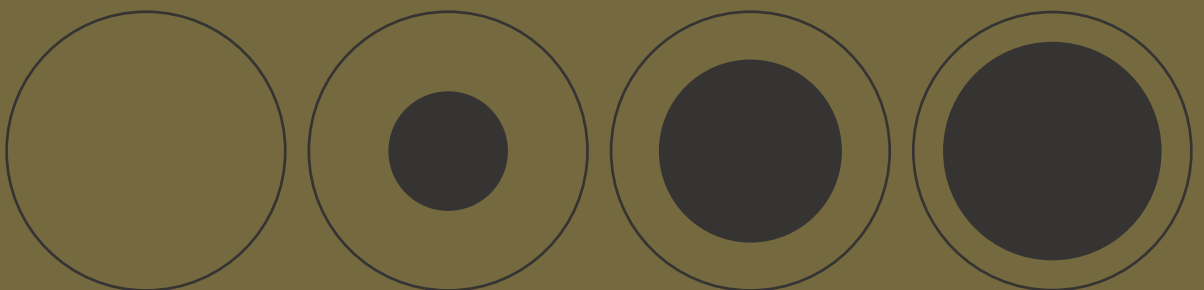


THE DEATH PENALTY FOR DRUG OFFENCES: GLOBAL OVERVIEW 2021





**The Death Penalty for Drug Offences:
Global Overview 2021**

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Harm Reduction International (HRI) is a leading non-governmental organisation dedicated to reducing the negative health, social and legal impacts of drug use and drug policy. We promote 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.

The organisation 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, many of whom provided advice and assistance throughout the drafting process. We would specifically like to thank the Abdorrahman Boroumand Centre for Human Rights (ABC), Ambika Satkunanathan, the Anti-Death Penalty Asian Network (ADPAN), the Bahrain Institute for Rights and Democracy (BIRD), the European Saudi Organisation for Human Rights (ESOHR), the Human Rights Commission of Pakistan (HRCP), the Institute for Criminal Justice Reform (ICJR), Kirsten Han, and Project 39A (National Law University, Delhi).

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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 eleventh 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 law. The *Global Overview 2021* presents an analysis of key developments related to the death penalty for drug offences in 2021, with a focus on analysing and disseminating available figures on drug-related executions and death sentences. An overview is compiled for each category, including case studies where relevant. A supplementary analysis of other national policy developments can be found at the end of this report.

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, and inducing or coercing others into using drugs. For more information on the drug offences punishable by death by jurisdiction, visit: www.hri.global/death-penalty-2021.

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; 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.4/2007/5 (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 row 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. Total figures are calculated by using the minimum confirmed figures.

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.³ This means that they have not carried out executions for any crime in the past 10 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.”⁴ 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 10 drug-related death sentences per year were imposed in the past five years.



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.



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.



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

3 Brunei Darussalam, Lao PDR, Mauritania, Myanmar, South Korea, and Sri Lanka. See ‘Death Sentences and Executions in 2020’ (London: Amnesty International, 2021), <https://www.amnesty.org/en/documents/act50/3760/2021/en/>.

4 Ibid., pag. 58.

Contents

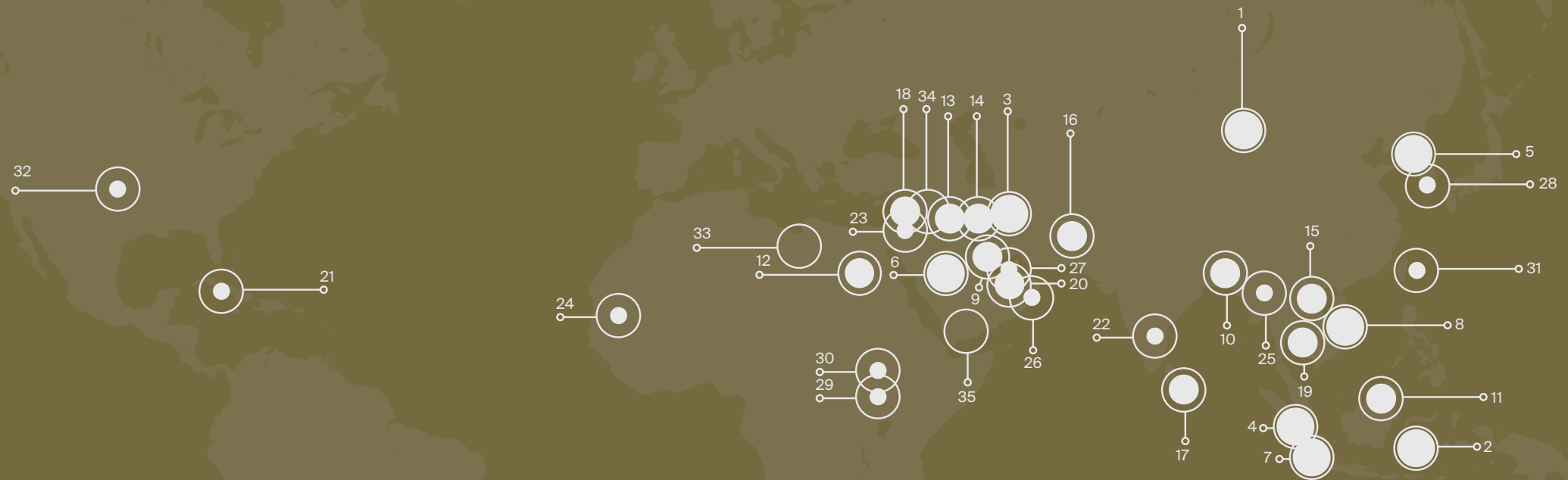
Executive Summary	12
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2021 in a Snapshot	16
--------------------	----

The Death Penalty for Drug Offences at the United Nations	18
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The Death Penalty for Drug Offences: Global Overview 2021	High Application States	21
	Low Application States	31
	Symbolic Application States	36
	Insufficient Data	40
	Other National Developments	42

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. Brunei Darussalam
12. Egypt
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. Cuba
22. India
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

In 2021, 35 countries retain the death penalty for a range of drug offences. Civil society had grounds for optimism at the beginning of the year, thanks to some promising developments in 2020: in Singapore, no executions took place for the first time since 2013; and in Saudi Arabia, Prince Salman declared a moratorium on drug-related executions at the beginning of 2020. Meanwhile, in the United States, the Biden-Harris victory in the 2020 elections raised hopes for new legislation abolishing the federal death penalty in the US.⁵

At the end of 2021, the situation appears more uncertain. While no executions were reported in Saudi Arabia and Singapore in 2021, a sudden increase in executions was noted in Iran. This sharp reversal of the 2018-2020 trend, together with unexpected news of death sentences in low application countries, resulted in a rise of both drug-related sentences and executions in 2021.

As of December 2021, Harm Reduction International (HRI) recorded at least 131 executions for drug offences globally, a 336% increase from 2020. It is imperative to note that this number is likely to represent only a fraction of all drug-related executions carried out globally.

HRI research confirmed that drug-related executions took place in China and Iran, and indicates that drug-related executions were likely to have taken place in North Korea and Vietnam. China and Iran are amongst the most opaque when it comes to data on their use of the death penalty. In China, information on the use of the death penalty is classified as a state secret; therefore, this report is unable to provide a verified figure for executions. In Iran, where at least 131 drug-related executions took place, civil society faces significant obstacles in reporting and verifying executions. The countries where executions for drug offences were likely to have taken place are North Korea, a closed dictatorship on which information is virtually impossible to obtain, and Vietnam, which also classifies the use of capital punishment as a state secret.

In this scenario, it emerges that **the group of countries actively resorting to capital punishment as a central tool of drug control is shrinking, but is also more and more characterised by opacity and secrecy, if not outright censorship. Transparency and monitoring will thus be key challenges for institutional as well as civil society actors working towards death penalty abolition.** This was reiterated by the latest Human Rights Council Resolution on the question of the death penalty, adopted in October 2021, which emphasised retentionist countries' obligations around transparency and information sharing. In this document, the Council also noted that “discrimination is aggravated when transparency does not exist or is insufficient, and that transparent reporting and access to information can expose discriminatory practices or impact in the imposition and application of the death penalty.”⁶

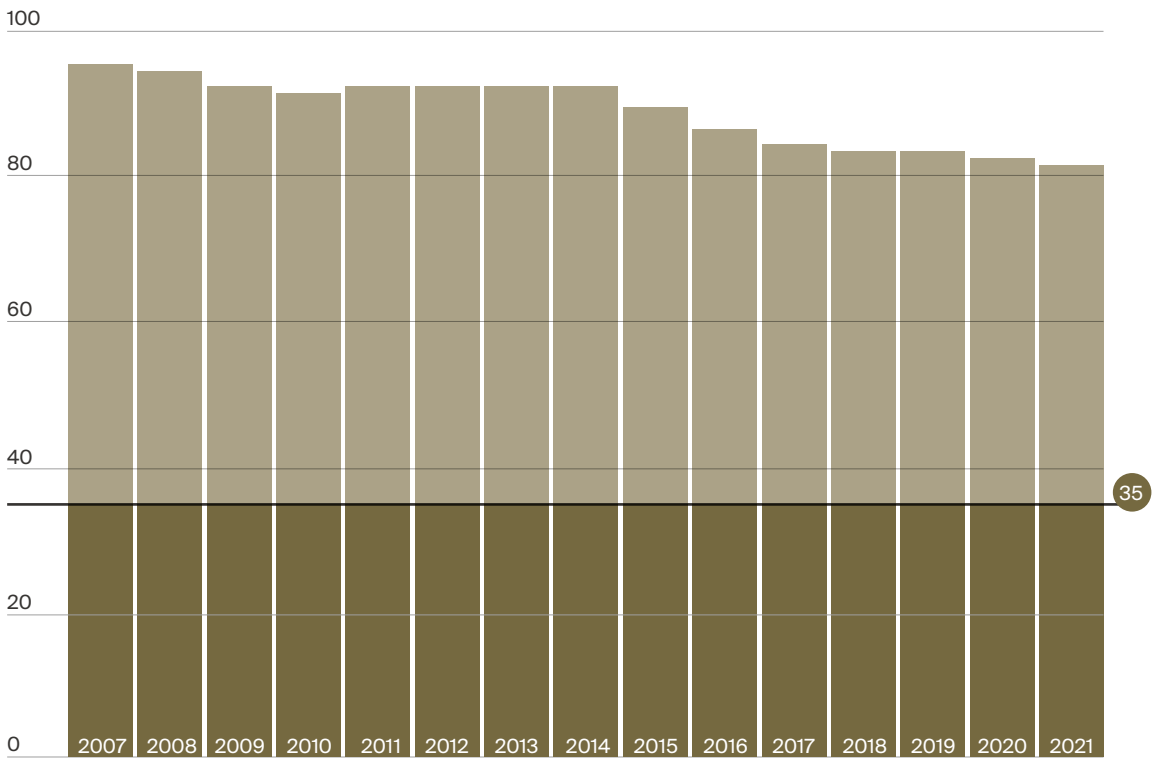
Developments in 2021 confirmed the conclusions of the *Global Overview 2020*, in relation to the exceptional drop in drug-related executions witnessed in 2020. Firstly, that **progress is fragile and often temporary**, if not sustained by long-term, comprehensive reforms; secondly, that **executions are just the ‘tip of the iceberg’ - the most visible element of a broader punitive system which should be reformed in its entirety.**

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 removed the death penalty from their legislation in recent times: between 2007 and 2021, several countries abolished the death penalty, but none of them were countries that retain capital punishment for drug offences.

6 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>.

RETENTIONIST AND ABOLITIONIST-IN-PRACTICE COUNTRIES (2007-2021)⁷

- Retentionist and abolitionist-in-practice, including drug offences
- Retentionist and abolitionist-in-practice, not for drug offences



⁷ Definitions and classifications of retentionist countries and countries 'abolitionist-in-practice' countries, as well as total figures, are from Amnesty International. They can be accessed at: <https://www.amnesty.org/en/what-we-do/death-penalty/>.

Evidence of such resistance also emerges from the figures on drug-related death sentences in 2021, which remained mostly steady, and in some cases increased. **Throughout 2021, a minimum of 237 death sentences were confirmed to have been imposed in 16 countries (an 11% increase from 2020), with the highest number of known sentences documented in Indonesia.** Also notable is a staggering rise in the number of low application countries in which drug-related death sentences were reported: from three in 2020 to nine in 2021. While potentially due to increased reporting rather than merely an increased reliance on capital punishment by courts, it is nevertheless a significant finding, which urges renewed attention to retentionist countries which do not actively execute.

An emerging trend is the use of the death penalty for drug offences as a tool for political pressure. This tactic was denounced in Bahrain and in China, with reference to the upholding of the death sentence for drug trafficking against Canadian citizen Robert Lloyd Schellenberg. In this case, commentators suggested the imposition of such a harsh punishment may be an example of ‘hostage diplomacy’ in response to the arrest by Canadian police of senior Huawei executive Meng Wanzhou, and her potential extradition to the US.

Finally, the death penalty for drug offences remained a topic of policy discussions in 2021. Malaysia’s plan to table an amendment to the death penalty for drug offences in late 2022, and Pakistan’s Law Ministry proposal to remove death as a punishment for drug crimes, may signal a readiness to restrict the scope of implementation of capital punishment. However, proposals to reintroduce the death penalty for drug trafficking in the Philippines and Tonga raised concerns. While these attempts in the Philippines and Tonga remain unsuccessful as of February 2022, these debates remind us 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.

The Death Penalty for Drug Offences at the United Nations

The imposition of capital punishment as a tool of drug control was the subject of a number of UN processes, particularly in human rights fora. Among others, in February 2021, the Human Rights Council held the Biennial High Level Panel Discussion on the Question of the Death Penalty, focusing on deterrence. The discussion featured academic and UN experts as well as state representatives. During the discussion, panellists reiterated that the death penalty does not have a unique deterrent effect on drug trafficking, and the High Commissioner for Human Rights underlined the urgency of moving away from death as a form of punishment.⁸ In July 2021, the UN Working Group on Arbitrary Detention, in its watershed report on arbitrary detention in the context of drug policies, recalled that “imposing the death penalty for drug-related offences is incompatible with international standards on the use of the death penalty.”⁹ Soon thereafter, in October 2021, the Human Rights Council adopted a new resolution on the question of the death penalty, which urged retentionist states to improve data collection and sharing on the use of capital punishment.¹⁰

Drug control bodies were less outspoken. In the past, key UN agencies on drugs (the UN Office on Drugs and Crime and the International Narcotics Control Board) have publicly stated their opposition to the death penalty, noting that its application does not meet the threshold of the “most serious crimes” under international human rights law.¹¹ In 2019, UNODC also reiterated that “the three international drug control conventions [...] cannot be used to justify the use of the death penalty for drug-related offences alone”, and that the imposi-

8 Human Rights Council, ‘High-level panel discussion on the question of the death penalty: Report of the Office of the High Commissioner for Human Rights’, UN Doc. A/HRC/48/38 (3 August 2021), <https://undocs.org/A/HRC/48/38>.

9 Human Rights Council, ‘Arbitrary detention relating to drug policies. Study of the Working Group on Arbitrary Detention’, UN Doc A/HRC/47/40 (18 May 2021), <https://undocs.org/A/hrc/47/40>.

10 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).

11 See: International Narcotics Control Board (2020), ‘Report 2019’ (Vienna: INCB), https://www.incb.org/documents/Publications/AnnualReports/AR2019/Annual_Report_Chapters/English_ebook_AR2019.pdf; UNODC (27 June 2019), ‘Statement attributable to the UNODC spokesperson on the use of the death penalty.’ Available at: <https://www.unodc.org/unodc/en/press/releases/2019/June/statement-attributable-to-the-unodcspokesperson-on-the-use-of-the-death-penalty.html>.

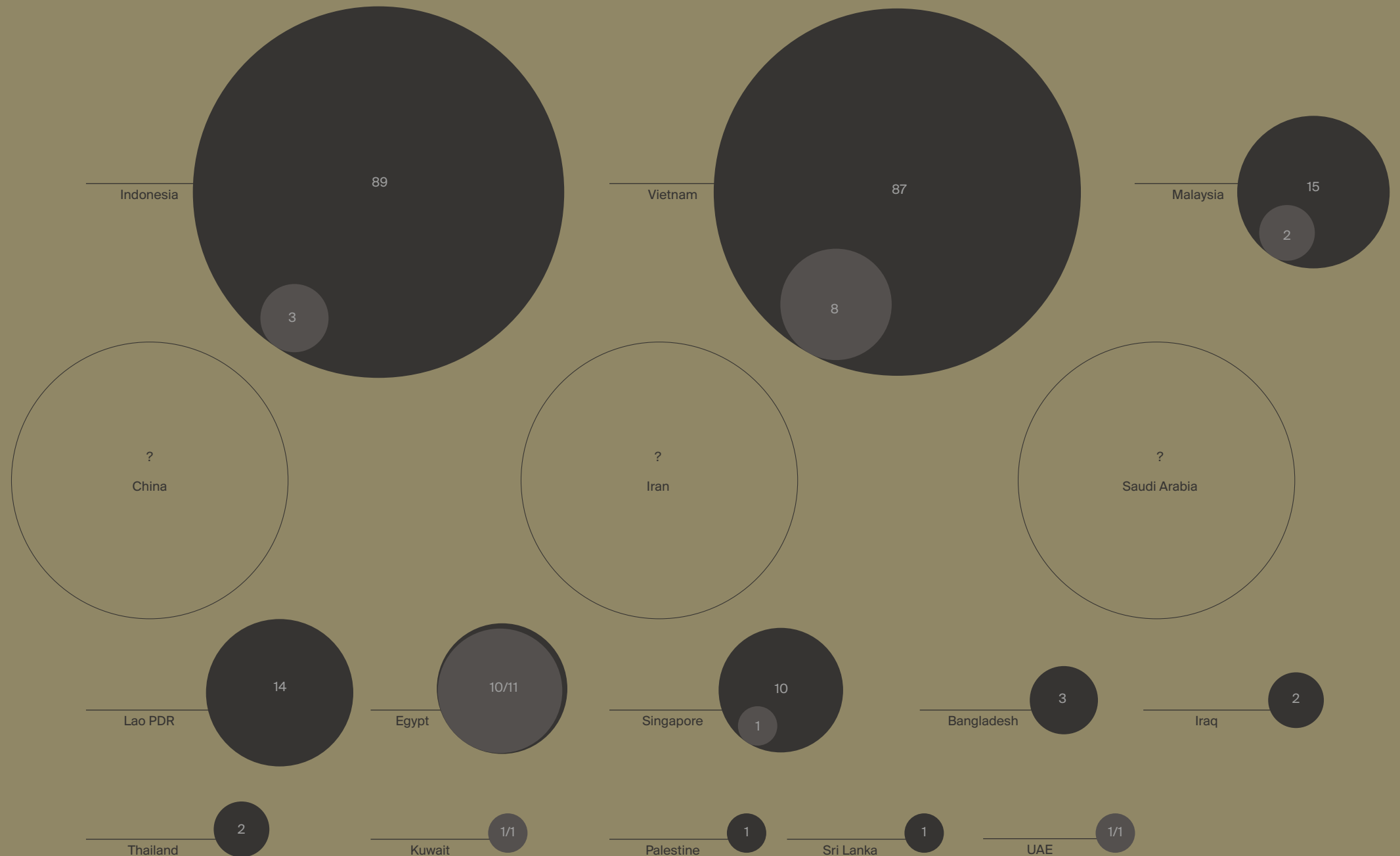
2021 in a Snapshot



MINIMUM CONFIRMED DEATH SENTENCES FOR DRUG OFFENCES, 2021

● Total number of confirmed death sentences for drugs ● Number of death sentences given to foreign nationals

- **At least 131 people were executed for drug offences in 2021** – a 336% increase from 2020. This number likely represents only a fraction of all drug-related executions carried out globally.
- Executions were confirmed to have taken place in Iran and China, and were likely carried out in Vietnam and North Korea, although **severe lack of transparency precludes confirmation of figures.**
- **No drug-related executions were carried out in Saudi Arabia**, for the first year in over a decade.
- **No one was executed in Singapore** for the second consecutive year.
- A minimum of **237 death sentences for drug crimes were reported in at least 16 countries.** This marks an almost 11% increase from 2020, and a 29.5% increase from 2019.
- Roughly a **tenth** of global confirmed death sentences for drug offences were imposed against foreign nationals.
- At least **3000 people are believed to be on death row for drug offences around the world** - likely many more. In 2021, this figure increased in Malaysia and Indonesia, while a 27% drop was observed in Thailand.
- While UN human rights processes closely scrutinised the imposition of capital punishment as a tool of drug control in 2021, UN drug control bodies failed to provide clear guidance. The United Nations Office on Drugs and Crime (UNODC) failed to mention the death penalty in its new 2021-2025 strategy, in spite of the Office's purported commitment to human rights.

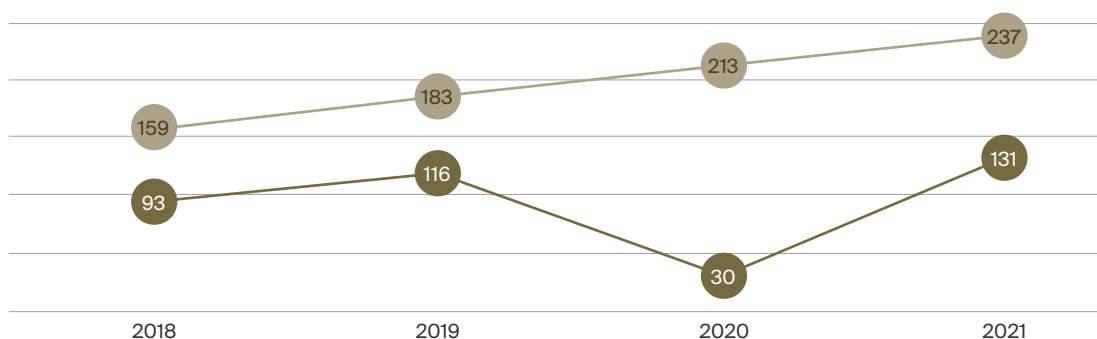


tion of capital punishment for these crimes impedes international cooperation to fight drug trafficking.¹² In November 2021, civil society appealed to UNODC to condemn the planned execution of Nagaenthran K Dharmalingam for a drug offence in Singapore (for more details on the case, see case study, pag.29). UNODC did not issue a public response.

Amnesty International denounced the failure of UNODC to even mention the death penalty in its new strategy, in spite of the Office’s purported commitment to human rights:¹³ “[...] the abolition of the death penalty was excluded from UNODC’s strategy for 2021-2025, and data around the use of this punishment as a policy aimed at reducing the supply of drugs continues to be missing from its annual reports. Prioritising drug enforcement indicators that ignore the harm they cause on people contributes to distorted perceptions around the effectiveness of drug policies and facilitates the continued violation of human rights.”¹⁴ The same concern was reiterated by Harm Reduction International through an oral statement at the 64th session of the UN Commission on Narcotics Drugs.¹⁵

KNOWN DEATH SENTENCES AND EXECUTIONS FOR DRUG OFFENCES GLOBALLY (2018–2021)

● Executions for drug offences ● Death sentences for drug offences



¹² Ibid.

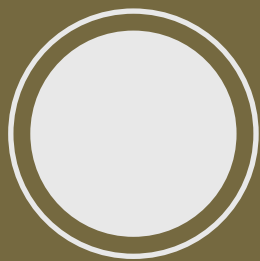
¹³ 'UNODC Strategy 2021 – 2025', available at: <https://www.unodc.org/unodc/en/strategy/full-strategy.html>.

¹⁴ Amnesty International (26 June 2021), 'World Drugs Day: UNODC Must Integrate Ending Drug-Related Executions in Its Work'. Available at: <https://www.amnesty.org/en/wp-content/uploads/2021/07/ACT5043472021ENGLISH.pdf>; see also: Amnesty International et al. (5 March 2021), 'Joint Statement – UN Crime Congress: abolition of the death penalty must be an integral part of crime prevention programmes and criminal justice reforms'. Available at: https://www.hri.global/files/2021/03/29/UN_Crime_Congress_death_penalty_abolition_joint_statement_2021.pdf

¹⁵ Statement by Harm Reduction International at UN Commission on Narcotic Drugs, 64th Session, Plenary: Item 4 – Strategic management, budgetary and administrative questions' (13 April 2021). Available at: <http://cndblog.org/2021/04/plenary-item-4-strategic-management-budgetary-and-administrative-questions-2/>.

The Death Penalty for Drug Offences: Global Overview 2021

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*.¹⁶



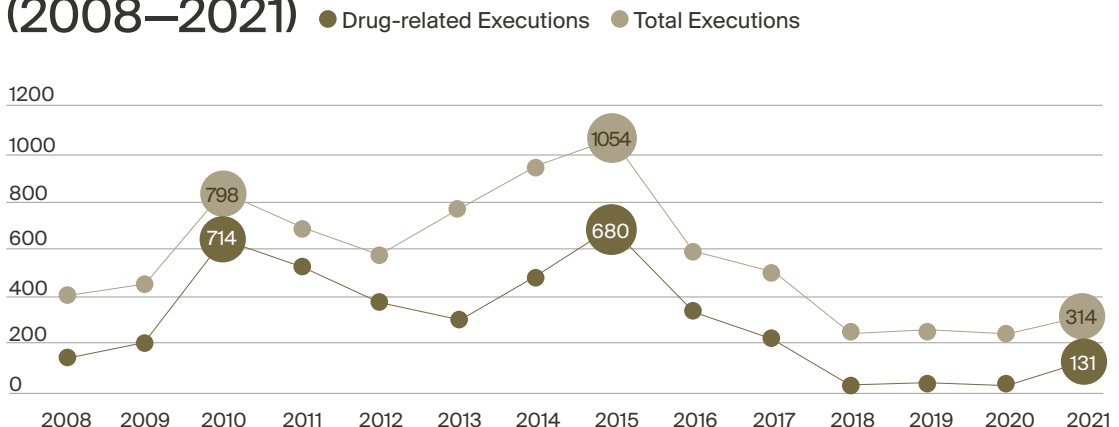
HIGH APPLICATION STATES

Country	Executions for drugs (%age of total)		Death sentences for drugs		People on death row for drugs (%age of total)	
	2021	2020	2021	2020	2021	2020
China	Unknown (-)	Unknown (-)	Unknown (-)	Unknown (-)	Unknown (-)	Unknown (-)
Indonesia	0 (-)	0 (-)	89+	77	260 (66%)	214 (60%)
Iran	131+ (42%)	25+ (10%)	Unknown	Unknown	2000+ (unknown)	2000+ (unknown)
Malaysia	0 (-)	0 (-)	15+	25+	927 (67.8%)	912 (68.9%)
North Korea (DPRK)	Unknown (-)	Unknown (-)	Unknown	Unknown	Unknown (-)	Unknown (-)
Saudi Arabia	0 (-)	5 (18.5%)	Unknown	Unknown	Unknown (-)	Unknown (-)
Singapore	0 (-)	0 (-)	10+	8+	30+ (55%)	27+ (50%)
Vietnam	Unknown (-)	Unknown (-)	87+	79+	Unknown (-)	Unknown (-)

Eight countries are categorised as ‘high application’, as at least one drug-related execution took place and/or 10 or more death sentences were imposed for drug offences in the past five years. The number of countries classified by HRI as high application increased from 2020, as the decision was taken to move North Korea from the ‘insufficient data’ category (for more details, see case study, pag.25).

Throughout 2021, executions for drug offences were confirmed to have taken place in Iran (at least 131) and China (at least one, a Chinese woman). In China, state secrecy prevents reporting of accurate figures, however, the country is believed to carry out numerous executions (potentially in the thousands, according to Amnesty International).¹⁷ Figures from Iran, collected by the Abdorrahman Boroumand Centre for Human Rights in Iran, show a weighty increase in confirmed drug-related executions, from 25 in 2020 to 131 in 2021 - a 424% rise, against a 28% increase in total executions in the country. Concurrently, executions for drug crimes in Iran represented a higher percentage of total executions than in the previous year: from 10% to 42%, back to pre-amendment levels.¹⁸ 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 may be temporary, and linked, at least to some degree, to political circumstances.

MINIMUM CONFIRMED EXECUTIONS IN IRAN (2008–2021)



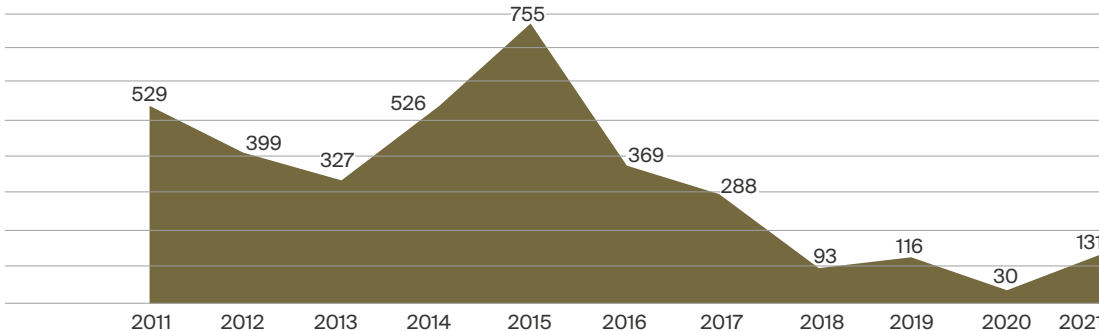
17 Amnesty International (2021), ‘Death Sentences and Executions 2020’ (London: Amnesty International), <https://www.amnesty.org/en/wp-content/uploads/2021/05/ACT5037602021ENGLISH.pdf>.

18 Ajeng Larasati and Giada Girelli (2021), ‘The Death Penalty for Drug Offences: Global Overview 2020’ (London, Harm Reduction International), https://www.hri.global/files/2021/04/07/HRI_Death_Penalty_Report_2020_FINAL.pdf.

In addition to China and Iran, it is **highly likely that executions were carried out** in two more countries characterised by extreme opacity of information: North Korea and Vietnam. Indeed, both countries regularly sentence people to death for drug offences, and both countries are believed to regularly execute individuals. In Vietnam, where dozens of drug-related death sentences are imposed every year, eleven execution centres are currently operational.¹⁹ **In North Korea, civil society consistently identifies drug offences amongst the main crimes for which individuals are executed, although there are no published records or figures.**

Equally notable are findings on the **absence of executions: in 2021, no executions for drug offences were carried out in Saudi Arabia for the first time in at least a decade** (although one individual was executed for multiple political crimes, as well as “promotion and use” of illicit substances). 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. At the same time, the moratorium has not yet been formalised, or finalised via law reform, meaning executions may restart at any time. According to civil society organisations such as the European Saudi Organisation for Human Rights,²⁰ 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.

KNOWN EXECUTIONS FOR DRUG OFFENCES GLOBALLY (2011–2021)



19 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>.

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

There were no executions for drugs or any other crimes in Indonesia for the fifth consecutive year. There were also no executions in Singapore for the second year in a row; one execution was announced in late 2021, but was later suspended pending judicial review and national as well as international outcry (for more details, see case study, pag. 29). 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.

On 29 December 2021, the Malaysian government announced that the special committee created in 2019 to reflect upon death penalty abolition will soon present its findings to the executive. The same statement also 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.”²¹

With Saudi Arabia and Singapore currently refraining from carrying out drug-related executions, **the group of states that actively executes individuals for these non-violent crimes is shrinking, and is more isolated than ever. At the same time, this group is increasingly characterised by secrecy, if not outright censorship, on the use of capital punishment, in clear violation of its human rights obligations.** This poses huge challenges to both institutional and civil society actors monitoring and advocating against capital punishment. For the same reason, and absent more details, the total number of drug-related executions in 2021 should be treated as the minimum confirmed figure. The total number is higher, possibly significantly so.



NORTH KOREA

News and civil society reports suggest that North Korea makes extensive use of death sentences and executions, including in public, for a broad range of offences and perceived 'wrongdoings'. Although information on this closed dictatorship is sparse, a growing number of reliable sources have shed some light on the use of the death penalty for drug offences in the country in recent years. For example, HRI's *Global Overview 2017* reported that "according to one media outlet, 60 people were publicly executed between January and August 2016, including 10 for drug offences."²² In 2019, one individual was sentenced to death during a public trial and executed 'on the spot' for his alleged involvement in a drug trafficking operation.²³ The same year, the Transitional Justice Working Group (TJWG) mapped over 300 execution sites in the country, and indicated drug use, manufacturing and trafficking as offences for which individuals are sentenced to death and publicly executed.²⁴

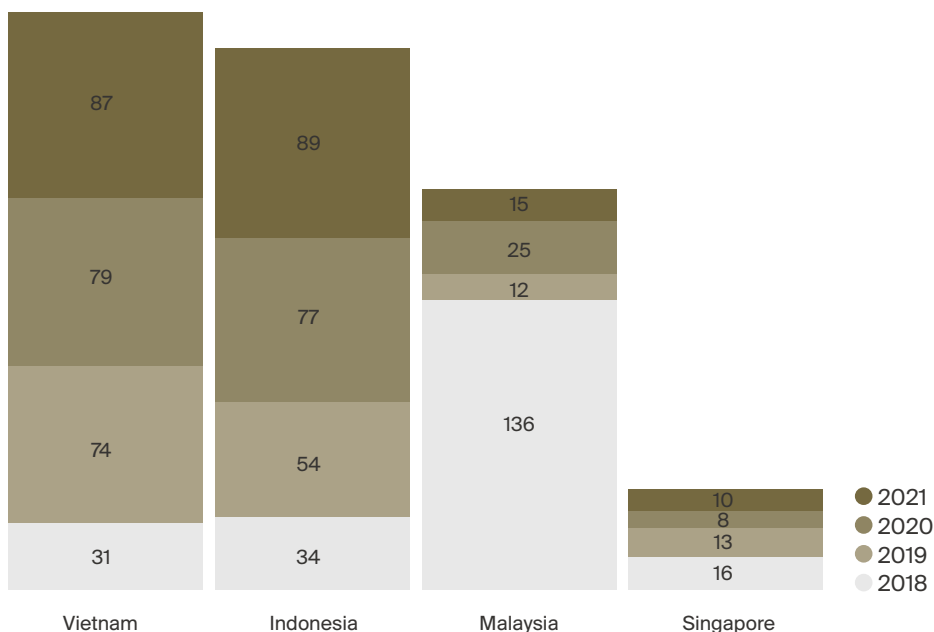
In 2020, a white paper published by the Korea Institute for National Unification (KINU) noted a surge in drug-related executions in recent years, reportedly in reaction to increasing drug manufacturing, cultivation and trafficking.²⁵ This trend was reiterated in the 2021 KINU white paper on human rights in the country.²⁶ A report published in July 2021 by the UK All-Party Parliamentary Group (APPG) on North Korea, detailing the results of an inquiry into human rights violations in the country, confirmed that North Korea continues to execute individuals for drug manufacturing and trafficking.²⁷ Similarly, the TJWG documented at least five public executions for drug-related crimes between 2011 (when Kim Jong-Un rose to power) and 2021.²⁸ As the study is based upon escapee testimonies, it is likely that many more executions - both public and secret - took place in the past decade.

In light of these reports, the decision was taken to reclassify North Korea from 'insufficient data' to 'high application'. Although information remains minimal, there is evidence that drug-related death sentences and executions took place in the past five years.

- 22 Gen Sander (2018), 'The Death Penalty for Drug Offences: Global Overview 2017' (London: Harm Reduction International), <https://www.hri.global/files/2018/11/13/HRI-Death-Penalty-Report-2018-v2.pdf>.
- 23 Ha Yoon Ah (8 April 2019), 'Drug dealer executed in South Hamgyong Province', *Daily NK*, <https://www.dailynk.com/english/drug-dealer-executed-in-south-hamgyong-province/>.
- 24 Transitional Justice Working Group (2019), 'Mapping the Fate of the Dead: Killings and Burials in North Korea' (Seoul: TJWG), <https://en.tjwg.org/wp-content/uploads/2019/07/2019-Report-Mapping-the-Fate-of-the-Dead-Killings-and-Burials-in-North-Korea.pdf>.
- 25 Kyu-chang Lee et al. (2020), 'White Paper on Human Rights in North Korea 2020' (Seoul: KINU), <https://www.kinu.or.kr/pyxis-api/1/digital-files/0217131a-0405-4171-8c17-eb38de070a81>.
- 26 Oh Gyeong-seob et al., (2021), 'White Paper on Human Rights in North Korea 2021' (Seoul: KINU), <https://www.kinu.or.kr/pyxis-api/1/digital-files/57767ac0-6fea-4389-bbcb-fbe05fde4e71>.
- 27 All-Party Parliamentary Group on North Korea (2021), 'Inquiry into Human Rights Violations in North Korea 2014-2020/1' (London: APPG North Korea), <https://www.appgnorthkorea inquiry.com/>.
- 28 Transitional Justice Working Group (2021), 'Mapping Killings under Kim Jong-Un: North Korea's Response to International Pressure', (Seoul: TJWG), https://en.tjwg.org/wp-content/uploads/2021/12/Report2021_MappingKillingsUnderKimJong-un.pdf

All high application states continued to sentence people for drug offences in 2021: **at least 201 death sentences were confirmed in Indonesia, Malaysia, Singapore and Vietnam** alone, and dozens more were likely imposed that were not reported. In China, as in previous years, drug-related death sentences were publicised in the lead-up to the International Day against Drug Abuse and Illicit Trafficking on 26 June 2021. The Supreme People’s Court also published 10 ‘typical drug cases’ to illustrate the court’s harsh stance towards drugs, two of which resulted in death sentences being imposed and executed in 2020 and 2021 respectively. In August 2021, judges upheld the death sentence for drug trafficking against Canadian citizen Robert Lloyd Schellenberg.²⁹ The sentence, the result of a retrial, was met with significant scrutiny as it came amid diplomatic friction between China and Canada. This verdict was strongly condemned by Canada³⁰ and the European Union.³¹

KNOWN DEATH SENTENCES FOR DRUG OFFENCES IN INDONESIA, MALAYSIA, SINGAPORE AND VIETNAM (2018–2021)



29 France 24 (10 August 2021), ‘China upholds death sentence for Canadian in drug smuggling case’ *France 24*, <https://www.france24.com/en/asia-pacific/20210810-china-upholds-death-sentence-for-canadian-in-drug-smuggling-case>.

30 Bloomberg News (10 August 2021), ‘Canada Condemns China Ruling Upholding Citizen’s Death Sentence’ *Bloomberg*, <https://www.bloomberg.com/news/articles/2021-08-10/china-upholds-canadian-s-death-penalty-case-tied-to-huawei-fight>.

31 European External Action Service (11 August 2021), ‘China: Statement by the Spokesperson on the sentencing of Mr. Schellenberg’. Available at: <https://bit.ly/3LcLNeU>.

Increases in the number of people on death row were reported in several countries. For example, the number of individuals on death row for drug offences in Malaysia rose from 912 in 2020, to 927 as of September 2021 (out of 1366 death row prisoners). In Indonesia, 260 individuals are on death row for drug offences (out of a total 404),³² a 21% increase from 2020. Because of the government's lack of transparency, the figure from Indonesia is not disaggregated by gender or nationality, which limits analysis.

In Vietnam, 87 drug-related death sentences were reported by media and courts in 2021, likely a fraction of those imposed. The pace of death sentencing is such that it is taking a toll on available infrastructure in the country: according to a government report, there are 700 cells dedicated to death row prisoners, but a sharp increase in death sentences - roughly 30% - is leading to overcrowding.³³ The same report highlights the panic and mental health challenges experienced by people awaiting execution, in some cases leading to self-harm or even suicide, as well as physical health challenges including heart disease, tuberculosis, HIV/AIDS, strokes, and now COVID-19 (leading to at least one death).³⁴ Many spend a long time on death row in Vietnam, with a local expert qualifying this uncertain wait as "more torture than the death penalty."³⁵

While actual figures are not known, hundreds of individuals are feared to be awaiting execution for drug offences in China and Iran.

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. For example, roughly a tenth of all known death sentences for drugs in 2021 were given to foreign nationals. At least one Malaysian national was sentenced to death for drug trafficking in Singapore, as were at least two Nigerian nationals in Malaysia. Nigerian nationals were also over-represented among those sentenced to death for drugs in Vietnam: at least five were convicted for transporting and trafficking drugs, the youngest being only 23 years old. In addition, Vietnamese courts imposed capital punishment on at least two Taiwanese and three Laotian nationals in 2021.

32 Adhigama Andre Budiman et al. (2022), 'Laporan Situasi Kebijakan Pidana Mati di Indonesia 2021 - "Ketidakpastian Berlapis: Menanti Jaminan Komutasi Pidana Mati Sekarang!' (Jakarta: Institute for Criminal Justice Reform), https://icjr.or.id/wp-content/uploads/2022/01/ICJR-Laporan-Pidana-Mati-Indonesia-2021_publicasi.pdf.

33 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>.

34 Vietnam Committee for HIV/AIDS Prevention and Control, and Prevention and Control of Drugs and Prostitution (11 September 2021), 'Many difficulties in executing the death penalty' [translated], <https://tiengchuong.chinhphu.vn/nhieu-kho-khan-trong-thi-hanh-an-tu-hinh-11335972.htm>

35 Ibid.

Individuals from ethnic minority backgrounds, women, and members of vulnerable groups remain disproportionately affected by the imposition of the death penalty for drug offences. In Iran, civil society organisations, as well as OHCHR, denounced a trend of executions against Baloch minority prisoners; as highlighted by UN Special Procedures, “at least 21 Balochi prisoners have been executed in Zahedan, Mashhad and Isfahan prisons since mid-December 2020. Many of those executed had been convicted on drug or national security charges, following flawed legal processes.”³⁶ Monitoring of drug-related executions in the country confirms this pattern. A 2021 report by the NGO Iran Human Rights further revealed that **the majority of women confirmed to have been executed in Iran between 2010 and October 2021 (86 out of 164) had been convicted of drug offences.**³⁷ At least five women were executed in Iran for drug-related offences in 2021 alone. A minimum of two women were sentenced to death for a drug offence in Vietnam, and one in Malaysia; the latter is a 55-year-old single mother of nine from a low socio-economic background. In line with previous years, the majority of women on death row in Malaysia are likely to have been sentenced for drug trafficking, although no official figures were released for 2021.

A number of individuals on death row for drug offences experience **physical and/or mental health issues.** A telling case is that of Muraly A/L Subramaniam, incarcerated while on trial for drug trafficking in Malaysia, where the law discriminatorily excludes people facing capital punishment from being granted bail. The defendant applied for bail because of his poor health status: he suffers from end-stage renal failure which has in some cases resulted in comas, hypertension and thrombosis. Furthermore, he needs to undergo dialysis regularly and has strict dietary requirements, which cannot be fully observed in prison, resulting in a detrimental impact on his health. Despite this, in May 2021 the court denied him bail, because “to grant bail despite the clear prohibition housed within 470 section 41B DDA would clearly frustrate the object sought to be achieved in Parliament’s and, by extension this nation’s battle against the scourge of dangerous drug abuse and in particular drug trafficking with all its well-known attendant social ills caused thereby.”³⁸

36 OHCHR (4 February 2021), ‘Iran: UN experts alarmed over execution of Baloch minority prisoners’, <https://bit.ly/3gvm6Z4>.

37 Iran Human Rights (2021), ‘Women and the Death Penalty in Iran’ (Oslo: Iran Human Rights), https://iranhr.net/media/files/Women_and_the_Death_Penalty_2021.pdf.

38 “Muraly a/l Subramaniam” NO K/P: 790809-08-5031, Malaya Ipoh High Court (2021), https://ejudgment.kehakiman.gov.my/ks_builtin/file_dispatcher_pub.php?id=13299&key=59aa5e55e5b9c2978cf9b90390ae1afc.



MENTAL HEALTH AND THE DEATH PENALTY IN SINGAPORE

At least three people living with mental health issues or intellectual disability are currently on death row in Singapore.

Roszaidi bin Osman has a history of drug use and was first sentenced to death in 2019 for drug trafficking. After evidence emerged of a potential mental health issue affecting his mental state during the crime, the Court of Appeal sent his case back to the lower court for further psychiatric evaluation. Roszaidi was diagnosed with major depressive disorder as well as drug dependence, but in February 2021 the court concluded that there is insufficient evidence to prove his mental state impaired his responsibility for the crime, and upheld his sentence.³⁹

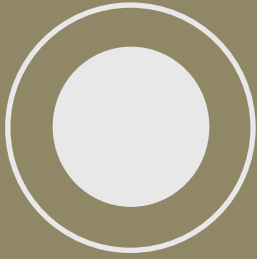
Nagaenthran K Dharmalingam is a 32-year-old Malaysian citizen sentenced to death in 2011 for importing with the intent to traffick 42.72 grams of diamorphine. Nagaenthran experiences mental health issues and has an intellectual disability (in the form of ‘borderline intellectual functioning’, an IQ of 69, and ADHD, among others). In late October 2021, his execution was announced for 10 November 2021, sparking intense debate and worldwide condemnation, including by disability rights activists, networks of people who use drugs, the Malaysian Prime Minister and King, Delegations, members of the legal and medical profession, and UN human rights experts.⁴⁰ A last-minute application was dismissed, but the execution was eventually stayed on 9 November 2021, after Nagaenthran tested positive for COVID-19. Nagaenthran was given time for his health to improve before he would be executed. Nagaenthran’s mental health reportedly further deteriorated since his execution was announced and, as of February 2022, he is waiting for a new appeal to be heard.

Pausi bin Jefridin, a Malaysian national, was first 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 has an IQ of 67 - meeting the international standard of intellectual disability (IQ <70). Nevertheless, his death sentence was upheld, and he has spent the past 11 years on death row. News reports indicate that Pausi’s execution was scheduled for 16 February 2022 and later halted pending judicial review of his case in late February 2022.

39 “Public Prosecutor v Roszaidi bin Osman” [2021] SGHC 22 (2021), [https://www.singaporelawwatch.sg/Portals/0/Docs/Judgments/2021/\[2021\]%20SGHC%2022.pdf](https://www.singaporelawwatch.sg/Portals/0/Docs/Judgments/2021/[2021]%20SGHC%2022.pdf).

40 Transformative Justice Collective (18 January 2022), ‘Civil Society Groups Urge Government to Pay Heed to People’s Voice on Nagen’s Clemency’ *Transformative Justice Collective*, <https://transformativejusticecollective.org/2022/01/18/civil-society-groups-urge-government-to-pay-heed-to-peoples-voice-on-nagens-clemency/>.

2021 also saw some commutations of drug-related death sentences. **Notably in Malaysia, at least 10 death sentences (of which six were against foreign nationals) were reversed, resulting in seven acquittals and three commutations;** the latter include that of Muhammad Lukman, who had been sentenced to death for selling cannabis oil to help treat cancer patients.⁴¹



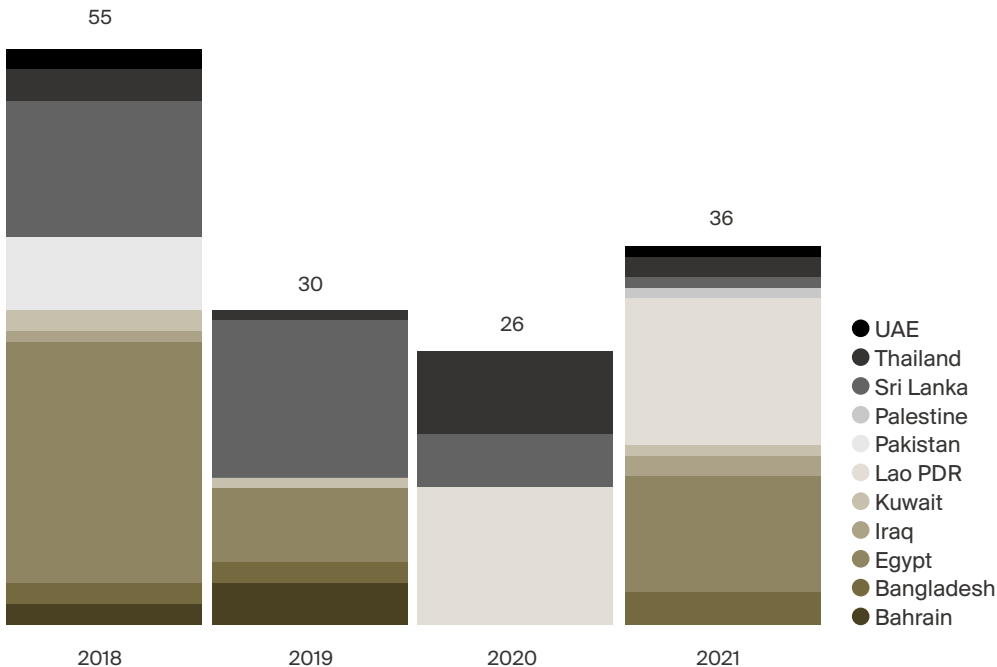
LOW APPLICATION STATES

	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	2021	2020	2021	2020
Bahrain	3 (11%)	6 (23%)	0 (-)	0 (-)
Bangladesh	3+ (0.9%)	Unknown (-)	3+ (0.1%)	0 (-)
Brunei Darussalam	1 (50%)	1 (50%)	0 (-)	0 (-)
Egypt	11+ (4%)	Unknown (-)	11+ (4.1%)	Unknown (-)
Iraq	6+ (0.6%)	4+ (0.1%)	2+ (5%)	Unknown (-)
Kuwait	3+ (6.3%)	2+ (4.6%)	1+ (25%)	0 (-)
Lao PDR	300+	320+ (98%)	14+ (unknown)	13+ (unknown)
Pakistan	Unknown (-)	Unknown (-)	Unknown (-)	Unknown (-)
Sri Lanka	60+ (5%)	63+ (5.1%)	1+ (7.6%)	5+ (22,7%)
State of Palestine	6 (10%)	5 (8%)	1+ (5%)	0 (-)
Thailand	115 (63.5%)	157 (62.3%)	2+ (20%)	8+ (57%)
United Arab Emirates	1+ (0.5%)	Unknown (-)	1+ (11%)	0 (-)

As of 2021, 12 countries are categorised as ‘low application’, meaning that no executions were carried out for drug offences in the past five years, but death sentences continue to be imposed for this category of crimes. While these countries tend to receive less attention, available information suggests that in these states, the death penalty remains an important tool of drug control.

In fact, 2021 saw an increase in the number of ‘low application’ countries in which **death sentences** for drug offences were confirmed - from three in 2020, to nine in 2021; more death sentences were likely imposed but remain unknown because of lack of transparency.

KNOWN DEATH SENTENCES FOR DRUG OFFENCES IN LOW APPLICATION COUNTRIES (2018–2021)



Some of these countries, such as Lao PDR, Sri Lanka and Thailand, regularly sentence people to death for drug trafficking. A decrease in the number of sentences reported in Thailand and Sri Lanka between 2020 and 2021 does not indicate a move away from this form of punishment per se; rather, it is likely due to (a) more limited reporting on capital cases, amidst a global pandemic and absent official figures, and (b) COVID-19 and related measures affecting the functioning of courts.

In other ‘low application’ countries, **death sentences were reported for the first time in one or more years.** After a year-long hiatus, drug-related death sentences were confirmed in Bangladesh (3+), Egypt (11+) and Kuwait (1+). Death sentences for drug crimes were reported for the first time since 2018 in the United Arab Emirates (1+), and in Iraq (2+), where as of December 2021 four more people were facing a capital trial for drug trafficking.⁴² Meanwhile, the death sentence announced in Palestine - worryingly issued by a military court - ⁴³ is the first for drug trafficking since 2017. This rise in known sentences may indicate that courts are increasingly relying on capital punishment against people involved in the drug market; however, it could also be due to these cases attracting more attention or media interest, possibly because many defendants were foreign nationals: all but one in Egypt, Kuwait and in the Emirates were foreign nationals.

The disproportionate representation of foreign nationals among individuals facing capital punishment for drug offences is not a new phenomenon (as also reported in previous editions of the *Global Overview*);⁴⁴ for example, a 2021 report by the NGOs Migrant Care and Reprieve found that “of the approximately 200 people known to be on death row in the UAE, only 19 are Emirati nationals. [...] Every single person known to have faced the death penalty for drug offences in the UAE since 1998 has been a foreign national.”⁴⁵

Available death row figures confirm that **drugs are among the main crimes for which capital punishment is meted out in several of these countries.** In Thailand, over 60% of all people on death row are detained for a drug offence. This figure increases to a staggering 86% with regards to women on death row in the country (19 out of 22). In Sri Lanka, at least 60 people are on death row for drug offences, often in dire conditions of detention. Similarly,

42 Prime News Ghana (16 December 2021), ‘Four Ghanians face death penalty in Iraq’ *Prime News Ghana*, <https://www.primenewsghana.com/general-news/four-ghanaians-face-death-penalty-in-iraq.html>

43 Sama News (21 October 2021), ‘Gaza: Destruction of narcotics and the issuance of sentences against traffickers and promoters’ [translated] *Sama News*, <https://bit.ly/34h7NF1>.

44 Giada Girelli (2019), ‘The Death Penalty for Drug Offences: Global Overview 2018’ (London: Harm Reduction International), <https://www.hri.global/death-penalty-drugs-2018>

45 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.

in Lao PDR, most death row prisoners are believed to be awaiting execution for drug crimes, although the latest official information dates back to 2018.

In Bahrain, local civil society reported three people on death row for drug offences in 2021, all at imminent risk of execution.⁴⁶ Commentators also suggested that drug charges may be used for political purposes; according to the NGO Salam:

“This current interpretation of the death penalty does not appear to single out perpetrators for non-lethal drug offenses. Instead, it is used to strengthen cases against defendants whose charges are political in nature. Aware that the charge of terrorism is far reaching and vague in Bahrain, drug charges can add to the severity of a defendant’s cases, as well as smear their reputations in the national and international press. The practice sends a clear message to those who are accused in Bahrain: charges will be labelled against you, no matter how flimsy the evidence.”⁴⁷

Throughout 2021, the intensification in the use of the death penalty by Bahrain was closely scrutinised by civil society as well as institutional actors, including by a Resolution of the European Parliament which called on Bahrain to review all death sentences and introduce an immediate moratorium on the use of capital punishment.⁴⁸

Several policy and practical developments were witnessed in low application countries in 2021, some of which may suggest some movement towards abolishing or restricting the use of the death penalty for drug offences. Notably **in Pakistan, Parliament will 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: in 2021 alone, at least nine individuals from Pakistan (likely many more) were sentenced to death for drug trafficking in Asian and Middle Eastern countries, while as of May 2021 there were 30 Pakistanis on death row for murder and drug crimes in Saudi Arabia alone.⁴⁹

46 BIRD and Reprieve (2021), 'From uprising to executions: The death penalty in Bahrain, ten years on from the Arab Spring' (London: Reprieve), https://birdbh.org/wp-content/uploads/2021/07/Reprieve_BahrainDeathPenalty_23.07.2021_.pdf

47 Andrew McIntosh (2021), 'The Death Penalty in Bahrain: A system built on torture (UK: Salam for Democracy and Human Rights)', <https://salam-dhr.org/?p=4677>.

48 European Parliament resolution of 11 March 2021 on the human rights situation in the Kingdom of Bahrain, in particular the cases of death row inmates and human rights defenders, 2021/2578/(RSP) (11 March 2021), https://www.europarl.europa.eu/doceo/document/TA-9-2021-0086_EN.html

49 The Express Tribune (10 May 2021), '1,100 Pakistani prisoners in KSA being repatriated, says Rashid' *The Express Tribune*, <https://tribune.com.pk/story/2299222/1100-pakistani-prisoners-in-ksa-being-repatriated-says-rashid>.



In January 2021, the Sri Lankan government 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'⁵⁰ (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 was issued. Later in the year, 150 death row prisoners began a hunger strike to ask for their sentences to be commuted, after Sri Lanka's president pardoned a close affiliate who had been sentenced to death for murder.⁵¹

The death penalty is only one among many human rights violations enabled by Sri Lanka's punitive war on drugs, featuring over-incarceration, compulsory drug detention and treatment, denial of fair trial, criminalisation and widespread stigmatisation of people who use drugs.⁵² In its February 2021 report to the Human Rights Council, the UN High Commissioner for Human Rights raised concerns regarding a recent series of deaths in police custody and amid police encounters with alleged criminal gangs, in the context of a "militarized approach to law and order and drug control."⁵³

50 Mihi Perera (19 January 2021), 'Four Courts of Appeal to expedite cases and reduce prison congestion' *The Morning*, <https://www.themorning.lk/four-courts-of-appeal-to-expedite-cases-and-reduce-prison-congestion/>.

51 Associated Press (25 June 2021), '150 Death-row Inmates Start Hunger Strike in Sri Lanka' *VOA News*, <https://www.voanews.com/south-central-asia/150-death-row-inmates-start-hunger-strike-sri-lanka>.

52 For more, see: Ambika Satukunanathan (2021), 'A Broken System: Drug Control, Detention and Treatment of People who Use Drugs in Sri Lanka' (London: Harm Reduction International), https://www.hri.global/files/2021/08/03/HRI_Report_-_Sri_Lanka_Drug_Control.pdf.

53 Human Rights Council, 'Promoting reconciliation, accountability and human rights in Sri Lanka: Report of the United Nations High Commissioner for Human Rights', UN Doc. A/HRC/46/20 (9 February 2021), <https://undocs.org/A/HRC/46/20/>.



SYMBOLIC APPLICATION STATES

There are currently 12 countries classified as symbolic application, meaning they retain the death penalty for drug offences within their legislation, but have not carried out executions or sentenced individuals to death for drug crimes in the past five years. **In 10 of these countries, no one is known to be on death row for drug crimes.** One person appears to be on death row for a violation of the Narcotic Drugs and Psychotropic Substances Act in India, pending confirmation of his sentence by the High Court. In the final symbolic application country, Myanmar, the situation is more opaque; people awaiting execution for drugs were reported in the past, but mass pardons and commutations regularly occur.

In India, tracking by the NGO Project 39A indicates that, despite a record high number of death sentences, no one was sentenced to death for a drug offence in 2021. The last known death sentence for this category of crimes dates back to 2016, meaning that Indian courts have not sentenced individuals to death for drug crimes in the past five years. Accordingly, India was moved from the 'low application' to the 'symbolic application' category.

Among the countries where significant **policy developments** were witnessed is Myanmar, where in February 2021 the military seized power through a coup.⁵⁴ The State Administrative Council (SAC), created by the military following the takeover, quickly instituted a state of emergency and declared martial law. The law transferred administrative, military and judicial powers to the Yangon Commander, and gave jurisdiction to the Martial Court (a military body) to hear a broad range of cases, including those for violations of the Narcotic Drugs and Psychotropic Substances Law, and to sentence people to death. The power to reverse or commute death sentences is entrusted with the SAC Chairman, also a member of the military.⁵⁵ According to civil society monitoring, 80 people had been sentenced to death by the new government as of 10 January 2022, none for drug-related crimes.⁵⁶ However, a projected increase in drug production in the country following the coup and the COVID-19 pandemic may heighten the risk of death sentences being imposed in the future.⁵⁷

In February 2021, the SAC announced the pardon of over 23,000 prisoners convicted before 31 January 2021, and the commutation of death sentences

54 Audrey Wilson (25 December 2021), 'Myanmar's Tumultuous Year' *Foreign Policy*, <https://foreignpolicy.com/2021/12/25/myanmar-coup-protests-democracy-movement/>.

55 Republic of the Union of Myanmar State Administration Council, Martial Order 3/2021 (15 March 2021), as reported in *The Global News Light of Myanmar* (16 March 2021), <https://www.burmalibrary.org/sites/burmalibrary.org/files/obi/GNLM2021-03-16-red.pdf>.

56 Assistance Association for Political Prisoners, 'Daily Briefing in Relation to the Military Coup – last updated 10 January 2022', <https://aappb.org/wp-content/uploads/2022/01/Under-Sentenced-List-Last-Updated-on-10-January-2022.pdf>. Last accessed 7 February 2022.

57 Frontier Myanmar (5 January 2022), 'Poverty, impunity and profits: Experts warn coup could lead to opium surge' *Frontier Myanmar*, <https://www.frontiermyanmar.net/en/poverty-impunity-and-profits-experts-warn-coup-could-lead-to-opium-surge/>.

to life imprisonment,⁵⁸ it is thus possible that no one is on death row for drug offences in the country.

In April 2021, Taiwan's Ministry of Justice confirmed that the country remains "on track" to abolish capital punishment, despite an execution in 2020.⁵⁹ There are 39 people currently on death row in the country, none for drug offences. Encouraging developments were also witnessed in the USA, where in July 2021 the Attorney General declared a moratorium on federal executions, pending a review of the Department of Justice policies and procedures on capital punishment. Such a review was warranted by the fact that "serious concerns have been raised about the continued use of the death penalty across the country, including arbitrariness in its application, disparate impact on people of colour, and the troubling number of exonerations in capital and other serious cases."⁶⁰ As drug trafficking can be punished with death only at the federal level, an eventual abolition of the federal death penalty would equal the abolition of the death penalty for drug offences in the USA.

Three 'symbolic application' countries underwent their third round of Universal Periodic Review at the Human Rights Council in 2021. Mauritania, Myanmar and Oman all received numerous recommendations to abolish the death penalty, establish a moratorium on executions, commute death sentences, and/or ratify the second Optional Protocol to the International Covenant on Civil and Political Rights. Neither Mauritania nor Oman accepted any of these recommendations, with the latter noting that "the death penalty is imposed under Omani law only for the most serious crimes. It is accompanied by numerous safeguards, which ensure that the scope of its application remains as narrow as possible and that all judicial guarantees are made available prior to its confirmation, including a mandatory appeal procedure before the Supreme Court."⁶¹ **According to international human rights standards, drug offences do not fall into the category of 'most serious crimes'.**

No significant developments were witnessed in the remaining symbolic application countries: no one was sentenced to death and no one is on death row in Cuba, where the use of capital punishment appears to have been abandoned in practice. While death sentences were recorded in Jordan, Qatar

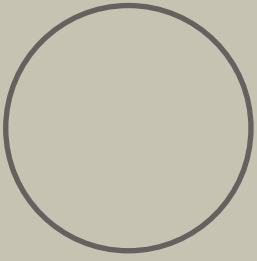
58 Xinhua Net (12 February 2021), 'Over 23,000 prisoners remitted sentences in Myanmar' *Xinhua Net*, http://www.xinhuanet.com/english/2021-02/12/c_139738868.htm.

59 Huang Tzu-ti (22 April 2022), 'Taiwan unchanged on eventual goal of abolishing death penalty: Minister of Justice' *Taiwan News*, <https://www.taiwannews.com.tw/en/news/4184012>.

60 Office of the Attorney General, Memorandum for the Deputy Attorney General, the Associate Attorney General, Heads of Department Components: *Moratorium on Federal Executions Pending Review of Policies and Procedures* (1 July 2021), <https://www.justice.gov/opa/page/file/1408636/download>.

61 Human Rights Council, 'Report of the Working Group on the Universal Periodic Review – Oman. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review', UN Doc. A/HRC/47/11/Add.1 (23 June 2021), <https://undocs.org/A/HRC/47/11/Add.1>.

and Sudan, none were for drug crimes. It also appears that no death sentences were meted out in South Korea, while information on South Sudan is too sparse to definitively conclude whether anyone was sentenced to death, and for which crimes.



INSUFFICIENT DATA

The latest available information indicates that death can be imposed as a punishment for drug-related offences in Libya, Syria and Yemen. Because of ongoing conflicts and unrest in these countries, **it is not possible to provide credible figures or reconstruct trends related to its use in practice.** For the same reason, in some cases, it is impossible to conclude whether reported executions are carried out in application of criminal laws and pursuant to a final judgement rendered by a competent court after fair judicial proceedings, or whether such executions should be more aptly classified as extrajudicial killings.

Few death sentences were documented in Libya in 2021, none of which were for drugs. However, an investigative report on a drug smuggling operation between Syria and Libya found evidence of four death sentences for drug trafficking imposed by a Benghazi court in 2019, all against Syrian nationals, two of which were in absentia.⁶² This finding is significant, in that it is the first credible report of the imposition of capital punishment for drug-related activities in the country since civil conflict broke out in 2011. As such, it suggests that death is still imposed as a punishment for drug-related offences, and that at least two people may be on death row for these non-violent crimes in the country. However, since this is the first credible report identified, it was decided to keep Libya under 'insufficient data' in this report.

Executions were reported in Syria, carried out both by public authorities and by terrorist groups (these effectively amounting to extrajudicial executions and war crimes⁶³), but no evidence was found of drug-related executions or death sentences. Ahead of the May 2021 elections, an Amnesty Law decreed the pardon of individuals convicted for a number of crimes and replaced death sentences with life imprisonment with hard labour.⁶⁴ In December 2021, a Syrian national was sentenced to death for drug trafficking in Egypt, in absentia.

Death sentences and executions, including public executions, were documented in Yemen throughout 2021, mostly imposed by courts affiliated with the Houthi militias. There were no reports of drug-related death sentences.

62 Sami Ahman and Hamza Khedr (24 August 2021), 'From Syria to Libya: Inside the booming drugs trade thriving on regional chaos' *The New Arab*, <https://english.alaraby.co.uk/analysis/captagon-and-cannabis-inside-syrias-booming-drugs-trade>.

63 Human Rights Council, 'Report of the Independent International Commission of Inquiry on the Syrian Arab Republic', UN Doc. A/HRC/46/54 (21 January 2021), <https://undocs.org/A/HRC/46/54>.

64 Human Rights Council, 'Report of the Independent International Commission of Inquiry on the Syrian Arab Republic', UN Doc. A/HRC/48/70 (13 August 2021), <https://undocs.org/A/hrc/48/70>; Anwar Majanny, 'Analysis of Amnesty Law Enacted by Legislative Decree No. 13 of 2021' (The Day After), <https://tda-sy.org/wp-content/uploads/2021/05/Analysis-of-Amnesty-Law-Enacted-by-Legislative-Decree-No.-13-of-2021.pdf>.

OTHER NATIONAL DEVELOPMENTS

Despite record-breaking support from 123 countries on the UN General Assembly's eighth Resolution calling for a moratorium on the death penalty in 2020, 2021 saw **ongoing national-level discussions to reinstate or introduce the death penalty for drug offences.**

In the Philippines, attempts are ongoing to reintroduce capital punishment, as part of the government's now infamous 'war on drugs'. In March 2021, the House of Representatives (the lower house of the Filipino Congress) adopted House Bill 7814; amongst other problematic provisions,⁶⁵ the Bill also 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.⁶⁶ 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 consideration⁶⁷ 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.⁶⁸ 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.⁶⁹

Meanwhile, in August 2021 a Bill was tabled in the Parliament of Tonga to add death as a possible punishment for drug trafficking and repeated drug offences involving children.⁷⁰ The proposal, which would have expanded the scope of the application of the death penalty in one of the last retentionist countries in the Pacific, was justified by a need to tackle what was described as "Tonga's worsening drug abuse problem."⁷¹ The move was harshly criticised by experts and activists, who also highlighted the proven ineffectiveness of the death penalty to counter drug use and drug trafficking, and the proposal was eventually rejected.⁷²

65 Grace Keane O'Connor (30 April 2021), 'Adoption of Bill Allowing the Imposition of the Death Penalty for a New Crime' World Coalition Against the Death Penalty, <https://worldcoalition.org/2021/04/30/adoption-of-bill-allowing-the-imposition-of-the-death-penalty-for-a-new-crime/>.

66 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>.

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

68 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>.

69 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.

70 Zalika Rizmal (27 August 2021), 'Bill tabled in Tongan Parliament to bring in death penalty for serious drug offences; *ABC News Australia*, <https://www.abc.net.au/news/2021-08-28/tonga-death-penalty-drug-offences/100405746>.

71 *Ibid.*

72 Jordan Fennell (2 September 2021), 'Tonga asks Australia, NZ to rehabilitate deportees to help with local drug problems' *ABC News Australia*.



THE DEATH PENALTY FOR DRUG OFFENCES:
GLOBAL OVERVIEW 2021