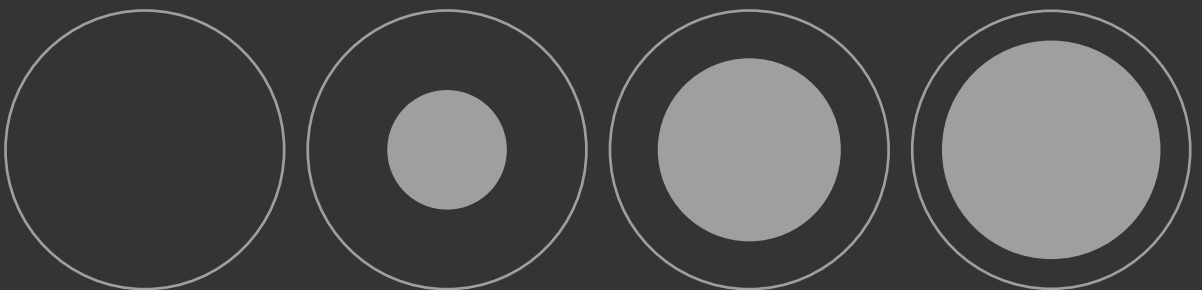


THE DEATH PENALTY FOR DRUG OFFENCES: GLOBAL OVERVIEW 2023





**The Death Penalty for Drug Offences:
Global Overview 2023**

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

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

INTRODUCTION

Harm Reduction International (HRI) has monitored the use of the death penalty for drug offences¹ worldwide since our first ground-breaking publication on this issue in 2007. This report, our 13th 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,² a practice which is a clear violation of international human rights and drug control standards.

This year marks the beginning of a new approach to our flagship publication. Every edition of this report will provide key data and updated categories, as well as high-level developments at the national and international level. A deeper analysis of developments and trends will be published in the 2024 edition and on alternate years. The methodology used for both reports remains the same.³

HRI opposes the death penalty in all cases without exception.

1. 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). HRI's research also excludes countries where drug offences are punishable by death only if they involve, or result in, intentional killing.
2. 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.
3. For a complete description of HRI's methodology please see Harm Reduction International (2023), 'The Death Penalty for Drug Offences: Global Overview 2022', pag. 6. Available at: <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2022/>.

CATEGORIES

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



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



Low Application States are those where executions for drug offences have not been carried out in the past five years but where death sentences for drug offences were imposed in the same period. Yet, the confirmed number of drug-related death sentences does not meet the threshold required for classification as 'high application'. Bangladesh, Egypt, Iraq and Yemen are low application countries confirmed to have carried out executions in 2023, but not for drug offences. The section below, therefore, only provides figures on death sentences and death row populations.⁴



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 offences in the past five years. Oman and the USA are symbolic application countries confirmed to have carried out executions in 2023, but not for drug offences.



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

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

COUNTRY BY COUNTRY



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High Application

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



Low Application

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



Symbolic Application

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



Insufficient Data

34. Libya
35. Syria

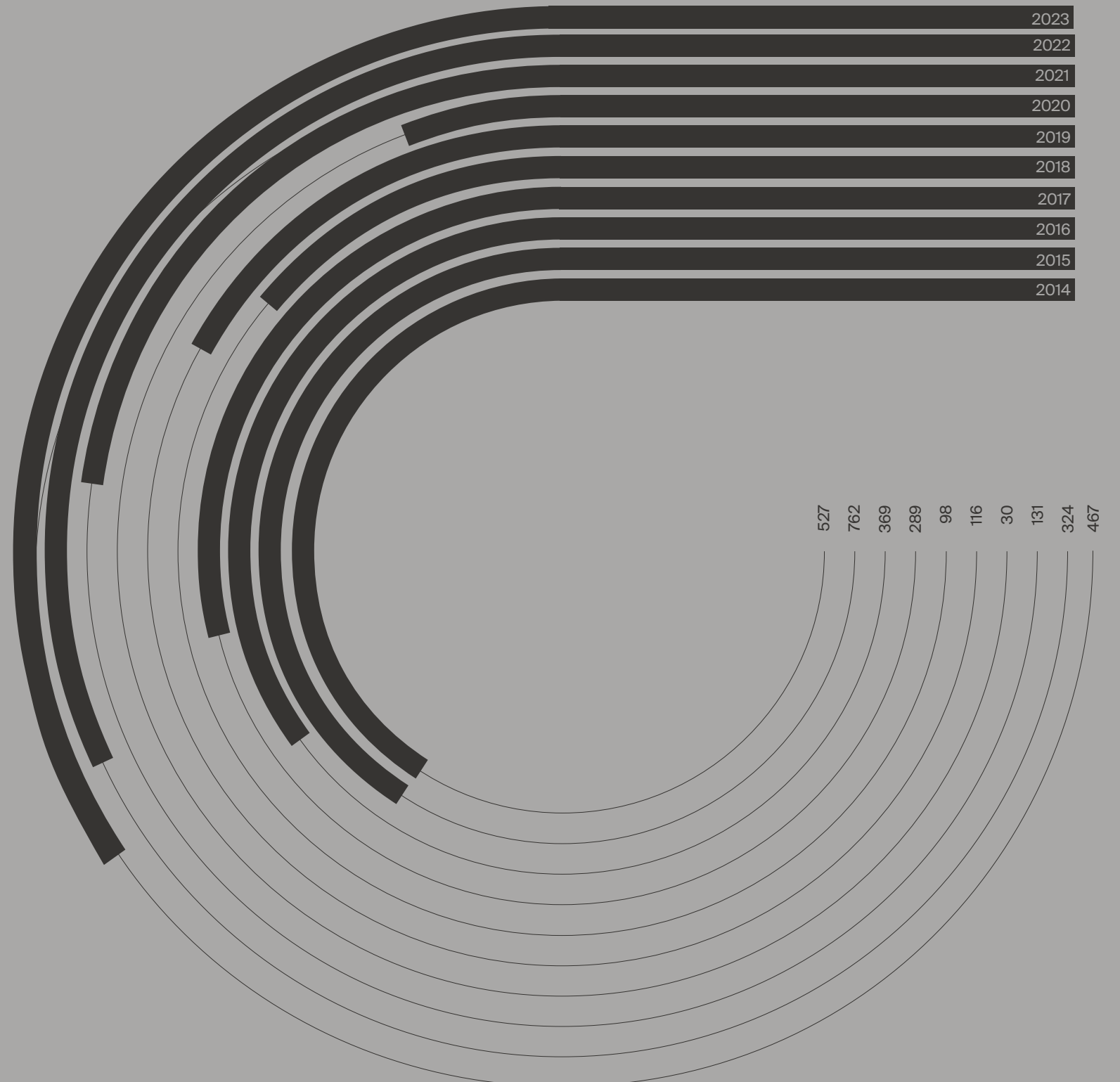
THE DEATH PENALTY FOR DRUG OFFENCES: GLOBAL OVERVIEW 2023



MINIMUM CONFIRMED EXECUTIONS FOR DRUG OFFENCES (2014–2023)

- By the end of 2023, **34 countries retained the death penalty** for a range of drug offences worldwide, one less than in 2022.
- In July 2023, **Pakistan** abolished the death penalty for drug offences, the first country to do so in over a decade.
- Drug-related executions were confirmed in **five countries** (China, Kuwait, Iran, Saudi Arabia and Singapore). Executions are assumed to have been carried out in North Korea and Vietnam but state secrecy and censorship in these countries prevent confirmation of a minimum figure.
- At least **467 drug-related executions** were carried out (excluding figures from China, Vietnam, and North Korea). This represents a 44% increase from 2022, and a staggering 1450% increase from 2020 (the year with the lowest number of executions since HRI started monitoring this practice).
- Drug offences were responsible for roughly **42% of all executions confirmed globally**. This is the highest recorded figure since 2016.
- A significant step backwards was witnessed in **Kuwait**, where one drug-related execution took place, the first since 2007.

- **375 death sentences** for drug offences were confirmed in 16 countries (see tables on High Application States and Low Application States below). This represents a 20% increase in reported sentences from 2022.
- At least **3000 people are currently on death row** for drug offences in 19 countries.¹
- Confirmed figures may be a gross underestimate of the scope of the phenomenon due to a **persistent lack of transparency** and censorship on information pertaining to the use of the death penalty. Dozens, if not hundreds, more drug-related death sentences are likely to have been imposed and executed throughout the year.



1. Bahrain, Bangladesh, China, Egypt, Indonesia, Iran, Iraq, Kuwait, Lao PDR, Malaysia, Pakistan, State of Palestine, Saudi Arabia, Singapore, Sri Lanka, Thailand, United Arab Emirates, Vietnam, Yemen.

GLOBAL OVERVIEW

At the end of 2023, **34 countries retained the death for drug offences**. In July 2023 Pakistan took the landmark decision to remove the death penalty from the list of punishments that can be imposed for certain violations of its Control of Narcotics Substances Act. This year also saw notable progress in Malaysia, which abolished the *mandatory*⁶ death penalty for all offences, including drug-related ones. This reform may impact the lives of over 700 people on death row for drug offences and bring the country one step closer to total abolition of capital punishment.

In stark contrast to these positive developments is the **record-high number of drug-related executions** in 2023 - at least 467. Of those executed, at least 59 people belonged to ethnic minority groups (in Iran and in Singapore), 13 individuals were foreign nationals, and six were women. These figures confirm that these groups are uniquely vulnerable to capital punishment as a tool of drug control. Despite not accounting for the dozens, if not hundreds, of executions believed to have taken place in China, Vietnam, and North Korea, the 467 executions that took place in 2023 represent a 44% increase from 2022. Ninety-eight percent of known drug-related executions took place in Iran.

DRUG OFFENCES WERE RESPONSIBLE FOR ROUGHLY 42% (ALMOST ONE IN TWO) OF ALL EXECUTIONS CONFIRMED GLOBALLY THROUGHOUT 2023 - THE HIGHEST RECORDED FIGURE SINCE 2016.

Drug-related executions were confirmed in five countries: China, Iran, Kuwait, Saudi Arabia and Singapore. Executions for drug offences are also highly likely to have taken place in Vietnam and North Korea but this cannot be confirmed due to censorship.

⁶ In line with the definition by the UN Human Rights Committee in General Comment 36 (CCPR/C/GC/36), 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 circumstances of the offence or the offender). Mandatory sentences hamper judicial sentencing discretion, and thus, according to international human rights standards, they are inherently arbitrary.

Confirmed **death sentences for drug offences increased** by more than 20% from 2022. A minimum of 375 people were sentenced to death for drug offences, of which at least 31 were foreign nationals, and 15 were women. Roughly half of all death sentences for drug offences were passed by courts in Vietnam (188+) and a quarter in Indonesia (114+). The remaining quarter were imposed in 14 other countries.

Information gaps on death sentences persist, meaning many (if not most) death sentences imposed in 2023 remain unknown. Most notably, no accurate figure can be provided for China, Iran, North Korea, Saudi Arabia and Thailand. These countries are all believed to regularly impose a significant number of death sentences for drug offences.

At least 3000 people are on death row for drug offences in at least 19 countries.

Two countries were re-classified this year. Kuwait was placed in the ‘high application’ (from ‘low application’) category as it carried out its first drug-related execution in over a decade. Yemen was moved from the ‘insufficient data’ to the ‘low application’ category, due to higher availability of information on drug-related sentences imposed.

2023 also saw international actors expressing strong positions against the death penalty for drug offences in response to changes at the domestic level. This included the United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR), UN Special Procedures, and the European Union. The UN Office on Drugs and Crime (UNODC) repeatedly failed to take a public position on matters related to the death penalty for drug offences.



HIGH APPLICATION STATES⁷

Country	Executions for drug offences (% of total)		Death sentences for drug offences (% of total)		People on death row for drug offences (% of total)	
	2023	2022	2023	2022	2023	2022
China	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Indonesia	0 (-)	0 (-)	114+ (94%)	122 (92%)	249 (52%)	266 (59%)
Iran	459+ (55%)	256+ (44%)	Unknown	Unknown	1000+ (unknown)	2000+ (unknown)
Kuwait	1 (20%)	0 (-)	0 (-)	5+ (31%)	2+ (9%)	8+ (33%)
Malaysia	0 (-)	0 (-)	10+ (59%)	20+ (90%)	700+ (55%)	903 (67%)
North Korea (DPRK)	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Saudi Arabia	2+ (1%)	57+ (29%)	Unknown	Unknown	Unknown	Unknown
Singapore	5 (100%)	11 (100%)	9+ (100%)	9+ (100%)	53 (95%)	52 (82%)
Vietnam	Unknown	Unknown	188+ (81%)	89+ (84%)	Unknown	Unknown



LOW APPLICATION STATES

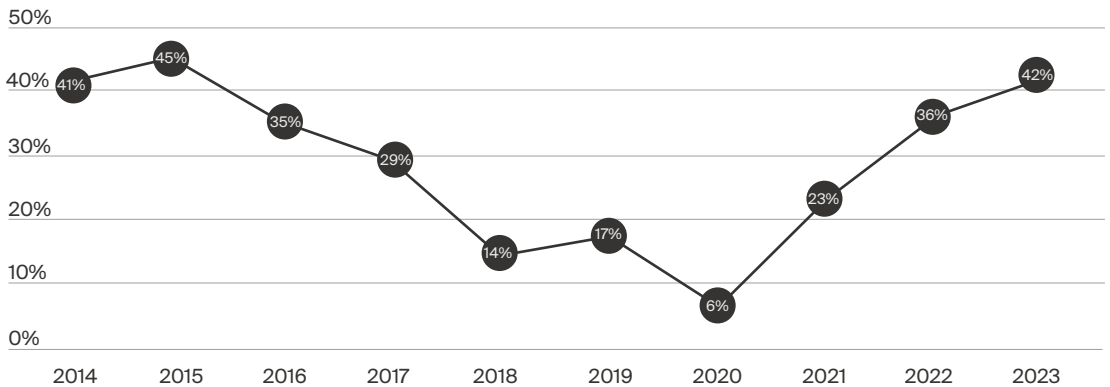
Country	Death sentences for drug offences 2023 (% of total)	Death sentences for drug offences 2022 (% of total)	People on death row for drug offences 2023 (% of total)	People on death row for drug offences 2022 (% of total)
	2023	2022	2023	2022
Bahrain	0 (-)	1+ (50%)	4+ (15%)	4 (15%)
Bangladesh	1+ (0.25%)	10+ (3%)	10+ (0.4%)	17+ (0.6%)
Egypt	9+ (2.3%)	7+ (1.3%)	Unknown	Unknown
Iraq	19+ (25%)	3 (7.3%)	20+ (0.2%)	10+ (0.1%)
Lao PDR	4+ (unknown)	39 (unknown)	300+ (unknown)	300+ (unknown)
Pakistan	Unknown	1+ (0.7%)	444 (7%)	Unknown
Sri Lanka	6+ (13%)	1 (1.8%)	60+ (5%)	60+ (6%)
State of Palestine (Gaza)	4+ (29%)	1+ (3.6%)	Unknown	2+ (1%)
Thailand	Unknown	Unknown	183 (62%)	121 (62%)
United Arab Emirates	4+ (100%)	3+ (37%)	4+ (27%)	7+ (3.5%)
Yemen	7+ (41%)	1+ (1.3%)	7+ (unknown)	1+ (unknown)

⁷ When the symbol '+' is found next to a number, it means that the reported figure refers to the minimum confirmed number, but according to credible reports the actual figure is likely to be higher. Global and yearly figures are calculated by using the minimum confirmed figures.

KEY NATIONAL DEVELOPMENTS

EXECUTIONS FOR DRUG OFFENCES

PERCENTAGE OF KNOWN GLOBAL EXECUTIONS COMMITTED FOR DRUG OFFENCES (2014 - 2023)



Ninety-eight percent of all the confirmed drug-related executions in 2023 took place in **Iran**, whose execution rate was described by UN High Commissioner for Human Rights as “frightening”.⁸ The Abdorrahman Boroumand Center for Human Rights in Iran⁹ recorded 459 executions for drug offences, a 79% increase from 2022 and the highest number since 2015. Drug executions accounted for at least 55% of total executions in the country; meaning drug control drives imposition of capital punishment by one of the world’s top executioners. The Abdorrahman Boroumand Center has confirmed at least five women and ten Afghani nationals were among those executed on drug charges. HRI’s monitoring indicates that at least 55 people who were executed identified as Baluchi.

Despite the widespread condemnation received by UN entities, civil society, and fellow states for the 11 drug-related executions carried out in 2022, **Singapore** executed five more people in 2023, all for drug offences. Among the victims were Tangaraju s/o Suppiah, convicted for abetting the trafficking of cannabis and whose trial raised due process concerns¹⁰ and Saridewi Djamani, the first woman executed in Singapore in 20 years.

8. OHCHR (9 May 2023), ‘Iran: “Frightening” number of executions as Türk calls for end to death penalty’. Available at: <https://www.ohchr.org/en/press-releases/2023/05/iran-frightening-number-executions-turk-calls-end-death-penalty>.

9. For more information about the Center visit <https://www.iranrights.org/>.

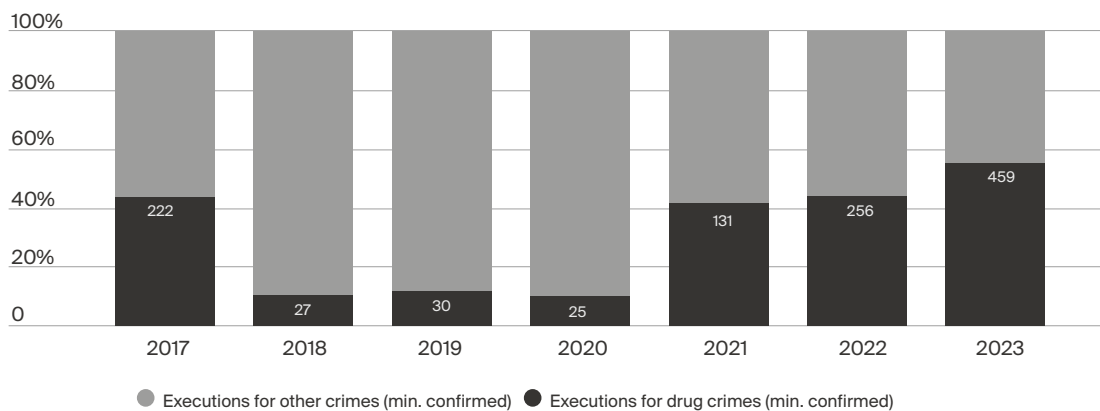
10. OHCHR (28 April 2023), ‘Singapore: UN experts condemn continued use of death penalty for drug-related crimes’. Available at: <https://www.ohchr.org/en/press-releases/2023/04/singapore-un-experts-condemn-continued-use-death-penalty-drug-related-crimes>.

A significant decline in executions is noted in **Saudi Arabia**, where executions for drug offences dropped 96% from 2022. The European Saudi Organisation for Human Rights (ESOHR) recorded two drug-related executions, both of which against foreign nationals: one Pakistani and one Jordanian.¹¹ Because of the country’s failure to announce all the executions that took place in 2022, it is possible that more executions took place in 2023; thus, the real figure could be higher.

A Sri Lankan national was executed for drug trafficking in **Kuwait**, marking the first drug-related execution in the Gulf country since 2007. Accordingly, Kuwait has been moved to the ‘high application’ category.

As in previous years, unofficial reports and sources as well as past practice strongly suggest that executions for drug offences were conducted in **China**, **North Korea**, and **Vietnam**. Among those confirmed to have been executed in China are a South Korean and two Filipino nationals, despite pleadings for clemency by their respective governments. Nevertheless, no accurate figures can be confirmed due to extreme opacity and censorship on the part of state authorities.

MINIMUM CONFIRMED EXECUTIONS FOR DRUG OFFENCES IN IRAN SINCE THE ADOPTION OF THE ANTI-NARCOTICS LAW AMENDMENT



11. European Saudi Organisation for Human Rights (2024), ‘Execution in Saudi Arabia 2023: Ongoing Bloodshed with Unusual Sentences’. Available at: https://www.esohr.org/wp-content/uploads/2024/01/Execution_in_Saudi_Arabia_2023_Ongoing_Bloodshed_with_Unusual_Sentences.pdf.

DRUG-RELATED DEATH SENTENCES AND DEATH ROW POPULATION

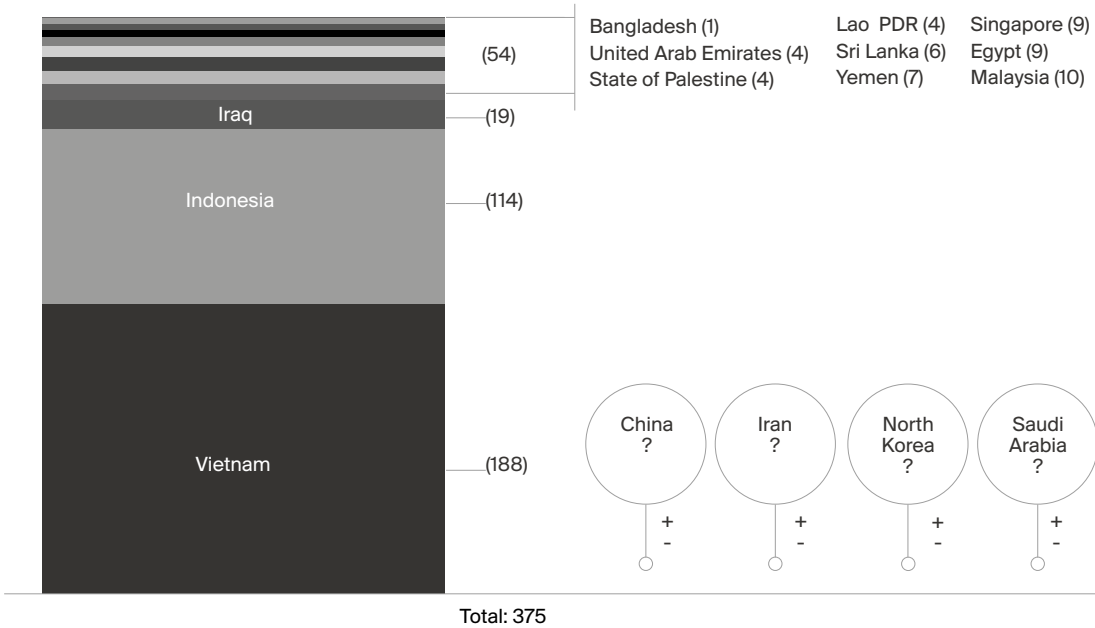
HRI's monitoring indicates that courts in at least 16 countries sentenced individuals to death for violations of drug control legislation. As **official and reliable information on sentences is even more scarce than on executions**, these figures are to be understood as a partial representation of the phenomenon. It also remains difficult to assess when significant variations between years reflect a movement in practice, or rather in the reporting of information.

For example, HRI confirmed 188 death sentences for drug offences in Vietnam in 2023, more than double those of the previous year, possibly due to increased media coverage of court proceedings. In Kuwait, the absence of confirmed death sentences in 2023 may not accurately reflect the situation: as an illustration, a Ministry of Justice's study indicated 157 drug-related death sentences were imposed by Kuwaiti courts between 2009 and 2018, almost nine times higher than the figure that HRI could confirm in the same period.¹²

These information gaps are in themselves a violation of international standards on use of the death penalty. ECOSOC Resolution 1989/64 which clarifies safeguards "guaranteeing protection of the rights of those facing the death penalty" urges retentionist countries to regularly publish disaggregated information on the use of the death penalty.¹³ This obligation is further clarified by Human Rights Council resolutions¹⁴ and UN treaty bodies.¹⁵

12. Ministry of Justice, Information Technology and Statistics Sector Statistics and Research Department, 'Drug and psychotropic substance crimes and its impact on Kuwaiti society during the period from 2009 to 2018 AD', page 95.
13. Economic and Social Council, Resolution 1989/64: 'Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty', (24 May 1989).
14. Among others, Human Rights Council, 'Resolution adopted by the Human Rights Council on 8 October 2021: Question of the death penalty'. UN Doc. A/HRC/RES/48/9 (15 October 2021).
15. For a review see Human Rights Council, 'Question of the death penalty: Report of the Secretary General'. UN Doc. A/HRC/48/29 (15 September 2021).

KNOWN DEATH SENTENCES FOR DRUG OFFENCES IN 2023: TOTAL AND BY COUNTRY



Four key trends can be discerned in relation to death sentences for drug offences in 2023.

A decrease in death sentences was recorded in some countries, though none of them provide official figures. Perhaps the most striking is Malaysia, where ten people were confirmed to have been sentenced to death for drug trafficking - a 50% drop from 2022. A possible reason for this is the impact of law reform on the mandatory death penalty (addressed below) on both judicial discretion and attitudes.

Conversely, **a major spike in drug-related death sentences** was observed in Iraq, with 19 confirmed judgments, representing a 533% increase from 2022. The real figure could be much higher, as the country’s Director General for Drug Affairs recently stated that he anticipated as many as 50 ‘drug traffickers’ to be sentenced to death by the end of 2023.¹⁶ This may be a consequence of what appears to be an intensification in drug control operations in the country, including through potential international cooperation with Syria.¹⁷

16. Bas News (14 January 2024), ‘Erbil, Baghdad Unite to Combat Illegal Drug Trafficking’ Bas News, <https://www.basnews.com/en/babat/836376>.

17. See, for example, Reuters (4 June 2023), ‘Iraq and Syria discuss tackling cross-border drug trade’ Reuters, <https://www.reuters.com/world/middle-east/iraq-syria-discuss-tackling-cross-border-drug-trade-2023-06-04/>; BNN (10 December 2023), ‘Iraq’s drug war: A struggle equivalent to terrorism’ (BNN), <https://bnnbreaking.com/breaking-news/crime/iraqs-drug-war-a-struggle-equivalent-to-terrorism/>

The confirmed death sentences for drug offences, of which two were against foreign nationals, account for a quarter of all known death sentences imposed in Iraq throughout 2023.

In Sri Lanka, at least six people were sentenced to death for drug possession and trafficking – including at least one foreign national – versus one in 2022, against the backdrop of increasingly repressive and abusive drug control campaigns.¹⁸

A higher number of death sentences was also recorded in Palestine and Yemen. In Gaza, four people were sentenced to death for drug-related crimes (including one in absentia) between January and July 2023, against one in 2022. This marks the third year in a row that drug-related death sentences were imposed in Gaza; though the fate of those convicted remains unclear since Israel's war on Gaza and consequent destruction of essential infrastructure. In Yemen, seven death sentences were reportedly imposed for a range of drug offences (against one in 2022). Accordingly, Yemen was moved from the 'insufficient data' to the 'low application' category.

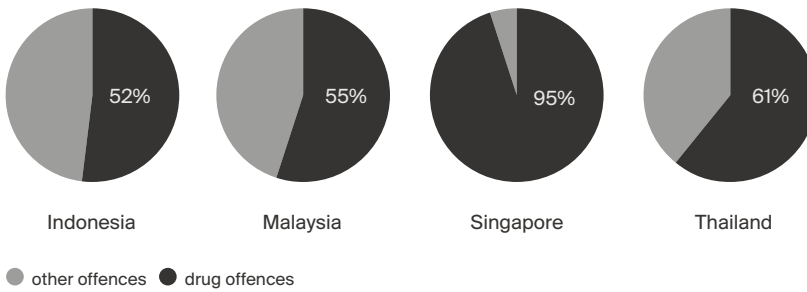
AVAILABLE FIGURES SUGGEST THAT DRUG CONTROL IS THE KEY DRIVER OF THE USE OF THE DEATH PENALTY IN MANY RETENTIONIST COUNTRIES.

For example, 94% of known death sentences imposed in Indonesia were for drug offences. This rises to 100% in the United Arab Emirates (four, all against foreign nationals) and in Singapore (nine). Among the defendants convicted in Singapore were at least three foreign nationals, three persons over 65 years' old, at least three people who claimed possession for personal use, and at least one person with a history of mental health issues.

Punitive drug control also has a significant impact on the **death row population** in several countries. Drug offences accounted for 52% of people on death row in Indonesia, about 55% in Malaysia, and 95% in Singapore. Similarly in Thailand, 61% of all people on death row are incarcerated for drug offences; and the number skyrockets to 92% when only looking at women awaiting execution. Here, official figures also suggest a 51% increase from 2022, when 121 people were on death row for drug offences compared to 183 people in 2023.

18. OHCHR (22 January 2024), 'UN experts call on Sri Lanka to immediately suspend and review 'Yukthiya' anti-drug operation'. Available at: <https://www.ohchr.org/en/press-releases/2024/01/un-experts-call-sri-lanka-immediately-suspend-and-review-yukthiya-anti-drug>.

PEOPLE ON DEATH ROW FOR DRUG OFFENCES IN 2023 IN FOUR COUNTRIES



DRUG-RELATED COMMUTATIONS AND PARDONS

2023 saw a number of commutations and pardons in favour of individuals sentenced to death for drug offences, in addition to those in Malaysia pursuant to the legal reform (explored more in detail below).

A welcome development unfolded in **Indonesia**, where President Widodo granted clemency to Merri Utami, commuting her death sentence to life imprisonment. Ms Utami spent over twenty years on death row for drug trafficking despite evidence that she had been tricked into carrying drugs across borders, and she had narrowly escaped execution in 2016. This unprecedented decision marked a U-turn for the President, who had earlier pledged he would not grant clemency to people on death row for drug offences;¹⁹ and comes after sustained activism by civil society organisations and lawyers, led by LBH Masyarakat.

One commutation was also reported in **Bahrain**, and three in **Kuwait** (in favour of Iranians who had been sentenced for drug trafficking in 2022) – all to life imprisonment.

Three foreign nationals were granted pardons in the **United Arab Emirates**, after diplomatic engagement by their respective government. One is an Israeli woman who was allowed to return to Israel after being convicted of drug trafficking in 2022; the other two are Filipino nationals on death row for drug offences, who were granted a humanitarian pardon by Sheikh Mohamed Bin Zayed Al Nahyan following President Marcos Jr's engagement.

LEGAL REFORMS TO THE DEATH PENALTY FOR DRUG OFFENCES

Significant legal reforms affecting the use of the death penalty as a tool of drug control were achieved in 2023.

In April 2023, the **Malaysian** Parliament adopted two landmark laws which – among broader reforms – removed the death penalty as the mandatory punishment for the 12 offences which retained it in domestic legislation, including drug trafficking. The reform makes the application of the death penalty a matter of judicial discretion. The adopted bills also allow all people sentenced to death under the previous regime – most of whom convicted of drug trafficking – to apply for resentencing. The reform, which had been long anticipated and advocated for by local groups, was praised by UN experts for its potential to “spare the lives of 1300 prisoners on death row” and to “bolster the global trend towards universal abolition.”²⁰

By November 2023, over 800 people on death row in Malaysia had applied for resentencing, over 100 of whom were assisted through the Anti-Death Penalty Asia Network (ADPAN).²¹ In the final weeks of 2023, there was confirmation of the first commutations being granted. The resentencing process is expected to take up to a year, and local civil society warns of the risk of confusion, of limited access to counsel, and of inconsistent outcomes if such process is not centralised.

The reform also had some impact on new cases. Since the law came into effect, at least nine people charged with drug trafficking were sentenced to life imprisonment, or to thirty years imprisonment. It is worth noting that despite its significance, the reform stopped short of fully abolishing the death penalty. This remains a possible punishment under the Misuse of Drugs Act (and a widely applied one), in violation of Malaysia’s international obligations.

After years of efforts to narrow the scope of the death penalty, in late July 2023 **Pakistan** removed death as a possible punishment for offences under the Control of Narcotic Substances Act (CNSA), effectively becoming the first country to abolish the death penalty for drug offences in over a decade. This legal reform could benefit over 400 people, who (according to Justice Project

20. OHCHR (11 April 2023), ‘Malaysia: UN experts hail parliamentary decision to end mandatory death penalty’. Available at: <https://www.ohchr.org/en/press-releases/2023/04/malaysia-un-experts-hail-parliamentary-decision-end-mandatory-death-penalty>.

21. Noel Achariam (15 November 2023), ‘Group helps death row inmates to get sentences commuted’ The Malaysian Insight, <https://www.themalaysianinsight.com/index.php/s/471774>.

Pakistan) remain on death row pursuant to a drug-related death sentence imposed by lower courts.²² Further, it brings Pakistan closer to aligning with its obligation under international human rights law to move towards complete abolition. Regretfully, lower courts reportedly continued to sentence people to death for drug offences months after the adoption of the Bill, underscoring the need to ensure the outcome of the reform is disseminated to prosecutors, judges, and lawyers across the country and embedded in guidance.

Another significant step towards potential legal reform was taken by the Constitutional Court of **Taiwan** in late 2023. The Court ruled that Article 4 of the Regulations on the Prevention and Control of Drug Harm, which prescribes death or life imprisonment as the only possible punishments for trafficking certain drugs, is partially unconstitutional. In the Court's reasoning, limiting judicial discretion to life imprisonment (as the minimum available punishment for the crime) or death may prevent judges from imposing a proportionate punishment, when the offence is deemed "less serious". The Court thus gave policymakers two-years to amend the provision in line with the principle of proportionality.

KEY INTERNATIONAL DEVELOPMENTS

As in previous years, in 2023 UNODC - the only UN agency with an explicit mandate on drug-related matters - failed to take a public stance on the death penalty for drugs. In a joint statement on 2023 World Drug Day, civil society organisations called on UNODC to “take concrete, urgent actions against the ongoing violations of human rights in the name of drug control that the use of the death penalty for drug-related offences entails.”²³ **UNODC’s silence under current leadership could be interpreted as supporting the use of the death penalty for drug offences; backsliding from its clearer position in the past.**

Other international actors took a strong stance against the imposition of capital punishment for drug offences in 2023, predominantly in response to changes at domestic level. Among the most vocal were OHCHR, UN Special Procedures, and the European Union. These entities released statements welcoming the reform in Malaysia,²⁴ condemning executions in Kuwait and Singapore,²⁵ and denouncing the “appalling”²⁶ pace of executions in Iran.

In multilateral fora, an important moment was the Biennial High-Level Panel Discussion on the Question of Death Penalty at the Human Rights Council, dedicated to the issue of its restriction to “most serious crimes”. Drug offences took centre stage, with several panellists and Member States denouncing the disproportionate impact of drug control on the use of capital punishment, despite not meeting the threshold of “most serious” offences; and recommending abolition.

23 Amnesty International, Harm Reduction International, Iran Human Rights and Transformative Justice Collective (26 June 2023), ‘World Drug Day: UNODC must act to stop the use of the death penalty for drug-related offences and urge states to end executions’. Available at: <https://hri.global/publications/joint-statement-to-the-unodc-on-death-penalty-and-the-world-drugs-day/>.

24 Among others, OHCHR (11 April 2023), ‘Malaysia: UN experts hail parliamentary decision to end mandatory death penalty’. Available at: <https://www.ohchr.org/en/press-releases/2023/04/malaysia-un-experts-hail-parliamentary-decision-end-mandatory-death-penalty>.

25 Among others, European External Action Service (27 July 2023), ‘Kuwait: Statement by the Spokesperson on today’s executions’. Available at: https://www.eeas.europa.eu/eeas/kuwait-statement-spokesperson-todays-executions_en; OHCHR (28 April 2023), ‘Singapore: UN experts condemn continued use of death penalty for drug-related crimes’. Available at: <https://www.ohchr.org/en/press-releases/2023/04/singapore-un-experts-condemn-continued-use-death-penalty-drug-related-crimes>.

26 European External Action Service (1 December 2023), ‘Iran: Statement by the Spokesperson on the latest executions’. Available at: https://www.eeas.europa.eu/eeas/iran-statement-spokesperson-latest-executions-0_en.

Two important UN documents were adopted in late 2023. The first is a new Resolution by the Human Rights Council on the “Question of the death penalty”.²⁷ Among other things, the Resolution urges Member States that retain the death penalty to actively work on strictly limiting its application to the “most serious crimes”; a threshold that drug offences do not meet, as reiterated by the resolution itself. Retentionist states that apply the mandatory death penalty were also urged to end this practice. The text was adopted after a challenging negotiation process and with strong resistance by retentionist countries.

The second is a landmark report by OHCHR on “Human rights challenges in addressing and countering all aspects of the world drug problem”.²⁸ Among the key challenges identified towards developing effective drug policies that are grounded in human rights is the use of the death penalty for drug offences. The report re-emphasises that “drug-related offences can never serve as the basis for the imposition of the death penalty”,²⁹ and further recommends universal abolition of the death penalty, including for drug offences. Notably, OHCHR received enormous input ahead of this report from more than 100 actors including member states, civil society, National Human Rights Institutions, and UN bodies; among which UNODC, whose input was silent on the issue of the death penalty for drug offences.

27 Human Rights Council, 'Resolution adopted by the Human Rights Council on 13 October 2023: Question of the death penalty'. UN Doc. A/HRC/RES/54/35 (17 October 2023).

28 Human Rights Council, 'Human rights challenges in addressing and countering all aspects of the world drug problem: Report of the Office of the United Nations High Commissioner for Human Rights'. UN Doc. A/HRC/54/53 (15 August 2023), <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-ohchrs-report-human-rights-challenges-addressing-and-countering>.

29 *ibid.*, para. 64.

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Any errors are the sole responsibility of Harm Reduction International.



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