at least certain drug offences in 11 countries.¹¹

⁵ 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.

⁶ A full review of relevant legislation is available upon request.

⁷ Bahrain, Bangladesh, Brunei, China, Cuba, India, Indonesia, Iran, Lao, Malaysia, Mauritania, Myanmar, Oman, Taiwan, and Vietnam. Some countries only provision the death penalty for drug offences in cases of production when they have the intended purpose of trafficking, namely Egypt, Iraq, Qatar, Saudi Arabia, South Sudan, Sudan, UAE and Yemen.

⁸ Bangladesh, India, Indonesia, Iran, Lao, Mauritania and Sri Lanka. Some countries only provision the death penalty in cases of intended purpose of trafficking, namely Bahrain, Brunei, Cuba, Egypt, Malaysia, Myanmar, Singapore, South Korea, South Sudan, Sudan, Thailand, UAE and Vietnam.

⁹ Bahrain, Bangladesh, Brunei, China, Cuba, Egypt, India, Iran, Iraq, Jordan, Kuwait, Lao, Malaysia, Mauritania, Myanmar, Oman, Palestine, Qatar, Saudi Arabia, Singapore, South Korea, South Sudan, Sri Lanka, Sudan, Taiwan, Thailand, UAE, USA, Vietnam. Yemen. In the case of Indonesia, trafficking is punishable with death only as part of organised crime and Qatar in cases of recidivism or when public official is convicted of a drug offence.

¹⁰ China, Egypt, India, Malaysia, Myanmar, Saudi Arabia, South Korea, South Sudan and Sri Lanka.

¹¹ Brunei Darussalam, Iran, Jordan, Kuwait, Lao PDR, Myanmar, Oman, Singapore, Sudan, United Arab Emirates, Yemen.

Q2. Changes in law

- In January 2019, authorities in **Egypt** expanded the scope of drug offences punishable by death in the country to include new substances by amending its Anti-Narcotic Law No. 182 of 1960.¹²
- In December 2022, the Parliament of **Indonesia** adopted a new Criminal Code which will enter into force in 2026.¹³ Among others, the new Code introduces amendments to the provisions governing implementation of the death penalty in the country. Most notably, as summarised by Pascoe:¹⁴
 - (A) A shift in ‘approach’ on the death penalty, which is now framed as an alternative or last resort punishment; rather than the primary or default choice (Articles 67 and 98); pursuant to this, judges should only impose a death sentence if imprisonment is not deemed appropriate;
 - (B) The introduction of a death sentence with a 10 years’ ‘probation’ (Article 100), which judges can impose considering the defendant’s remorse and prospects of rehabilitation; and their role in the crime. If during the probationary period the person shows good behaviour, the death sentence can be commuted to life imprisonment by Presidential Decree, following a non-binding opinion from the Supreme Court.

It remains unclear whether judges will be bound to impose sentences with probation if the conditions set by the law are met, or if these conditions are necessary but not sufficient, meaning judges retain ultimate discretion.
 - (C) The President’s ability to reconsider a rejected clemency petition (Article 101): the President will have the power to reconsider a request for clemency which had been rejected after ten years from the rejection date, if the execution was not carried out and the person has not escaped prison; in case, death can be commuted to life imprisonment.
- The Poisons, Opium and Dangerous Drugs (Amendment) Act no.41, adopted by the Parliament of **Sri Lanka** in 2022, expanded the list of crimes punishable by death by

¹² Al-Masary Al- Youm. Egypt’s cabinet approves death penalty for drug dealer. (Egypt Independent: January 30, 2019) <https://www.egyptindependent.com/egypts-cabinet-approves-death-penalty-for-drug-dealers/>; Memo Middle East Monitor. ‘Egypt approves death penalty for drug dealer. (MEMO, Middle East Monitor: January 31, 2019). <https://www.middleeastmonitor.com/20190131-egypt-approves-death-penalty-for-drug-dealers/>

¹³ For a review of the process and underlying justifications of the reform, see Girelli, ‘Gaining Ground: How states abolish or restrict the application of the death penalty for drug offences’ (London: Harm Reduction International, 2024), <https://hri.global/publications/gaining-ground>.

¹⁴ Daniel Pascoe, ‘Indonesia’s Revised Criminal Code and the Death Penalty – Progress Amid the Gloom?’, *Australian Journal of Asian Law* 24, no. 1 (September, 2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4568882.

adding methamphetamine as a substance the possession, import/export, or trafficking over five grams of which can be punished with death.¹⁵

- **Cuba's** new Penal Code, which entered into force in December 2022, expands the applicability of capital punishment for drug-related crimes to new circumstances; meaning when the crime is committed:
 - o Using minors under the age of 18 (rather than 16);
 - o 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;
 - o In connection with an organised group or transnational organised crime;
 - o With 'relatively high' quantities of drugs, or substances with similar effects; or
 - o By a person who at the time of the act has a criminal record for a similar offence.Cuba has not carried out executions since 2003, and no one is on death row in the country.¹⁶

- In April 2023, the Parliament of **Malaysia** adopted two Bills. Amongst others, these removed the death penalty as the *mandatory* punishment for the 12 offences, including drug trafficking; and allowed all people sentenced to death under the previous regime – most of whom were convicted of drug trafficking - to apply for resentencing.¹⁷

- During the reporting period, **Pakistan** was the only country to fully abolish the death penalty for drug offences. On 25 July 2023, a joint session of the Senate and National Assembly approved the Control of Narcotic Substances (Amendment) Act 2023, which removed the death penalty for narcotic offences, replacing it with life imprisonment. At the time of the reform, around 400 people were incarcerated pursuant to a drug-related death sentence imposed by lower courts.¹⁸

¹⁵ 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>.

¹⁶ Girelli, Jofré and Larasati, 'The Death Penalty for Drug Offences: Global Overview 2022 (London: Harm Reduction International, 2023), https://hri.global/wp-content/uploads/2023/03/HRI_DeathPenalty_Report2022_REV.pdf.

¹⁷ Girelli, Jofré and Larasati, 'The Death Penalty for Drug Offences: Global Overview 2023 (London: Harm Reduction International, 2024), <https://hri.global/wp-content/uploads/2024/03/HRI-GO2023-finalfinal-WEB.pdf>. For a review of the process and underlying justifications of the reform, see Girelli, 'Gaining Ground: How states abolish or restrict the application of the death penalty for drug offences' (London: Harm Reduction International, 2024), <https://hri.global/publications/gaining-ground>.

¹⁸ Justice Project Pakistan, 'Death Penalty in Pakistan: Data mapping capital punishment 2023' (Pakistan: Justice Project Pakistan, 2023), <https://jpp.org.pk/report/death-penalty-in-pakistan-data-mapping-capital-punishment/>. For a review of the process and underlying justifications of the reform, see Girelli, 'Gaining Ground: How states abolish or restrict the application of the death penalty for drug offences' (London: Harm Reduction International, 2024), <https://hri.global/publications/gaining-ground>.

Q2 – Changes in practice

Changes in the global trend: Between 2019 and 2023 at least 1068 people were executed for drug offences in seven countries (see table below); corresponding to an average 28% of known executions globally. This figure does not include the likely hundreds of executions carried out in China, Vietnam and North Korea, where the use of the death penalty is covered by state secrecy and/or censorship; thus, it likely only represents a fraction of all executions for drug offences. In China alone, dozens of executions are regularly reported around 26 June alone, in connection to the International Day against Drug Abuse and Illicit Trafficking.¹⁹

Known drug-related executions by country, 2019-2023²⁰

	2019	2020	2021	2022	2023	<i>Total by country</i>
China	unknown	unknown	unknown	unknown	unknown	unknown
Iran	30	25	131	256	459	901
Kuwait	0	0	0	0	1	1
Saudi Arabia	84	5	0	57	2	148
Singapore	2	0	0	11	5	18
Vietnam	unknown	unknown	unknown	unknown	unknown	unknown
North Korea (DPRK)	unknown	unknown	unknown	unknown	unknown	unknown
total by year	116	30	131	324	467	
Percentage of global executions	17%	6%	23%	36%	41%	

The declining trend which began in 2018 continued until 2020, with a record low number of confirmed executions. As reconstructed in HRI’s ‘A Decade Review’,²¹ this was likely the result of a combination of factors, including the COVID-19 pandemic (which limited judicial activities, shifted focus on the emergency, and led to more limited reporting on executions), the implementation of the 2017 reform to the Iranian Anti-Narcotics Law (with executions paused pending resentencing), and a temporary moratorium on drug-related executions announced

¹⁹ For example, “Respect for Minimum Standards? Report on the Death Penalty in China” (London: The Rights Practice, October 2020), p. 18; Larasati and Girelli, ‘The Death Penalty for Drug Offences: Global Overview 2020’ (London: Harm Reduction International, 2021), https://hri.global/wp-content/uploads/2023/02/HRI_Death_Penalty_Report_2020_FINAL.pdf.

²⁰ Figures from HRI’s internal database, available upon request. Figures may differ from ‘Global Overview’ reports to those reported in this input, as in some cases, yearly figures are updated after the publication of each ‘Global Overview’ when new information emerges.

²¹ Larasati and Jofré, ‘A Decade-Long Review of the Death Penalty for Drug Offences’ (London: Harm Reduction International, 2024), <https://hri.global/publications/special-issue-a-decade-long-review-of-the-death-penalty-for-drug-offences/>.

in Saudi Arabia in 2020. Since 2021, the number of known executions for drug offences has steadily increased, driven by a change in practice in Iran, reaching 467 in 2023. The percentage of known executions carried out for drug offences also dramatically increased, from 6% in 2020 to 41% - almost one in two – in 2023.

In the reporting period, at least 1387 people were sentenced to death for drug offences (see table below). The figure has been regularly increasing from 188 in 2019, to 388 in 2023 (+106%). This suggests an intensification in the use of the death penalty for drug offences especially in certain countries (e.g. Indonesia, Lao PDR, Vietnam), but could also be partly linked to more coverage of the phenomenon by media and civil society in recent years. Notably, a high number of death sentences were imposed in 2020 and 2021, despite the limitations that COVID-19 imposed on the operation of criminal justice systems, and – in some countries – shifts from physical to virtual hearings; which impacted defendants' rights to a fair trial.²²

As most countries do not provide updated and disaggregated information on death sentences (see Q5 for more details), this figure is likely a gross underrepresentation of the phenomenon.

Known drug-related death sentences by country, 2019-2023²³

	2019	2020	2021	2022	2023	Total by country
Bahrain	4	0	0	1	0	5
Bangladesh	2	0	3	10	1	16
China	+	+	+	+	+	+
Egypt	7	0	11	7	9	34
Indonesia	54	77	89	122	114	456
Iran	+	+	+	+	+	+
Iraq	n/a	n/a	2	3	19	24
Kuwait	1	0	1	5	3	10
Lao	+	13	14	39	4	70
Libya	4	n/a	n/a	n/a	0	4
Malaysia	12	25	15	20	20	92
North Korea	+	+	+	+	+	+
Pakistan	+	+	2	1	0	3
Palestine	0	0	1	1	4	6
Saudi Arabia	+	+	+	+	+	0
Singapore	13	8	10	9	9	49
Sri Lanka	15	45	2	1	6	69
Thailand	2	8	2	0	+	12

²² For more details, see Larasati and Girelli, 'The Death Penalty for Drug Offences: Global Overview 2020' (London: Harm Reduction International, 2021), https://hri.global/wp-content/uploads/2023/02/HRI_Death_Penalty_Report_2020_FINAL.pdf.

²³ Figures from HRI's internal database, available upon request. The symbol '+' means sentences were imposed, but the number couldn't be confirmed.

United Arab Emirates	0	4	1	3	4	12
Vietnam	74	79	87	89	188	517
Yemen	n/a	n/a	0	1	7	8
Total by year	188	259	240	312	388	

At least 3000 people are believed to be on death row for drug offences worldwide; likely thousands more. In several countries, most people on death row have been convicted of drug offences. Most of them are men; however, in some countries, the majority of women on death row have been convicted of drug offences. For example, as of 2023, people convicted of drug offences account for:²⁴

- 61% of people on death row in **Thailand**; among women alone, 92%;
- 95% of people on death row in **Singapore**. The only woman known to be on death row has been convicted of drug trafficking;
- 52% of people on death row in **Indonesia**;
- Roughly 55% of people on death row in **Malaysia**; among women alone, roughly 90%.²⁵

Country-level changes:²⁶

- In **Indonesia** there were no executions in the reporting period, unlike the previous period. A notable increase has been recorded in confirmed drug-related death sentences between 2019 and 2023 (+111%). In part, this may be due to heightened sentiment on drugs and support for ‘war on drugs’ incited by the government. In 2023, for the first time during his mandate (started in 2014), President Widodo granted clemency to a person sentenced to death for drug offences – Ms Merri Utami. The only other clemency ever was granted to a person sentenced to death for murder back in 2015.
- Figures on known drug-related executions in **Iran** fluctuated in the reporting period. After a record low number in 2020 (25), the number started increasing in 2021 (131), reaching 459 in 2023 (+1736% from 2020). The percentage of drug executions over total executions in the country also increased, from 10% in 2020 to over 50% in 2023. This change in practice may be linked to several factors, including:

²⁴ Girelli, Jofré and Larasati, ‘The Death Penalty for Drug Offences: Global Overview 2023 (London: Harm Reduction International, 2024), <https://hri.global/wp-content/uploads/2024/03/HRI-GO2023-finalfinal-WEB.pdf>

²⁵ Larasati and Jofré, ‘A Decade-Long Review of the Death Penalty for Drug Offences’ (London: Harm Reduction International, 2024), <https://hri.global/publications/special-issue-a-decade-long-review-of-the-death-penalty-for-drug-offences/>.

²⁶ For a complete reconstruction and additional cases, see HRI’s ‘Global Overview’ series and Larasati and Jofré, ‘A Decade-Long Review of the Death Penalty for Drug Offences’ (London: Harm Reduction International, 2024), <https://hri.global/publications/special-issue-a-decade-long-review-of-the-death-penalty-for-drug-offences/>.

- The end of the resentencing process kickstarted by the 2017 amendment to the Anti-Narcotics Law; meaning executions which were paused while sentences were reviewed after 2017 started being implemented;
 - Iran's resort to capital punishment as a tool of control and repression in times of political instability and protests, such as those ongoing in the country since 2020; and its disproportionate impact on people convicted of drug offences;²⁷ and
 - Inherent limitations of the 2017 reform to the Anti-Narcotics Law, which amended technical elements of the legislation but did not address systemic issues of Iran's criminal justice system and drug policy (including widespread corruption, abuse of drug law enforcement for repression of dissent, lack of fair trial particularly in the Revolutionary Courts, torture and ill-treatment); as a consequence of which a high number of death sentences continues being imposed and carried out for drug offences.
- In **Iraq**, there was a significant increase in confirmed drug-related death sentences, (+533% between 2022 and 2023). This may be a consequence of what appears to be an intensification in drug control operations in the country, and/or it may be the result of increased media coverage of sentences.²⁸
 - In 2023, one person was executed for drug trafficking in **Kuwait**. This was the first drug-related execution since 2007.²⁹
 - Although impossible to confirm due to tight censorship, a 2020 report by civil society noted an increase in drug-related executions in **North Korea**, possibly in reaction to increases in drug manufacturing, cultivation and trafficking.³⁰
 - After a 43-year-long moratorium, in June 2019 the President of **Sri Lanka** announced his intention to resume executions of people convicted of drug trafficking, and of being ready to/having signed execution notices. No executions eventually took place, also because of legal challenges that resulted in Sri Lanka's Supreme Court repeatedly ordering the government to stay any executions pending legal challenges.³¹ In the

²⁷ Girelli, 'Gaining Ground: How states abolish or restrict the application of the death penalty for drug offences' (London: Harm Reduction International, 2024), <https://hri.global/publications/gaining-ground>.

²⁸ Girelli, Jofré and Larasati, 'The Death Penalty for Drug Offences: Global Overview 2023 (London: Harm Reduction International, 2024), <https://hri.global/wp-content/uploads/2024/03/HRI-GO2023-finalfinal-WEB.pdf>.

²⁹ Girelli, Jofré and Larasati, 'The Death Penalty for Drug Offences: Global Overview 2023 (London: Harm Reduction International, 2024), <https://hri.global/wp-content/uploads/2024/03/HRI-GO2023-finalfinal-WEB.pdf>.

³⁰ Kyu-Chang Lee et al, 'White Paper on Human Rights in North Korea 2020' (Seoul: KINU, 2021), <https://www.kinu.or.kr/pyxis-api/1/digital-files/0217f31a-0405-4171-8c17-eb38de070a81>; Larasati and Girelli, 'The Death Penalty for Drug Offences: Global Overview 2020' (London: Harm Reduction International, 2021), https://hri.global/wp-content/uploads/2023/02/HRI_Death_Penalty_Report_2020_FINAL.pdf.

³¹ Tamil Guardian 'Sri Lanka maintains a moratorium on the death penalty until March 2020.' (Tamil Guardian: 9 December, 2019) <https://www.tamilguardian.com/content/sri-lanka-maintains-moratorium->

following years, members of the government reiterated their support for the death penalty as a tool of drug control.³²

- A sharp drop in drug-related (and thus total) executions was reported in **Saudi Arabia**; from 84 in 2019 to five in 2020 (-94%). This was due to a political shift on capital punishment, with Crown Prince Mohammad bin Salman having expressed his commitment to reducing executions in the country and imposing a moratorium on drug-related executions in early 2020.³³ The moratorium appears to have been lifted in 2022 when at least 57 drug-related executions were confirmed (29% of all known executions). In 2023, two people were confirmed to have been executed for drug offences (1.1% of all known executions). It is not clear what led to this latter shift in practice, and it cannot be excluded that more executions took place which were not announced.

A significant change also emerged in Saudi Arabia's practice related to transparency on executions. While in previous years the Kingdom regularly reported executions through the Saudi Press Agency (SPA), the official news agency, in 2022 evidence emerged that some executions had not been announced. Figures received by Amnesty International from the Saudi Human Rights Commission were significantly higher than those reported by SPA. For drug offences specifically, SPA had reported 20 executions, while the Commission confirmed 57 had taken place throughout the year.

- Significant changes were recorded in **Singapore**. In 2020, no executions for drug or other offences were carried out, for the first time since 2013.³⁴ This was possibly linked to COVID-19, as well as ongoing legal challenges.³⁵ Drug-related executions were resumed in March 2022, and by the end of the year 11 people had been executed in the country, all for drug offences. In 2023, five more people were executed, all for drug offences. Among them was the first woman to be executed in Singapore in 20 years, Saridewi Djamani.

While in the previous period (2014-2018) 83% of executions were for drug offences, this figure rose to 90% in this reporting period. The same trend can be observed for known³⁶ death sentences: from 86% in the previous reporting period, to 92% in the

death-penaltyuntil-march-2020; Weerarathne Chitra. "Supreme Court Extends Stay Order on Re-Imposition of Death Penalty," (The Island Online, Oct 15, 2020) <https://island.lk/supreme-court-extends-stay-order-on-re-imposition-of-death-penalty/>.

³² "Justice Minister Backs Death Penalty for Drug Smugglers," (Colombo Gazette, Jan 1, 2020), <https://colombogazette.com/2020/01/01/justice-minister-backs-death-penalty-for-drug-smugglers/>.

³³ Larasati and Girelli, 'The Death Penalty for Drug Offences: Global Overview 2020' (London: Harm Reduction International, 2021), https://hri.global/wp-content/uploads/2023/02/HRI_Death_Penalty_Report_2020_FINAL.pdf.

³⁴ Ibid, p.16 -17.

³⁵ Ibid, p. 24.

³⁶ Unlike for executions, Singapore does not report official and updated figures on death sentences.

current one. This indicates that in Singapore the death penalty is increasingly reserved for drug offences.

- In **Yemen**, one death sentence for drug use and trafficking was reported in 2022, the first one that could be verified in 11 years.³⁷ Seven drug-related death sentences were confirmed in 2023.

Q4. Were there any official initiatives to abolish capital punishment for any of the offences listed above? If yes, please give details

In addition to the removal of the death penalty for drug offences in Pakistan in 2023 (see answer to Q2 above), there appeared to be some discussion in Saudi Arabia. After the unofficial moratorium on executions for non-violent offences in 2021, sources reported that abolition for these crimes (including drug crimes) was being considered by authorities; though in the end abolition did not materialise.³⁸

Q5. Does your State collect disaggregated statistical information about persons sentenced to death and executed, as well as about persons whose sentences have been reversed, commuted or pardoned, indicating such elements as type of offence, sex or gender, sexual orientation, age (at time of offence/at time of execution), economic status, nationality, ethnicity, religion, membership in a minority, and year of imposition of sentence?³⁹

None of the countries that retain the death penalty for drug offences fully meet the minimum requirements of transparency set by ECOSOC [resolution 1989/64](#). When information is provided it is often partial, and/or disaggregation is only available for certain aspects but not for others (for example, for executions but not for death sentences).

- In **China** and **Vietnam**, information on the use of the death penalty is covered by state secrecy, making it impossible to access realistic figures on executions, death sentences, death row population.
- Tight censorship prevents from accessing realistic figures on the use of the death penalty in **North Korea**.

³⁷ Girelli, Jofré and Larasati, *The Death Penalty for Drug Offences: Global Overview 2022* (London: Harm Reduction International, 2023), https://hri.global/wp-content/uploads/2023/03/HRI_DeathPenalty_Report2022_REV.pdf.

³⁸ Kareem Fahim 'Saudi Arabia says it executed 27 people in 2020, the lowest number in years, rights groups say' (The Washington Post, 18 January 2021), https://www.washingtonpost.com/world/middle-east/saudi-arabia-death-penalty-executions/2021/01/18/1a98d694-5982-11eb-a849-6f9423a75ffd_story.html.

³⁹ For a full overview of this information by country, please see the 'Global Overview' series reports. <https://hri.global/flagship-research/the-global-state-of-harm-reduction/>

- No official information on death row and death sentences is available on **Iran**, and only a fraction of executions is announced by the government. The [NGO Iran Human Rights](#) reports the following figures for the reporting period, regarding drug executions announced by official sources:
 - o 5% in 2023 (vs 15% of executions overall);⁴⁰
 - o 1% in 2022 (vs 12% of executions overall);⁴¹
 - o 0 in 2021 (vs 16% of executions overall);⁴²
 - o 16% in 2020 (vs 34% of executions overall);⁴³
 - o 3% in 2019 (vs 30% of executions overall);⁴⁴

- Some countries only report partial figures on a regular basis. For example:
 - o The Department of Corrections of **Thailand** regularly publishes information on people on death row, disaggregated by gender, crime, and sentence. However, no official information exists on death sentences;
 - o **Sri Lanka**'s prison statistics, published yearly, include information on people on death row disaggregated by crime and gender, but no official information exists on death sentences;
 - o The **Singapore** Prison Service publishes every year figures on executions, disaggregated by crime but not by gender; no official information exists on death sentences and death row population.

- No official, regularly updated figures on the use of capital punishment exist for countries including **Indonesia, Kuwait, Lao PDR, Malaysia** (although information sometimes emerges in the context of Parliamentary debates), **Myanmar, Oman, United Arab Emirates**.

- Internal conflict has negatively impacted the death penalty monitoring in **Libya** and **Syria**, hindering access to information on the use of the death penalty, including confirmation of court decisions and the situation of people on death row. Therefore, despite these countries being known to have imposed death sentences for drug offences, HRI does not report on the use of capital punishment for drug offences due the complete lack of information nor updates on policy and practice developments.

⁴⁰ IHRNGO and ECPM, 'Annual Report on the Death Penalty in Iran 2023' (Iran Human Rights and ECPM, 2024), https://iranhr.net/media/files/Iran_Human_Rights-Annual_Report_2023.pdf

⁴¹ Tarighi (ed), 'Annual Report on the Death Penalty in Iran 2022' (Iran Human Rights and ECPM, 2023), https://iranhr.net/media/files/Rapport_iran_2022_PirQr2V.pdf.

⁴² Tarighi (ed), 'Annual Report on the Death Penalty in Iran 2021' (Iran Human Rights and ECPM, 2022), <https://www.iranhr.net/en/articles/5170/>.

⁴³ Ibid.

⁴⁴ Iran Human Rights (IHR) 'Annual Report on the Death Penalty in Iran 2020' (Iran Human Rights and ECPM, 2021), . https://iranhr.net/media/files/Rapport_iran-GB.pdf.

Q11-12. If no persons were executed during the survey period, when was the last execution?

Out of the countries that retain the death penalty for drug offences, the following countries have not carried out executions for drug offences in the surveyed period:

- **Brunei Darussalam:** last known execution was in 1957. Since then the country has maintained a de facto moratorium.
- **Indonesia:** last known execution was in 2016. No official moratorium is known to be in place in the country.
- **Malaysia:** last known execution was in 2013 (while the last non-drug-related execution was in 2017). A de facto moratorium has been in place in the country since 2018
- **Oman:** last known execution was in 2001⁴⁵
- **Sri Lanka:** the last known execution was in 1976. Since then, the country has observed a de facto moratorium.
- **Taiwan:** last known execution was in 2002.⁴⁶
- **Thailand:** last known execution was in 2009.⁴⁷
- While the **USA** continues to carry out executions, it has never applied the death penalty for drug offences. There are no records of drug-related executions in **Bahrain, Bangladesh, Cuba, Egypt, Jordan, Lao, Mauritania, Myanmar, Palestine, Qatar, South Korea, South Sudan, Sudan, and UAE**. However, execution for other crimes may have been imposed.

Section 3. Safeguards guaranteeing the protection of the rights of those facing the death penalty

Q4. Does the law provide that a person may not be sentenced to death for an offence committed when that person was under the age of 18?

Iranian law permits person under the age of 18 to be sentenced to death. During the reporting period, allegations of death sentences for drug offences against minors emerged in Iran:

- A young woman was reportedly arrested in 2021, when she was 16, and sentenced to death on drug charges. She was executed in April 2024.⁴⁸
- A young Afghan man was reportedly arrested when he was 17 and sentenced to death on drug charges around 2021.⁴⁹

⁴⁵ Gallahue. P and Lins. R. The Death Penalty for Drug Offences: Global Overview 2015. (London: Harm Reduction International, 2015) p.18 <https://hri.global/publications/the-death-penalty-for-drug-offences-global-overview-2015-the-extreme-fringe-of-global-drug-policy/>

⁴⁶ Ibid. p.18

⁴⁷ Ibid. P 17

⁴⁸ Iran Human Rights 'Child Bride Marjan Hajizadeh and Esmail Hassaniani Executed for Drug Charges – UPDATED' (Iran Human Rights: 2024) <https://iranhr.net/en/articles/6640/>.

⁴⁹ Iran Human Rights 'Afghan Jahedollah Marouf Executed in Isfahan' (Iran Human Rights: 2023), <https://iranhr.net/en/articles/6059/>

Because of limited transparency in most retentionist countries, it cannot be excluded that other such executions took place which were not reported.

Q8-Q9. Does the law provide that a person with mental disorders at the time of the offence may not be sentenced to death/ Does the law provide that a person with mental disorders may not be executed?

Limited transparency and lack of access to trial documents prevent a full reconstruction of the phenomenon. Nevertheless, there is an indication that people with mental disorders were sentenced to death for drug offences and executed in **Singapore** – despite the country being a party to the Convention of Rights of Persons with Disabilities (CRPD) which, among others prohibits the imposition of the death penalty on people whose mental and intellectual disabilities have impeded their effective defence. Singaporean law does not prohibit the sentencing or execution of individuals with mental disorders. However, section 33B of the Misuse of Drugs Act, provides judicial discretion to avoid the imposition of the penalty under certain sentencing criteria, among which individual's "abnormality of mind" that substantially impaired their mental responsibility at the time of the offence can be considered.⁵⁰

Among the people sentenced to death and/or executed for drug offences are:

- **Nagaenthran K Dharmalingam**, a Malaysian citizen sentenced to death in 2011 for importing with the intent to trafficking 42.72 grams of diamorphine; and executed in April 2022.⁵¹ Mr Dharmalingam experienced mental health issues and was found to have an intellectual disability (in the form of 'borderline intellectual functioning', an IQ of 69, and ADHD, among others). Mr Dharmalingam's mental health reportedly further deteriorated since his execution was first announced in 2021 (after which it had been suspended pending legal challenges, and then rescheduled);⁵²
- **Pausi bin Jefridin**, a Malaysian national, was sentenced to death for drug trafficking in 2010 when he was 25 years old. During subsequent appeals, the court accepted that Pausi was a mere courier and heard evidence that he had an IQ of 67 - meeting the international standard of intellectual disability (IQ under 70). Nevertheless, his death sentence was upheld. News reports indicate that Pausi's execution was

⁵⁰ Chan, W. 'Escape from the hangman's noose? Singapore's discretionary death penalty for drug traffickers. (Singapore: Yong Pung How School of Law, 2023) p 84.

https://ink.library.smu.edu.sg/cgi/viewcontent.cgi?article=6284&context=sol_research

⁵¹ Yvette Tan, 'Singapore executes man on drugs charge, rejecting mental disability plea' (BBC, 27 April 2022) <https://www.bbc.com/news/world-asia-61239221>

⁵² Girelli and Larasati, 'The Death Penalty for Drug Offences: Global Overview 2021' (London: Harm Reduction International, 2022), https://hri.global/wp-content/uploads/2022/10/HRI_Global_Overview_2021_Final-1.pdf.

scheduled for 16 February 2022 and later halted pending judicial review.⁵³ It is unclear whether Pausi is still currently awaiting execution.

- **Roszaidi bin Osman**, sentenced to death for drug offences in 2019, was commuted to life imprisonment on the ground of diminished responsibility in 2022.⁵⁴

Other individuals sentenced to death for drug trafficking reportedly experienced mental health issues, including severe depression, anxiety, and suicidal ideations.⁵⁵

Q11. Does an offender charged with a capital offence have the right in all circumstances laid down in substantive law, in the law of criminal procedure or guaranteed by the Constitution:

(a) To be presumed innocent until proven guilty according to law?⁵⁶

In some retentionist countries, drug laws envisage statutory presumptions which are in conflict with the presumption of innocence, as they shift the burden of proof from the prosecution to the defendant.

Section 37 of **Malaysia's** Dangerous Drugs Act 1952 stipulates that anyone found with specified amounts of certain drugs, or in possession or control of objects or premises in which specified amounts of certain drugs are discovered, can be found guilty of drug trafficking and sentenced to death without any further evidence linking them to the drugs. In these circumstances, the burden of proof is again effectively shifted to the defendant. Amnesty International recently highlighted that under Malaysian law, criminal cases cannot be reopened on the grounds of newly discovered facts following a final judgment and noted that these fair trial violations are particularly concerning in a country where the majority of people on death row have been convicted of drug trafficking.⁵⁷ In April 2019, the Malaysian Federal Court in the *Atenza* judgment declared the double presumption (of possession and control of the substances and therefore of intent to traffic) contained in Section 37A unconstitutional,

⁵³ Ibid.; Nor Ain Mohamed Radhi, 'Malaysian Pausi bin Jefridin due to be hanged today granted stay of execution' (New Straits Times, 16 February 2022) <https://www.nst.com.my/news/crime-courts/2022/02/771914/malaysian-pausi-jefridin-due-be-hanged-today-granted-stay-execution>.

SG Court. Roszaidi bin Osman v PP. Diminished Responsibility and the Mandatory Death Penalty in Drug Trafficking Cases: Roszaidi bin Osman v PP [2022] SGCA 75

<https://www.judiciary.gov.sg/judgments/case-briefs-by-smu/roszaidi-bin-osman-v-pp>

⁵⁵ See for example judgments [2023] SGHC 235,

<https://www.singaporelawwatch.sg/Portals/0/Docs/Judgments/2023/%5b2023%5d%20SGHC%20235.pdf>; [2023] SGHC 165

[https://www.singaporelawwatch.sg/Portals/0/Docs/Judgments/2023/%5b2023%5d%20SGHC%20165%20\(revised\).pdf](https://www.singaporelawwatch.sg/Portals/0/Docs/Judgments/2023/%5b2023%5d%20SGHC%20165%20(revised).pdf);

⁵⁶ Unless specified, excerpt from Sander, Girelli and Cots Fernandez, 'The Death Penalty for Drug Offences: Global Overview 2019' (London: Harm Reduction International, 2020), https://hri.global/wp-content/uploads/2023/02/HRI-DeathPenaltyReport_2019_Final_web.pdf.

⁵⁷ Amnesty International, 'Fatally Flawed: Why Malaysia Must Abolish the Death Penalty', (London: Amnesty International, 2019). <https://www.amnesty.org/en/documents/act50/1078/2019/en/>

because of the “real risk that an accused might be convicted of drug trafficking in circumstances where a significant reasonable doubt remains”.⁵⁸ According to civil society, the practical impact of the decision has been limited.⁵⁹

In **Singapore**, Section 18 of the Misuse of Drugs Act stipulates that persons found with specified amounts of certain drugs, or in possession of keys to a building or vehicle in which drugs are found, are presumed guilty of drug trafficking. The courts have interpreted this provision rather narrowly, where the presumed knowledge is knowledge of the precise nature of the controlled drug in question.⁶⁰

A similar presumption can also be found in **Pakistan’s** Control of Narcotic Substances Act (CNSA), but the death penalty was removed as a possible punishment for relevant drug offences in July 2023.

(b) To counsel of his or her own choosing, at public expense, in accordance with the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, at all stages of the proceedings, from the moment that he or she is arrested?⁶¹

The right to competent and effective counsel in all stages of the proceedings is not always guaranteed in capital drug cases, because of practical obstacles and/or legal or policy limitations. Below are some examples.

In **Malaysia**, while the right to legal counsel is guaranteed in the constitution, its enjoyment was reportedly considerably obstructed in the reporting period, particularly for those who cannot afford to hire a lawyer independently. According to research published by Amnesty International in 2019, legal representatives are reportedly not assigned to a case until the trial is due to start, leaving defendants without legal assistance immediately following arrest, during questioning and for pre-trial periods that may extend from two to five years.⁶² In many of the cases considered by Amnesty International, if and when legal assistance was available, concerns were expressed that counsel was incompetent, inexperienced, or did not conduct themselves appropriately when representing people of less advantaged backgrounds during

⁵⁸ Bernama ‘Double presumptions for drug-trafficking conviction struck down.’ The Star, 6 April, 2019) <https://www.thestar.com.my/news/nation/2019/04/06/double-presumptions-for-drugtrafficking-conviction-struck-down/>

⁵⁹ For other obstacles to the enjoyment of this right, see Antolak-Saper. N, Kowal. S, Lindsey. S, Chow Ying, N, Kananatu. T, Drug Offences and the Death Penalty in Malaysia: Fair Trial Rights and Ramifications (Monash University, 2020) https://hri.global/wp-content/uploads/2022/10/Malaysia_Death_Penalty_-_Fair_Trial_-_Monash_ADPAN-1.pdf

⁶⁰ Chen, S and Khng, NP-E. ‘Possession and knowledge in the Misuse of Drugs Act: Nagaenthran a/l K Dharmalingam v. Public Prosecutor.’ (Singapore Law Review, 2012) 30:181-95.

⁶¹ Unless specified, excerpt from Sander, Girelli and Cots Fernandez, ‘The Death Penalty for Drug Offences: Global Overview 2019’ (London: Harm Reduction International, 2020), https://hri.global/wp-content/uploads/2023/02/HRI-DeathPenaltyReport_2019_Final_web.pdf.

⁶² Amnesty International, ‘Fatally Flawed: Why Malaysia Must Abolish the Death Penalty’, (London: Amnesty International, 2019). <https://www.amnesty.org/en/documents/act50/1078/2019/en/>

trial.⁶³ Due to limited resources available to them, local court-appointed lawyers often face obstacles in gathering and challenging evidence, which would inevitably impede their ability to provide adequate and effective legal representation. Among others, such limited funding often prevents the defence from obtaining independent expert witnesses and covering basic costs.⁶³

The right to legal counsel is guaranteed in **Indonesia's** Criminal Procedure Code (KUHAP), yet in practice people arrested for drug offences are often either not permitted nor provided access to a lawyer until weeks or months after their arrest. Out of 100 death penalty cases analysed by the Institute of Criminal Justice Reform (ICJR) between 2017 and 2019, legal assistance at the investigation phase has only been confirmed in 11.⁶⁴ Research published in 2019 concluded that when an accused detainee is finally granted access to legal counsel, the quality of the legal assistance provided is often poor, with lawyers reportedly not concerned about protecting the rights of the defendant.⁶⁵ The seven people sentenced to death interviewed in the above-mentioned research indicated that their lawyers were not interested in their cases, met with them infrequently, were not always present during their trials and did not challenge the evidence.

In **Iran**, drug-related cases are under the jurisdiction of the Islamic Revolutionary Courts, which reportedly operate with considerably lower transparency and guarantee fewer human rights standards than ordinary courts in the country.⁶⁶ Many defendants charged with drug offences in Iran reportedly rely on court-appointed lawyers as they lack the funds to pay for their own lawyer, and many people accused of drug-related offences have reported not having access to a lawyer throughout their detention and trials, or only meeting their court-appointed lawyer during trial.⁶⁷

Article 48 of the 2015 Code of Criminal Procedure of Iran provides for the right to legal counsel from the start of detention but stipulates defendants accused of certain capital crimes may be denied access to an independent lawyer of their own choosing during the investigation phase – a period which may last for months.⁶⁸ Moreover, some defendants who have been able to

⁶³ Antolak-Saper. N, Kowal. S, Lindsey. S, Chow Ying. N, Kananatu. T, Drug Offences and the Death Penalty in Malaysia: Fair Trial Rights and Ramifications. (Monash University, 2020) https://hri.global/wp-content/uploads/2022/10/Malaysia_Death_Penalty_-_Fair_Trial_-_Monash_ADPAN-1.pdf

⁶⁴ ICJR Menyelidik Keadilan Yang Rentan: Hukuman Mati dan Penerapan Fair Trial di Indonesia, 161. (Jakarta: Institute for Criminal Justice Reform, 2019). <http://icjr.or.id/data/wp-content/uploads/2019/01/Menyelidik-Keadilan-Yang-Rentan.pdf>.

⁶⁵ Berrih. C. and Kontras NGO Dehumanized: The Prison Conditions of People Sentenced to Death in Indonesia, (ECPM. 2019)(59

⁶⁶ Girelli, Jofré and Larasati, 'The Death Penalty for Drug Offences: Global Overview 2023 (London: Harm Reduction International, 2024), <https://hri.global/wp-content/uploads/2024/03/HRI-GO2023-finalfinal-WEB.pdf>.

⁶⁷ Javid-Tehrani, B 'Fair trials for the accused in drug-related offences.' In: Danesh, T and Amiri-Moghaddam, M (eds) (2017) Iran Human Rights Review: Due Process, 45. (London: The Foreign Policy Centre, 2017). <https://fpc.org.uk/wp-content/uploads/2017/02/IHRR-Due-Process.pdf>.

⁶⁸ Abdorrahman Boroumand Center and Harm Reduction International. Joint Stakeholder Submission to the Working Group for The Universal Periodic Review, Third cycle, 4. (Harm Reduction International, 2019) <https://hri.global/publications/islamic-republic-of-iran-joint-stakeholder-submission-to-the-working-group-for-the-universal-periodic-review-third-cycle-34th-session-november-2019/>

hire their own lawyers have reported that their lawyer of choice was prohibited from defending them during the trial and only given permission to submit a written defence.⁶⁹ Finally, the Abdorrahman Boroumand Center for Human Rights in Iran reported that experienced lawyers sometimes avoid criminal cases because of the physical and mental stress these entail, in turn, caused by the fact that “authorities conducting pre-trial investigations have a negative perception of defense lawyers and, despite the recent amendments to criminal procedure, continue to disregard the defendant’s right to legal representation”.⁷⁰

In **China**, a 2019 report by NGO The Rights Practice confirms that the role and independence of lawyers is so restricted by the state that effective legal counsel simply cannot be provided in death penalty cases.⁷¹ Chinese lawyers report barriers to providing effective legal representation, including obstacles to meeting their clients and accessing information about the case, limited disclosure by the prosecution, restrictions on conducting their own defence investigations, restrictions on presenting potentially mitigating evidence and calling witnesses, and having their submissions discounted by judges. The level of performance of some criminal defence lawyers has also been criticised: experienced lawyers brought in to provide legal assistance at the Supreme People’s Court review stage have reported that lawyers in earlier stages of the trial often fail to keep comprehensive case files and leave out key information. This poor-quality legal representation has been attributed, at least in part, to a lack of specialisation, the general absence of performance standards and a shortage of legal aid funding.

One case that has received a significant attention from the UN, including the Working Group on Arbitrary Detention, has been that of Mark Swidan, an American detained for drug manufacturing in November 2012 whose trial was postponed for 63 months. According to the Working Group on Arbitrary Detention’s sources, Mr Swidan’s first lawyer was ineffective and refused to visit his client because he claimed it was too far to travel. Additionally, he refused to send Mr Swidan’s family any information, despite specific requests and them having power of attorney. Mr Swidan was later assigned a different lawyer, but this one did not speak English and rarely answered letters from the family. During his sentencing hearing on 30 April 2019, where he received a death sentence, Mr Swidan was not allowed to speak to his lawyer.⁷²

⁶⁹ David-Tehrani, B (February 2017) ‘Fair trials for the accused in drug-related offences.’ In: Danesh, T and Amiri-Moghaddam, M (eds) (2017) *Iran Human Rights Review: Due Process*, 45. London: The Foreign Policy Centre.

⁷⁰ Abdorrahman Boroumand Center. *Children, Yet Convicted as Adults, Iran’s Justification for Child Executions Don’t Stand Up to Scrutiny*. (Washington DC: Abdorrahman Boroumand Center for Human Rights in Iran, 2019) 29. <https://www.iranrights.org/library/document/3629>

⁷¹ The Rights Practice *Respect for Minimum Standards? Interim Review of the Death Penalty in China*, . (London: The Rights Practice, 2019) p 7, 29-30. <https://www.rights-practice.org/Handlers/Download.ashx?IDMF=2a885eaf-8f27-4180-9cd0-20344ad47f50>

⁷² UN Working Group on Arbitrary Detention *Opinions Adopted by the Working Group on Arbitrary Detention at its eighty-sixth session, 18-22 November 2019, Opinion No. 72/2019 concerning Mark Swidan (China)*, UN Doc. A/HRC/WGAD/2019

In 2021, China adopted a new law on legal aid – effective from 1 January 2022 - that guarantees access to legal aid for, among others, people who may be sentenced to death and defendants in death penalty review cases who apply for legal aid.⁷³

In **Singapore**, despite the constitution guaranteeing the right to “consult and be defended by a legal practitioner of his choice” to all persons arrested, law enforcement officials can – and do – refuse a person’s request to meet a lawyer after their arrest for a “reasonable” period of time;⁷⁴ which has been interpreted by the courts as lasting up to 19 days.⁷⁵

(c) To the free assistance of an interpreter from the moment that he or she is arrested, if he or she does not understand or speak the language used by the police or in court⁷⁶?

The issue of interpretation is a critical one in capital drug cases, to the disproportionate representation of foreign nationals among people sentenced to death for drug offences,⁷⁷ and the fact that many of these defendants are apprehended at borders or crossing areas (such as airports).

Reports on capital cases in **Malaysia** suggest insufficient access to interpreters for accused persons who do not speak or understand the language used by the authorities, including in capital drug cases. According to recent research, “the Criminal Procedure Code requires courts to ensure trial proceedings are understood by the accused. For example, s 270(1) establishes the right of an accused to an interpreter’s translation of evidence presented in a language they do not understand;148 and under s 256(8), questions put to the accused must be in a language the accused understands. However, during court proceedings, it is at the court’s discretion as to whether documentary material must be translated to the accused. Importantly, the right to an interpreter is only entrenched during the trial procedure, and not

⁷³ Ministry of justice of the People’s Republic of China. ‘China adopts legal aid law’ (Beijing: Ministry of justice of the People’s Republic of China, 23 August 2021) http://en.moj.gov.cn/2021-08/23/c_653845.htm.

⁷⁴ Lee Mau Seng v Minister for Home Affairs [1971-1973] SLR ® 135 at [12], as reported by by Ho Lock Lai; see also <https://www.gov.sg/article/is-it-aconstitutional-right-to-have-access-to-a-lawyer-immediately-after-beingarrested>

⁷⁵ Hock Lai, H ‘The privilege against self-Incrimination and right of access to a lawyer.’ Singapore Academy Law Journal (2013): 839-40.

⁷⁶ Unless specified, excerpt from Sander, Girelli and Cots Fernandez, ‘The Death Penalty for Drug Offences: Global Overview 2019’ (London: Harm Reduction International, 2020), https://hri.global/wp-content/uploads/2023/02/HRI-DeathPenaltyReport_2019_Final_web.pdf.

⁷⁷ For more on this issue, see Harm Reduction International. Foreign Nationals and Drug Policy: Briefing Paper. (Oxford: Harm Reduction International, 2019) https://hri.global/wp-content/uploads/2022/10/HRI_Oxford_BriefingPaper_March2019_ForeignNationals_2_DecemberEdit_web.pdf and Girelli and Larasati, ‘The Death Penalty for Drug Offences: Global Overview 2021’ (London: Harm Reduction International, 2022), https://hri.global/wp-content/uploads/2022/10/HRI_Global_Overview_2021_Final-1.pdf.

during preliminary police investigation.”⁷⁸ This limitation to the courtroom means that in practice foreign nationals are not supported with interpretation in key stages, such as that of arrest or police interrogation, including those that lead to confessions.⁷⁹ This is confirmed by Amnesty International, which has reported cases where people who did not understand Malay were asked by police to sign documents in Malay which were later used in court.³⁶ According to official figures, foreign nationals make up over 40% of all death row prisoners in Malaysia, the large majority of whom have been charged with drug offences.⁸⁰ Not only do many of them face language and/or financial barriers, but they are also likely to possess limited knowledge of the Malaysian legal system.⁸¹ As rights groups have indicated, when foreign nationals are unable to secure effective legal representation, and/or are denied access to interpreters and translators (including when speaking to counsel) at the initial stages of the proceeding, it becomes very difficult to ensure a fair trial.

Lack of access to qualified interpreters in all stages of the proceeding is also suspected in many other countries, though lack of transparency and inaccessibility of court documents often prevents from verifying this information. For example, in **Indonesia**, trials – including capital drug trials – were held virtually during COVID-19, raising further unfair trial concerns.⁸² In at least one case where three foreign nationals were sentenced to death, the judgment does not mention interpreters being present during the hearing.⁸³

Q15. Is there a right to appeal to a court of higher jurisdiction in all cases?⁸⁴

In **China**, the right to appeal in death penalty cases is reportedly compromised by the reluctance of appeal courts to undertake substantive reviews of law and fact, and restrictions on the right to legal counsel. Participation of lawyers in the appeal process is reportedly limited, with the lack of comprehensive legal aid disproportionately impacting socio-economically

⁷⁸ Antolak-Saper, N, Kowal, S, Lindsey, S, Chow Ying, N, Kananatu, T. Drug Offences and the Death Penalty in Malaysia: Fair Trial Rights and Ramifications. (Monash University, 2020) https://hri.global/wp-content/uploads/2022/10/Malaysia_Death_Penalty_-_Fair_Trial_-_Monash_ADPAN-1.pdf

⁷⁹ Ibid.

⁸⁰ Among others, Girelli, Jofré and Larasati, ‘The Death Penalty for Drug Offences: Global Overview 2023’ (London: Harm Reduction International, 2024), <https://hri.global/wp-content/uploads/2024/03/HRI-GO2023-finalfinal-WEB.pdf>.

⁸¹ Anti-Death Penalty Asia Network, ECPM, The Advocates for Human Rights, Harm Reduction International, The World Coalition Against the Death Penalty, Kuala Lumpur and Selangor Chinese Assembly Hall Civil Rights Committee (March 2018) Joint Stakeholder Report for the 31st Session of the Working Group on the University Periodic Review, 5. https://www.hri.global/files/2018/11/06/Joint_report_UPR31_-_Death_penalty_in_Malaysia.pdf.

⁸² For more details, see Larasati and Girelli, ‘The Death Penalty for Drug Offences: Global Overview 2020’ (London: Harm Reduction International, 2021), https://hri.global/wp-content/uploads/2023/02/HRI_Death_Penalty_Report_2020_FINAL.pdf.

⁸³ Larasati and Girelli, ‘The Death Penalty for Drug Offences: Global Overview 2020’ (London: Harm Reduction International 2021), https://hri.global/wp-content/uploads/2023/02/HRI_Death_Penalty_Report_2020_FINAL.pdf.

⁸⁴ Unless specified, excerpt from Sander, Girelli and Cots Fernandez, ‘The Death Penalty for Drug Offences: Global Overview 2019’ (London: Harm Reduction International, 2020), https://hri.global/wp-content/uploads/2023/02/HRI-DeathPenaltyReport_2019_Final_web.pdf.

marginalised defendants.⁸⁵ This is reported to be one of the factors behind the court's incredibly low reversal rate.

Q18. Is there a right for a person sentenced to death to seek commutation of the sentence or a pardon from the State authorities (e.g. the President, the sovereign or a pardons board)?

In **Singapore**, pardons are reportedly limited, with only six having been granted since Singapore gained independence in 1965, the last of which was in 1998.⁸⁶

In **Malaysia**, the right to seek pardon is enshrined in Article 42 of the constitution, but according to local civil society, there are no clear rules governing the process. With Board of Pardon meetings being infrequent and sporadic, petitioners generally do not have the opportunity to present their cases. The board is also not required to disclose how it reaches its decision.⁸⁷ Amnesty International has also noted that Malaysian law does not guarantee the right to legal counsel for the pardon application process.¹⁶⁷ While several pro-bono initiatives have been established to fill this gap, the organisation reports that a lack of resources renders the service quite limited and intermittent. The quality of pardon petitions has been found to vary enormously, depending on whether they have been prepared with the support of a legal representative, and the lack of access to legal counsel reportedly disproportionately impacts foreign nationals.⁸⁸

Q23(b). Have any persons been executed in public during the survey period?

In the reporting period, public executions for drug offences have reportedly taken place in **North Korea**. According to media sources, in April 2019 a person was sentenced to death for drug trafficking in a public trial and executed "on the spot" by firing squad.⁸⁹ More may have been carried out, especially considering that drug-related executions seem to have increased in recent years,⁹⁰ but this cannot be confirmed due to censorship.

⁸⁵ The Rights Practice, Respect for Minimum Standards? Interim Review of the Death Penalty in China, . (London: The Rights Practice, 2019) p 7. <https://www.rights-practice.org/Handlers/Download.ashx?IDMF=2a885eaf-8f27-4180-9cd0-20344ad47f50>

⁸⁶ Pascoe, D Last Chance for Life: Clemency in Southeast Asian Death Penalty Cases, 103-4. (London: Oxford University Press, 2019). 103-4.

⁸⁷ Antolak-Saper, N. et al., 'Drug Offences and the Death Penalty: Fair Trial Rights and Ramifications', (Australia: Monash University, 2020). https://www.monash.edu/_data/assets/pdf_file/0016/2220622/MU_ADPAN_report_v7.pdf

⁸⁸ Amnesty International. 'Fatally Flawed: Why Malaysia Must Abolish the Death Penalty', 37. (London: Amnesty International). <https://www.amnesty.org/en/documents/act50/1078/2019/en/>

⁸⁹ Yuna H. Drug dealer executed in South Hamgyong Province. (North Korea: Daily NK, 8 April 2019) <https://www.dailynk.com/english/drug-dealer-executed-in-south-hamgyong-province/>

⁹⁰ See Wootae L. et al., 'White Paper on Human Rights in North Korea' (Seoul: KINU, 2024), https://www.kinu.or.kr/eng/module/report/view.do?nav_code=eng1674806000&category=74&idx=12535