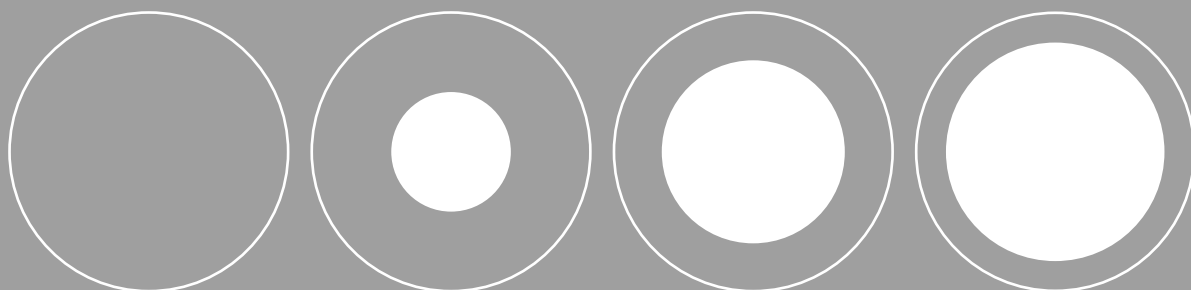


SPECIAL ISSUE

A DECADE-LONG REVIEW ON THE DEATH PENALTY FOR DRUG OFFENCES





Special Issue
**A Decade-Long Review on the Death
Penalty for Drug Offences**

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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.

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

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METHODOLOGY

For the purposes of this report and consistency with the methodology used by HRI for its flagship report *The Death Penalty for Drug Offences: Global Overview* ('Global Overview'), drug offences (also referred to as drug-related offences or drug-related crimes) are drug-related activities categorised as crimes under national laws, excluding activities which are not related to the trafficking, possession or use of controlled substances and related inchoate offences (inciting, assisting or abetting a crime) and excluding cases in which drug offences are punishable with death only if they involve, or result in intentional killing.

The primary source of this report is HRI's report series - *The Death Penalty for Drug Offences: Global Overview* between 2014 and 2023. For data analysis, the report uses the same criteria¹ of country categorisation as defined in *The Death Penalty for Drug Offences: Global Overview 2023*:



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



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.



Insufficient Data category denotes instances where there is simply not enough information to classify the country accurately.

Data collected has been updated and complemented by in-depth desk research that includes 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. Therefore, the figures presented here could differ from those presented in previous editions of the 'Global Overview', as they have been updated as more information has become available over the years.

Despite every effort to minimise inaccuracies, lack of transparency remains an issue that hinders monitoring of the death penalty for drug offences. Language barriers affecting access to information may also lead to a potential for error. HRI welcomes information or additional data not included in this report.

Unless stated otherwise, all information below is taken from Harm Reduction International's The Death Penalty for Drug Offences: Global Overview series.²

² For more details on "The Death Penalty for Drug Offences: Global Overview" series see <https://hri.global/flagship-research/death-penalty/>.

A DECADE IN A SNAPSHOT

BETWEEN 2014 AND 2023

- At least 3113 people were executed for drug offences.
- Eight countries were recorded to have carried out executions for drug offences.
- On average, almost one out of three executions that took place in the last decade were for drug offences.
- The highest recorded proportion of drug-related executions (against all executions) was in 2015 with 44.6%; meaning almost one in every two executions were for drug offences. The year also recorded the highest number of drug-related executions: 763 people.
- At least 2142 people were sentenced to death for drug offences. This figure is based on data from 25 countries where sentences were imposed for drug offences throughout the decade.
- Although 2020 recorded the lowest number of drug-related executions, the number of death sentences handed down that year was 38% higher than 2019.
- Of the 34 countries and territories that retained the death penalty at the end of 2023, at least, 12 countries retain it as a mandatory punishment for at least some drug offences
- Recommendations for abolition, moratorium, and/or review of the practices of the death penalty given by abolitionist States to retentionist States during the Universal Periodic Review (UPR) processes increased from at least 382 on the second cycle (2012 – 2016) to 581 on the third cycle (2017-2022). These include 4 and 13 specific recommendations on the death penalty for drug offences in each of the cycles, respectively.
- The United Nations Office on Drugs and Crime (UNODC) has failed to take public stances on the death penalty for drug offences over the past few years. This marks a retrogression of their position on this issue. Their silence could be interpreted as an approval of this blatant violation of international standards.

INTRODUCTION

Since the adoption of the Second Protocol to the ICCPR in 1989, aiming at the abolition of the death penalty, a total of 90 countries have ratified the international treaty with 12 of them joining this international commitment in the decade between 2014 and 2023.³ Coupled with national and international civil society activism, the strong push towards abolition contributed to the abolition of the death penalty for all crimes in 14 countries, and for ordinary crimes in 5 other countries between 2014 and 2023.⁴

Unfortunately, these positive developments were not mirrored by parallel progress towards abolition of the death penalty for drug offences specifically. Of those countries which abolished the death penalty for all or ordinary crimes, *none* had the death penalty for drug crimes in the books; and of those which reduced the list of crimes to which the death penalty could be imposed, only one did so for all drug offences, namely Pakistan, in 2023.⁵

According to HRI's Global Overview 2023, 34 countries and territories⁶ still have the death penalty for drug offences in the law. **Known drug-related executions remain high; they accounted for roughly 42% of total executions in 2023.** This is despite international advocacy and an increasing engagement by the United Nations (UN), international bodies, as well as civil society to move towards the abolition of the death penalty. For example, in 2019, the UN Human Rights Committee adopted General Comment Number 36, which provides authoritative guidance on the interpretation of Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and clarifies standards on the use of the death penalty according to international law. Among other things, the General Comment also elaborates on the irrevocability of the abolition of the death penalty for those countries that have already abolished it and explicitly mentions that drug offences “can never serve as the basis” for the application of the death penalty.⁷

3 UN Treaty Body Database. (2024, April 13). *Ratification Status for CCPR- International Covenant on Civil and Political Rights*. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR

4 Girelli, G, Larasati, A, and Jofré, M. (2024, March 19). *The Death Penalty for Drug Offences: Global Overview 2023*. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2023/>; World Coalition Against the Death Penalty. (2023, October 2). *21st World Day Against the Death Penalty*. <https://worldcoalition.org/campagne/21st-world-day-against-the-death-penalty/>; Death Penalty Information Centre (2023, September 21). *Abolitionist and retentionist countries*. Death Penalty Information Center. <https://deathpenaltyinfo.org/policy-issues/international/abolitionist-and-retentionist-countries>; Amnesty International. (2023, May 18). *Abolitionist and retentionist countries as of December 2022*. <https://www.amnesty.org/en/documents/act50/6591/2023/en/>

5 Other countries removed some categories of drug offences from the list of crimes punishable by the death penalty, but some others remain; meaning that certain drug offences are still punishable by death. One example is Vietnam with its 2015 amendment.

6 The figures used in this report include territories that are not recognised as fully independent ‘States’ by the United Nations, and that therefore fall outside the bounds of the retentionist States typically enumerated by other death penalty monitors.

7 Human Rights Committee. (2019, September 3). *General Comment No. 36. Article 6: Right to Life*. UN doc. CCPR/C/GC/36. para 35. <https://www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life#:~:text=The%20right%20to%20life%20is,for%20society%20as%20a%20whole.>

There has also been widespread recognition of the many human rights violations associated with its application. Special Rapporteurs and other UN mechanisms have regularly monitored and reported on the application of the death penalty and human rights violations experienced by people facing or sentenced to death, including violations of a fair trial and due process and freedom from torture and ill-treatment.⁸

Leveraging HRI's unique expertise in this field, this report will analyse how the landscape of the death penalty for drug offences has shifted in the last decade. This report builds on the pioneering work HRI has been doing since its first 'The Death Penalty for Drug Offences: Global Overview (*'Global Overview'*) in 2007, which analyses the main trends regarding people on death row⁹, death sentences and executions for drug offences, as well as key developments at national and international level in the last decade, between 2014 and 2023.

⁸ See, for example, Rehman, J, Gopalan, P, Guillet, M, Yudkivska, G, Estrada-Castillo, M, Malila, M, Baldé, A, Citroni, G, Neelapaljit, A, Baranowska, G, Delgadillo, A, Ghanea, N, Satterthwaite, M, De Varennes, F, Tidball-Binz, M, Jill Edwards, A, Khan, I. (2023, May, 9) *Iran: UN experts condemn recent executions, urge moratorium on death penalty*. [Press Release] <https://www.ohchr.org/en/press-releases/2023/05/iran-un-experts-condemn-recent-executions-urge-moratorium-death-penalty>; Türk, V. (2023, May 9) *Statement of the High Commissioner of Human Rights on the Frightening number of executions*. [Press release] <https://www.ohchr.org/en/press-releases/2023/05/iran-frightening-number-executions-turk-calls-end-death-penalty>; Tidball-Binz, M, Gopalan, P, Guillet, M, Yudkivska, G, Estrada-Castillo, M, Malila, M, Satterthwaite, M, De Varennes, F and De Schutter, O (2023, April 28) *Singapore: UN experts condemn continued use of death penalty for drug-related crimes*. [Press release] <https://www.ohchr.org/en/press-releases/2023/04/singapore-un-experts-condemn-continued-use-death-penalty-drug-related-crimes>; Human Rights Council. (2022, October 12). *Resolutions on the question of the death penalty*. UN doc. A/HRC/RES/51/7. <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/RES/51/7&Lang=E>; Committee on the Elimination of Racial Discrimination. (2022, February 2). *Concluding observations on the initial report of Singapore*. UN doc. CERD/C/SGP/CO/. <https://uhri.ohchr.org/Document/File/638ef14d-83ad-4eda-951f-d283385fe521/AEA7034C-8D2B-4EE2-8657-0F4A1F9E2888>

⁹ HRI acknowledge that there is no consensus regarding the definition of 'death row' and that different authorities and organisations may collect data differently. When recording death sentences, this report considers the first judgment imposed in the year under study, regardless of possible different outcomes after court appeals or the resentencing process that may have occurred in the following years.

GLOBAL FIGURES

Before going in-depth on the global figures, it is particularly important to keep in mind that confirmed numbers throughout this report may represent an underestimate of the real scale of the application of the death penalty due to a persistent lack of transparency and censorship that hinders access to information. Issues with lack of transparency will be discussed below in ‘Issues Spotlight’ section.

The number of countries retaining the death penalty for drug offences has changed over time. Most notably, **it increased significantly in parallel with the adoption of the international drug control conventions, which guide how States develop their domestic drug policy.** These conventions are the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. In 1985, 22 countries retained the death penalty for drug offences. The number increased to 36 by the end of 2000.¹⁰ There have been differences in the list of retentionist countries published by some scholars and organisations. But this is mainly due to different definitions of what is considered a capital offence for drugs.

The increase in the number of retentionist countries for drug offences is assumed to be a consequence of, among other factors, a claim that the 1988 Convention mandated a harsh penal provision for drug trafficking,¹¹ which may have been interpreted by many countries as applying the death penalty. However, in its Commentary on the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, UNODC states that measures should “subject always to the requirement that such initiatives are consistent with applicable norms of public international law, in particular norms protecting human rights,”¹² clarifying that the 1988 Convention does not mandate the death penalty. This position is reaffirmed by UNODC in its 2010 report that calls

10 In 2001, the UN Commission on Crime Prevention and Criminal Justice (para. 90) identified Bahrain, Bangladesh, Brunei Darussalam, China, Cuba, Democratic Republic of Congo, Egypt, Guyana, India, Indonesia, Iran, Iraq, Jordan, Kuwait, Libya, Malaysia, Myanmar, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Singapore, South Korea, Sri Lanka, Sudan, Syrian Arab Republic, Taiwan, Tajikistan, Thailand, United Arab Emirates, United States (federal law), Uzbekistan and Viet Nam as those countries with capital punishment for drug crimes. The above list does not include Yemen and Laos, both of which have capital punishment for drug offences.

11 Lines, R, Barrett, D, and Gallahue, P. (2021, May 15). *Guest Post: The Death Penalty for Drug Offences: ‘Asian Values’ or Drug Treaty Influence?* *Opinio Juris*. <https://opiniojuris.org/2015/05/21/guest-post-the-death-penalty-for-drug-offences-asian-values-or-drug-treaty-influence/>

12 United Nations Secretary-General. (1988, December 20). *Commentary on the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*. UN. doc. E/CN.7/590. para 3.3. p. 49. <https://digitallibrary.un.org/record/266894?ln=en&v=pdf>

for the abolition of the death penalty for drug offences (to be discussed further below).¹³

By 2014, the beginning of the decade studied, 35 countries and territories¹⁴ retained the death penalty for drug offences. The number went down to 34 – thanks to the reform adopted in Pakistan in 2023.¹⁵ **The decrease by one country is significantly lower compared to the decrease in the number of countries that retain the death penalty for all offences and for ordinary crimes over the period studied;** which none of them has a pre-existing death penalty for drug offences.¹⁶ Of the 34 countries and territories, the death penalty is mandatory¹⁷ for certain drug offences in, at least, 12 countries.¹⁸ From 2014 to 2023, only Malaysia removed the mandatory use of the death penalty for drug offences, following a legal reform in 2023.¹⁹

Between 2014 and 2023, there have been at least 3113 confirmed executions for drug offences globally. On average, almost one out of three executions that took place in the last decade were for drug offences. A closer look shows that this number fluctuates. The peak in the number of global executions for drug offences was recorded in 2015 when at least 763 people were *confirmed* to have been executed. This accounts for 44.6% of the total executions that took place that year or almost one of every two executions were for drug offences. Excluding China, North Korea and Vietnam where exact numbers are unknown, Iran, Saudi Arabia and Singapore lead the list of the top executioners in the last ten years.

13 Ibid, p.25-26.

14 HRI started to include Jordan and Mauritania on the list of States and territories that apply the death penalty for drug offences in its Global Overview 2018 as recent developments at that time showed that capital punishment is still in the law, and in practice applicable. For more details see Girelli. G (2019, February 01). *The Death Penalty for Drug Offences: Global Overview 2018*. Harm Reduction International. p. 25 and 36. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2018/>

15 Girelli. G, Jofré. M and Larasati. A. (2024, March 19). *The Death Penalty for Drug Offences. Global Overview 2023*. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2023/>

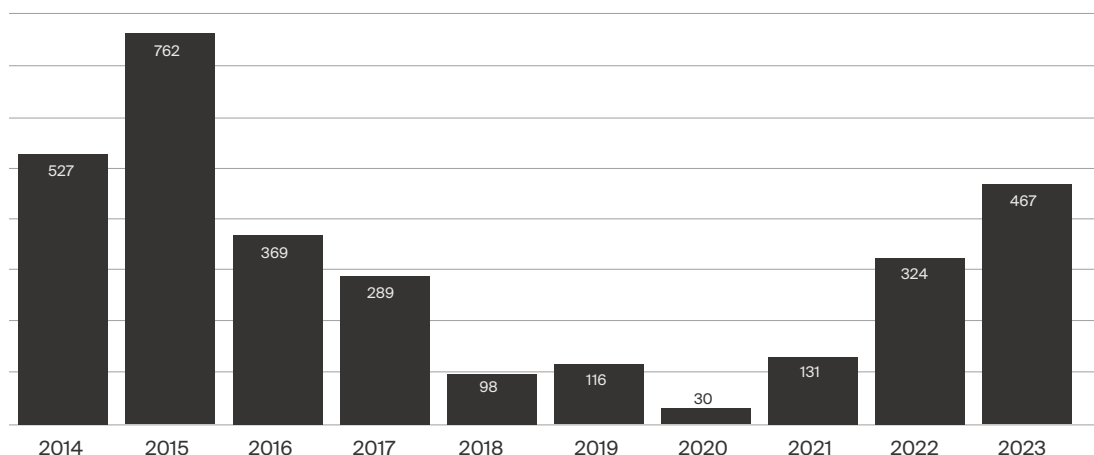
16 According to WCADP, since 2014, 16 countries have abolished the death penalty for all crimes, (non-of them had the death penalty for drug offences in their books): Congo (2015), Fiji (2015), Madagascar (2015), Suriname (2015), Benin (2016), Nauru (2016), Guinea (2017), Burkina Faso (2018), Chad (2020), Kazakhstan (2021), Sierra Leon (2021), Papua New Guinea (2022), Central African Republic (2022), Equatorial Guinea (2022), Zambia (2022), Ghana (2023). For more details see Death Penalty Information Centre (n.d) *Countries That Have Abolished the Death Penalty Since 1976*. <https://deathpenaltyinfo.org/policy-issues/international/countries-that-have-abolished-the-death-penalty-since-1976>

17 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).

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

19 Girelli. G, Jofré. M. and Larasati. A. (2024, March 19). *The Death Penalty for Drug Offences. Global Overview 2023*. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2023/>

TOTAL KNOWN EXECUTIONS FOR DRUG-RELATED OFFENCES BETWEEN 2014 AND 2023



In the years following 2015, statistics showed a regular decrease. The shrink in the number of executions between 2016 and 2020 cannot be interpreted as indicative of retentionist countries' interest in moving away from the death penalty for drug offences. One dominant reason for the decline is associated with Iran's amendment of its drug control law, which contributed to a 50% reduction in executions between 2015 and 2016. Although the amended law was officially passed in 2017, the domestic process leading up to those changes started around 2014 when Iran's then-Head of Judiciary said the country was “*crusading*” to change the law.²⁰ Parallel to that, a growing number of international institutions and civil societies publicly expressed concern about the country's use of the death penalty for drug offences and urged donors to freeze funding for counter-narcotics projects in Iran.²¹ Indonesia also contributed to the decrease in executions for drug offences when the country reduced executions from 14 to 4 between 2015 and 2016. Since then, Indonesia has not carried out executions (either for drug offences or other offences).

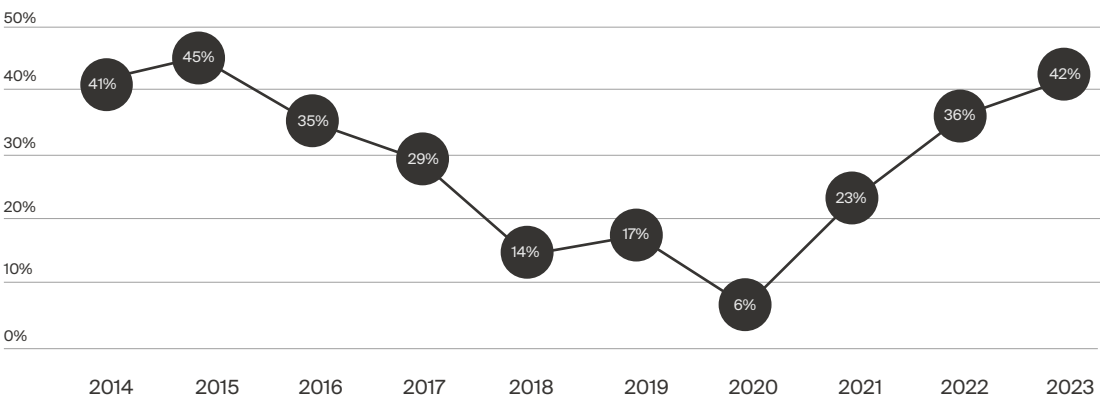
The decade's lowest figure, 30 executions, was confirmed in 2020 – the year COVID-19 was declared a pandemic. The decrease in executions this year was presumably the result of a combination of factors, including the pandemic (which limited judicial activities as well as shifted focus), the implementation of the Iranian reforms, and a temporary moratorium on drug-related executions announced in Saudi Arabia in 2020.²² Since 2021, the number of executions for drug offences has been steadily increasing, with the 2023 figure showing similar levels to 2014.

20 Iran Human Rights (2017, September). *Annual Report on the Death Penalty in Iran 2017*. Iran Human Rights. p.21. https://www.iranhr.net/media/files/Rapport_Iran_2018-gb-090318-MD2.pdf

21 Ibid p.21-22

22 Girelli, G and Larasati, A. (2022, March 18). *The Death Penalty for Drug Offences: Global Overview 2021*. Harm Reduction International. p.12. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2021/>; Girelli, G and Larasati, A. (2021, March 01). *The Death Penalty for Drug Offences: Global Overview 2020*. Harm Reduction International. p.39. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2020/>

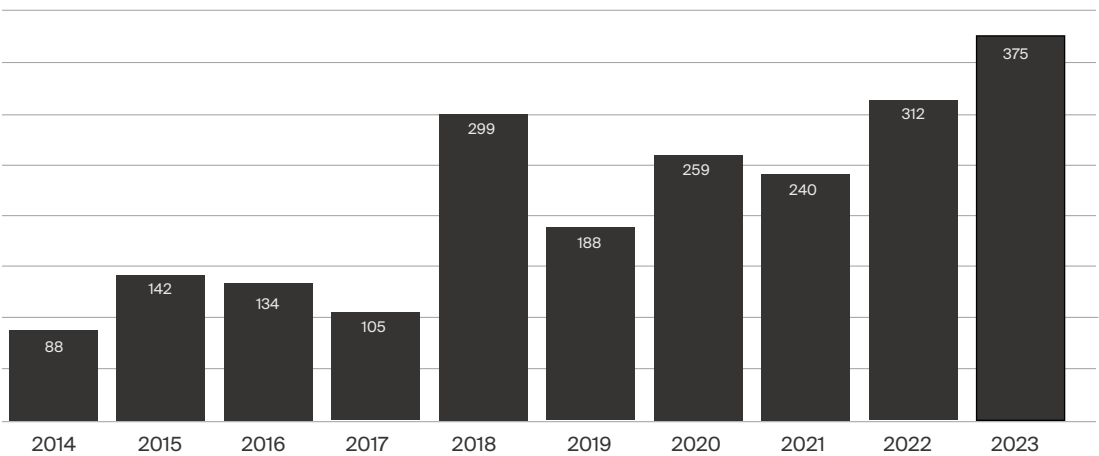
PERCENTAGE OF DRUG-RELATED EXECUTIONS (AGAINST ALL EXECUTIONS)
BETWEEN 2014 AND 2023



With regards to death sentences, between 2014 and 2023, at least 2142 people were sentenced to death for drug offences. On average, close to 214 people were sentenced to death each year in the last decade. **Despite some fluctuations over the decade, there is an upward trend in the number of death sentences imposed for drug offences**, with peaks in 2022 (312) and 2023 (375). However, like other figures on the implementation of the death penalty for drug offences, these data need to be treated as a minimum confirmed number with the possibility of courts in other countries and territories prescribing the death penalty for drug offences. This number excludes figures from China, Iran, and North Korea where hundreds, if not more, are suspected to have been executed or sentenced to death during that period; but lack of transparency prevents a clear picture.

A contrast between the number of executions and death sentences can be seen in 2020. While the figure for known executions marked the decade’s lowest, the number of death sentences handed out in 2020 increased by 38% compared to the year before. This signs the continued reliance on the death penalty as a tool for drug control.

TOTAL KNOWN NUMBER OF DEATH SENTENCES FOR DRUG OFFENCES
BETWEEN 2014 AND 2023



The decade between 2014 and 2023 has also seen an increase in the number of countries and territories confirmed to have been imposing death sentences for drug offences, from 12²³ in 2014 to 16²⁴ in 2023. **Throughout the decade studied, 25 countries prescribed death sentences for drug offences. As of 2023, at least 3039 people are on death row for drug offences.**

What these global figures reveal is that among those countries that have the death penalty for drugs on the books, only a few proceed with executions of people convicted of drug offences. Although numbers changed throughout the decade, **eight countries recorded drug-related executions in the past decade.**²⁵ They are a small, identifiable group that represents an extreme fringe of the international community. Yet, these aggressive executioners have managed, at least in the past decade, to resist the global trends towards total abolition of the death penalty, as well as international pressures to move towards abolition.

23 China, Indonesia, Iran, Kuwait, Malaysia, Pakistan, North Korea, Saudi Arabia, Singapore, Sri Lanka, UAE and Vietnam.

24 China, Indonesia, Iran, Malaysia, North Korea, Saudi Arabia, Singapore, Vietnam, Bangladesh, Egypt, Iraq, Lao PDR, Sri Lanka, State of Palestine, United Arab Emirates and Yemen.

25 China, Indonesia, Iran, Kuwait, North Korea, Saudi Arabia, Singapore and Vietnam

INTERNATIONAL POLICY DEVELOPMENTS

HRI takes pride in being the first organisation to provide a systematic overview and analysis of the global use of the death penalty for drug offences and of its commitment to this for over 15 years. Our first report on the subject was launched in 2007. At that time, there was a normative evolution towards limiting the use of the death penalty for drugs among human rights bodies. Limited actions to advocate against the use of the death penalty for drug offences seem to have been taken by Member States and international agencies like the UNODC.

By 2014, there had been statements and reports by various international actors and stakeholders, including UNODC and other UN bodies, condemning the use of the death penalty for drug offences.²⁶ As early as 1997, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions had declared that “the death penalty should be eliminated for crimes such as economic crimes and drug-related offences.”²⁷ In their Concluding Observations, The UN Human Rights Committee often raised concerns about the use of the death penalty beyond for the ‘most serious crimes’.²⁸ The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health paid attention to this topic in his 2010 report.²⁹ Furthermore, in

- 26 See for example Pillay, N. (2009, March 10). *High Commissioner calls for focus on human rights and harm reduction in international drug policy*. [Press release]. <https://www.ohchr.org/en/statements/2009/10/high-commissioner-calls-focus-human-rights-and-harm-reduction-international-drug>; Ashipala-Musavyi, S. (2008, December 10). *UN Human Rights Experts Call upon CND to Support Harm Reduction. Letter to the Commission on Narcotic Drugs from UN Special Rapporteurs*. Human Rights Watch. [Press release] <https://www.hrw.org/news/2008/12/10/un-human-rights-experts-call-upon-cnd-support-harm-reduction>; UN Human Rights Committee. (2005, July 5). *Concluding Observations of the United Nations Human Rights Committee, Thailand*. UN doc. CCPR/CO/84/THA. United Nations. para. 14. [https://www.ohchr.org/en/documents/thematic-reports/ahrc4733-extrajudicial-summary-or-arbitrary-executions-report-special](https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=60k-G1d%2FPPRICaQhKb7yhstazfkB2WLZhxIPrVe5TzqOhcSvbAa3RtOE%2F51XyGPaNIT9I9RHPjrw5ZqD6kCLPCCvQIw6M-3dLqHic2FarhyhoddOvM7YPmyB1E7PY1Yd; Jahangir, A. (2003, December 22). Civil and Political Rights, Including the question of disappearances and summary executions. UN. doc. E/CN.4/2004/7. para. 51-53. https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=E/CN.4/2004/7&Lang=E; UN Human Rights Committee. (1995, October 3). Report of the United Nations Human Rights Committee. UN. doc. A/50/40. para. 449. https://undocs.org/Home/Mobile?FinalSymbol=A%2F50%2F40&Language=E&DeviceType=Desktop&LangRequested=False</p><p>27 Callamard, A. (2021, June 7). <i>Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions</i>. A/HRC/47/33. para. 46. <a href=); Bacre Waly Ndiaye. (1996, December 24). *Questions of the violations of human rights and fundamental freedoms in any part of the world. With particular reference to colonial and other dependent countries and territories*. UN Doc E/CN.4/1997/60. para. 91. <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=E/CN.4/1997/60&Lang=E>
- 28 See for example Concluding Observations: UN Human Rights Committee. (2007, August 29). Concluding Observations of the Human Rights Committee. Sudan. UN. doc. CCPR/CO/SDN/CO/3. para 19. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CCPR%2FC%2FSDN%2FCO%2F3&Lang=en; UN Human Rights Committee. (2005, July 9) *Concluding Observations of the Human Rights Committee, Thailand*. CCPR/CO/84/THA. para 14. <https://www.refworld.org/policy/polrec/hrc/2005/en/29151>
- 29 Grover, A. (2010, August 6). *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*. UN doc. A/65/255. para. 17-18 <https://www.ohchr.org/Documents/Issues/Water/ContributionsStigma/others/SPHealthI.pdf>

2014, the then-President of the International Narcotic Control Board (INCB) made a statement –likely to be the first of its kind after refusing to engage on the issue for years³⁰– encouraging Member States “to consider abolishing the death penalty for drug-related offences.”³¹ Since then, INCB has continued to make similar statements concerning the use of the death penalty for drug offences, albeit irregularly.³² Similar to the attention given by international actors on this issue, on the regional level, the European Union’s Guidelines on the Death Penalty, issued in 2013, stated that drug-related crimes are not eligible for the death penalty.³³ These examples of statements and reports by international actors are not exhaustive and should be treated as an illustration of the attention given to this topic.

The decade studied also witnessed **some moves from abolitionist countries to discourage the continued use of the death penalty for drug offences by withdrawing drug control aid.**³⁴ In 2015, the UK Member of Parliament probed the country’s foreign aid to Pakistan amid fears it funded the application of the death penalty for drug offences.³⁵ Similar to that, the UK, Denmark and Ireland pulled funding from Iran’s drug control program due to concerns about the death penalty.³⁶ This is, partially, thanks to the increased attention and advocacy calling for the abolition of such practices. Nevertheless, it appeared that these initiatives were short-lived, as seen by the brief influence they had on the use of the death penalty for drug offences.

The decade also has seen more countries committing in multilateral fora to take steps towards the abolition of the death penalty for drug offences, including by limiting or restricting its use. For example, the death penalty for drug offences was intensely discussed by Member States at the 2016 UN General Assembly Special Session (UNGASS) on the World Drug Problem. Although the outcome document did not mention the death penalty for drug offences, HRI identified 73 States that explicitly expressed strong opposition to the use of the death penalty for drug offences in their UNGASS interventions and further condemned the exclusion of the language on the death penalty.³⁷

30 Gallahue. P. (2015) *Drugs and the Death Penalty*. Open Society Foundation. p.4. <https://www.opensocietyfoundations.org/uploads/69fbd5c4-9540-4f9b-95f8-98d71f331632/drugs-and-death-penalty-20151009.pdf>

31 United Nations Information Centre. (2014, March 14) *INCB encourages States to consider the abolition of the death penalty for drug-related offences*. [Press release]. https://www.incb.org/documents/Publications/PressRelease/PR2014/press_release_050314.pdf

32 United Nations Information Service. (2016, August 1). *INCB reiterates its call to States to consider the abolition of the death penalty for drug-related offences*. [Press release]. https://www.incb.org/incb/en/news/press-releases/2016/press_release010816.html

33 European External Action Service. (2013, June 18). *EU Guidelines on the Death Penalty*. EEAS. 8416/13. p.9 https://www.eeas.europa.eu/sites/default/files/08_hr_guidelines_death_penalty_en.pdf

34 Gallahue. P and Lines. R. (2015, October 1). *The Death Penalty for Drug Offences: Global Overview 2015. The Extreme Fringe of Global Drug Policy*. Harm Reduction International. p.12. <https://hri.global/publications/the-death-penalty-for-drug-offences-global-overview-2015-the-extreme-fringe-of-global-drug-policy/>

35 Virtue. R. (2015, August 15). *Britain’s £338m foreign aid to Pakistan ‘to be probed’ amid fears it funds death penalty*. Express. <https://www.express.co.uk/news/politics/598143/Britain-foreign-aid-fund-to-Pakistan-probed-fears-it-funds-death-penalty>

36 Gallahue. P and Lines. R. (2015, October 1). *The Death Penalty for Drug Offences: Global Overview 2015. The Extreme Fringe of Global Drug Policy*. Harm Reduction International. p. 12. <https://hri.global/publications/the-death-penalty-for-drug-offences-global-overview-2015-the-extreme-fringe-of-global-drug-policy/>

37 Gender. S. (2018, March 1). *The Death Penalty for Drug Offences: Global Overview 2017*. Harm Reduction International. p.15. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2017/>

In addition to that, there are reports and studies from various other UN bodies published on this topic. This reflects growing interest by UN bodies on the death penalty for drug offences (and other adjacent drug policy topics). As an example, in 2021 the UN Working Group on Arbitrary Detention published a watershed report on arbitrary detention in the context of drug policies where it reiterated the incompatibility of imposing the death penalty for drug offences with international standards. Two years later the OHCHR published a report on human rights challenges in addressing and countering all aspects of the world drug problem (A/HRC/54/53), re-emphasising that “drug-related offences can never serve as the basis for the imposition of the death penalty”, and further recommending universal abolition of the death penalty, including for drug-related offences.

Along with these developments is the UPR process – where countries review each others’ obligations under international human rights laws.³⁸ The death penalty continues to be one of the issues highlighted in the UPR, and an abolition, moratorium, or review of current practices is often recommended by abolitionist States to retentionist ones. At least 382 recommendations were made on the abolition of the death penalty during the second cycle of UPR, with only 4 of them being specific recommendations to remove the death penalty for drug offences. The number increased on the third cycle, with 581 recommendations, 13 of them specifically on the death penalty for drug offences. The UPR process is currently in the middle of its fourth cycle, and as of November 2023, HRI recorded at least 133 recommendations on the death penalty, with 6 of them specifically addressed the death penalty for drug offences. As a peer review process, UPR is dubbed as a “catalyst for mobilisation, providing leverage and an opportunity for dialogue between domestic actors and governments,”³⁹ thanks to its principles and modalities. Although to varying degrees, countries seem to be inclined to implement recommendations that they support. And here is the catch: countries are welcome to support, not support, or just simply note recommendations. Most of the recommendations on the death penalty were just ‘noted’. Only two recommendations on the death penalty for drug offences were supported by the State under review – both were given on the second cycle.⁴⁰

Another noteworthy international development on the death penalty in general is the adoption of the UN General Assembly Resolution on a moratorium

38 UN Human Rights Council (n.d). Basic Facts about UPR. <https://www.ohchr.org/en/hr-bodies/upr/basic-facts>; Lips, A., Ruiz Villafraña, D., McBride, J., Girelli, G., Lai, G. (2019, April 19). *Making the Universal Periodic Review work for people who use drugs*. <https://hri.global/wp-content/uploads/2022/10/UPR-people-who-use-drugs-report-2019.pdf>

39 Lane, M. (2023, January 9). *The Universal Periodic Review: A Catalyst for Domestic Mobilisation*. *Nordic Journal of Human Rights*, 40(4), 507–528. p.507. <https://doi.org/10.1080/18918131.2022.2139076>

40 Vietnam supported a recommendation from Switzerland (143.92). Reduce the list of crimes punishable by the death penalty, in particular economic crimes and those linked to drugs, and examine the possibility of introducing a moratorium; while Thailand supported a recommendation from Slovenia (158.72) Review the imposition of death penalty for offences related to drug trafficking).

on the use of the death penalty, which in 2022 garnered historic support from 125 countries (compared to 117 in 2014). It is important to note that some countries which retain the death penalty for drug offences voted in favour of the resolution throughout the years. Jordan and South Korea, for example, after three rounds of abstention, started to vote in favour of a moratorium in 2020 and 2022. Malaysia had been voting against a moratorium until 2018 when the government finally voted in favour. 2022 also marked Myanmar voting for a moratorium for the first time in the decade. Sri Lanka, on the other hand, has been voting in favour of the resolution for a decade. Voting for a moratorium in a resolution may not always reflect the country's preference or commitment to abolish the death penalty; however, it might be interpreted as a signal to at least start a conversation and explore options towards abolition.

STATES VOTES ON UN GENERAL ASSEMBLY RESOLUTION ON MORATORIUM ON THE USE OF THE DEATH PENALTY

	2014	2016	2018	2020	2022
abs = abstained					
+ = voted for					
- = voted against					
Bahrain	abs	abs	-	-	-
Bangladesh	-	-	-	-	-
Brunei Darussalam	-	-	-	-	-
China	-	-	-	-	-
Cuba	abs	abs	abs	abs	abs
Egypt	-	-	-	-	-
India	-	-	-	-	-
Indonesia	abs	abs	abs	abs	abs
Iran	-	-	-	-	-
Iraq	-	-	-	-	-
Jordan	abs	abs	abs	+	+
Kuwait	-	-	-	-	-
Lao PDR	abs	abs	abs	abs	abs
Libya	-	-	+	-	-
Malaysia	-	-	+	+	+
Mauritania	abs	abs	abs	abs	+
Myanmar	-	abs	abs	abs	-
North Korea	-	-	-	-	-
Oman	-	-	-	-	-
Pakistan	n/a	-	+	-	n/a
Palestine	-	n/a	n/a	n/a	-
Qatar	-	-	-	-	-
Saudi Arabia	-	-	-	-	-
Singapore	abs	-	-	-	+
South Korea	+	abs	abs	+	n/a
South Sudan	+	+	abs	abs	+
Sri Lanka	-	+	+	+	-
Sudan	-	-	-	-	-
Syria	n/a	-	-	-	n/a
Taiwan	abs	n/a	n/a	n/a	abs
Thailand	abs	abs	abs	abs	abs
United Arab Emirates	-	abs	abs	abs	-
USA	abs	-	-	-	abs
Vietnam	-	abs	abs	abs	-
Yemen		-	-	abs	

Meanwhile, at the UN Human Rights Council, a resolution calling for the abolition of the death penalty has garnered support from almost the same number of countries throughout the decade studied, from 29 votes against 10 (and 8 abstentions) in 2014 to 28 votes against 11 (and 7 abstentions) in 2023. Although the resolutions touch upon the issue of the death penalty in general, it is worth noting that two of the resolutions, in 2019 and 2023, made direct reference to drug offences.⁴¹

While UN human rights processes closely scrutinised the imposition of capital punishment as a tool of drug control, **the UN drug control body, UNODC, failed to provide clear guidance.** In its 2010 report, the Executive Director of UNODC stated that “the use of the death penalty for those convicted solely of drug-related or economic offences raises grave human rights concerns” and further “advocates the abolition of the death penalty and calls upon Member States to follow international standards concerning the prohibition of the death penalty for offences of a drug-related or purely economic nature.”⁴² However, UNODC failed to mention the death penalty in its new 2021-2025 strategy, despite the Office’s purported commitment to human rights.⁴³ The last recorded public statement on the death penalty was made by UNODC in 2019.⁴⁴ Following the change of leadership in February 2020, UNODC has since remained publicly silent on this topic. The agency made contributions to give updates on the application of the death penalty to the UN Secretary General’s report on the moratorium of the death penalty and on the question of the death penalty, both in 2022; but it failed to mention the blatant violation that is the death penalty for drug offences in its submission to OHCHR for its 2023 report on human rights challenges in addressing and countering all aspects of the world drug problem.⁴⁵

Conversely, UNODC continues to be actively involved in funding or delivering technical assistance, legislative support, or other initiatives intended to strengthen punitive drug policies in countries that retain the death penalty for drug offences.⁴⁶ These activities are either specifically designed to assist

41 UN Human Rights Council. (2023, October 17). *Resolution adopted by the Human Rights Council on 13 October 2023*. UN.doc. A/HRC/RES/54/35. p.2 <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/RES/54/35&Lang=E>; UN Human Rights Council. (2019, October 8). *Resolution adopted by the Human Rights Council on 27 September 2019*. UN. doc. A/HRC/RES/42/24. p. 2-3. <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/RES/42/24&Lang=E>

42 Commission on Narcotic Drugs and Commission on Crime Prevention and Criminal Justice (2010, March 10). *Drug Control, crime, prevention and criminal justice: a human rights perspective*. UN. doc. E/CN.7/2010/CRP.6E/CN.15/2010/CRP.1. p.25 - 26. https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_19/E-CN15-2010-CRP1_E-CN7-2010-CRP6/E-CN15-2010-CRP1_E-CN7-2010-CRP6.pdf

43 UNODC. (n.d) *UNODC Strategy 2021-2025*. <https://www.unodc.org/unodc/strategy/index.html>

44 UNODC. (2019, June 27). *Statement attributable to the UNODC spokesperson on the use of the death penalty*. [press release]. <https://www.unodc.org/unodc/en/press/releases/2019/June/statement-attributable-to-the-unodc-spokesperson-on-the-use-of-the-death-penalty.html>. For more details, list of UNODC’s press release available here: <https://www.unodc.org/unodc/en/press/allpress.html?ref=fp>

45 UN Office of the High Commissioner for Human Rights (2023, August 15). *Human Rights Challenges in addressing all aspects of the world drug problem*. <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/54/53&Lang=E>

46 Lines, R. Barrett, D and Gallahue, P (2010, June 10). *Complicity or abolition? The Death Penalty and the International support for law enforcement*. Harm Reduction International. p.6. <https://hri.global/publications/complicity-or-abolition-the-death-penalty-and-international-support-for-drug-enforcement/>

in increased drug seizures and arrests by providing funds and equipment or relate to law enforcement training and prosecutorial capacity building.⁴⁷ In countries that retain the death penalty for drug offences, such activities may result in increased convictions of persons on drug charges and therefore potentially increase death sentences and executions. For example, since the creation of the Mekong Memorandum of Understanding on Drug Control in 1992, the UNODC has provided technical assistance to enhance partnership, cooperation and action to address the world drug problem in Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam, including joint cross-border operations, training of frontline law enforcement officers enhanced through UNODC platforms, among others.⁴⁸ In Iran, UNODC has supported programmes aimed at improving effectiveness of law enforcement, regardless of the human rights violations committed in the name of drug control.⁴⁹ Recently, UNODC has announced a specialised training focusing on 'advance skills' to investigate crimes related to drug trafficking as part of "Border Management and Illicit Trafficking" of the UNODC Country Partnership Programme (2023 - 2026) for Iran.⁵⁰ In countries like Iran where the majority of the death sentence is imposed for drug crimes, people arrested for drug trafficking is likely to be sentenced to death.

This retrogression under current leadership is worrisome coming from the only UN agency with an explicit mandate on drug-related matters, especially considering they were once strongly advocating against the death penalty for drug offences, including by warning countries against temporary freeze or withdrawal of support.⁵¹

47 Ibid. p.6.

48 UNODC. (n.d). *Partnership, Cooperation, and Action in the Greater Mekong Sub-region*. <https://www.unodc.org/roseap/en/what-we-do/toc/mou.html>

49 Lines. R, Barrett. D and Gallahue. P (2010, June 10). *Complicity or abolition? The Death Penalty and the International support for law enforcement*. Harm Reduction International. p.6. <https://hri.global/publications/complicity-or-abolition-the-death-penalty-and-international-support-for-drug-enforcement>; Kamali Dehghan. S. (2015, March 15). *UN to fund Iran anti-drugs programme despite executions of offenders*. <https://www.theguardian.com/world/2015/mar/19/un-fund-iran-anti-drugs-programme-executions-unodc-death-penalty>

50 UNODC (2023, December). *UNODC In Iran Supports National Anti-Narcotic Forces With Advanced Skills Training*. <https://www.unodc.org/islamicropublicofiran/en/unodc-in-iran-supports-national-anti-narcotic-forces-with-advanced-skills-training.html>

51 United Nations Office on Drugs and Crime. (2012). *UNODC and the Promotion and Protection of Human Rights. Position Paper*. p. 10. http://www.unodc.org/documents/justice-and-prison-reform/UNODC_Human_rights_position_paper_2012.pdf; Gallahue.P and Lines.R.. (2015, October 1). *The Death Penalty for Drug Offences: Global Overview 2015. The Extreme Fringe of Global Drug Policy*. Harm Reduction International. p. 9. <https://hri.global/publications/the-death-penalty-for-drug-offences-global-overview-2015-the-extreme-fringe-of-global-drug-policy/>

CASE STUDY: AID FOR WAR ON DRUGS AND FUNDING LANDSCAPE FOR ABOLITION⁵²

For decades, world powers have spent billions of taxpayer money to support punitive drug control regimes, including in law enforcement, around the world. HRI's 2023 report on the [Aid for the War on Drugs](#), which analyses financial flows of aid money, revealed that aid money is used to fund punitive drug control policies. The research examined Official Development Assistances (ODA) spent by aid donors and institutions purportedly for promoting global health and combating poverty; and found that more than USD 974 millions of aid money were spent on "narcotics control" projects in countries around the world in the ten years studied. This includes spending by dozens of donors – led by the US, EU, Japan, and the UK. At least USD 70 million were spent in 16 countries that have the death penalty for drug-related offences, raising concerns about whether aid funding has contributed to executions of the death penalty. While some donors, such as the UK, have spent less aid in 'narcotic control' in recent years, others have increased it – most notably the US, where such spending rose significantly in 2021. For example, the US supported a "counter-narcotics training programme" in Indonesia – where, that same year, a record of at least 89 people were sentenced to death over drug-related offences. Japan, meanwhile, spent millions of dollars of its aid between 2012 and 2019 on counter-narcotics projects in Iran, including providing police with resources such as "specialised vehicles for transportation of anti-narcotics police drug-detecting dog units."

While millions of dollars were spent to support punitive drug policies, including the death penalty, the death penalty abolition movements, on the other hand, experienced a steep decline in funding over the last few years.

In 2023, [HRI and World Coalition Against Death Penalty \(WCADP\)](#) mapped the funding situation for 46 local, regional, and international organisations working on the abolition of the death penalty over the last twenty years, articulating the need for additional and sustainable funding to progress towards universal abolition of the death penalty.

Over the last two decades, availability of funding allowed for effective movement and international solidarity witnessed significant progress towards abolition globally. After the first grant on the death penalty awarded by the European Union, civil society campaigned for the adoption of the UNGA resolution on a "Moratorium on the use of the death penalty", which contributed to the record-high support 105 UN Member States in 2007. Since then, civil society has continued this campaign, resulting in 125 State Members voting in favour of the 9th resolution in 2022. At the country level, local organisations have achieved significant progress through research, campaigns, and advocacy towards law and policy reforms, often leading the movement towards abolition.

However, these successes have not been mirrored with consistent and long-term funding, with many abolitionist organisations describing a "financial cliff" for their abolition work. Despite the average budget for abolition having increased since 2012, organisations continue to be under-resourced and often operate by stretching funds. As donors of the movement have either significantly reduced their support or closed their funding streams for the upcoming years, the funding situation is deteriorating, with no sustainability of abolition work in both the short and long term. If not reversed, this trend risks reversing important gains and weakening the promotion of many fundamental rights.

52 At least stated otherwise, all information provided here is from McHenry, A, Placals, A. and Girelli, G. (2023, May 22). *Achieving abolition: Funding the Anti-death penalty movement*. Harm Reduction International and World Coalition Against Death Penalty. <https://hri.global/publications/achieving-abolition-funding-the-anti-death-penalty-movement/p.6>. <https://hri.global/publications/complicity-or-abolition-the-death-penalty-and-international-support-for-drug-enforcement/>

NATIONAL FIGURES

To better illustrate the differences between law and practices, and countries' coherence with their commitments related to the use of the death penalty, HRI categorises countries that retain the death penalty for drug offences in their laws between High Application Countries, Low Application Countries, Symbolic Application Countries, and countries with Insufficient Data available.⁵³

As shown in the tables below, some countries have shown changes in patterns related to the use of the death penalty for drug offences, resulting in them being re-categorised throughout the period studied. These changes presumably indicate a shift in policy, political interests, and possibly other factors. HRI's decade-long monitoring of the death penalty for drug offences shows that it is often hard, if not impossible, to pinpoint specific moments that catalyse changes. Take for example Bahrain, where the first ever death sentence for drug offences was recorded in 2018, or Brunei Darussalam, where the only recorded death sentence for drug offences of the decade was in 2017. Fluctuation in numbers could also be the result of changes in what information is available publicly. Vietnam is the perfect example of this, where in 2023, for the first time, HRI's monitoring process found a new source of information that documents death sentences for drug offences for that year. This calls for countries to better document and publish information on the application of the death penalty that does not only include the number of executions but also sentences handed out every year, in a disaggregated manner.



HIGH APPLICATION STATES THROUGHOUT THE DECADE

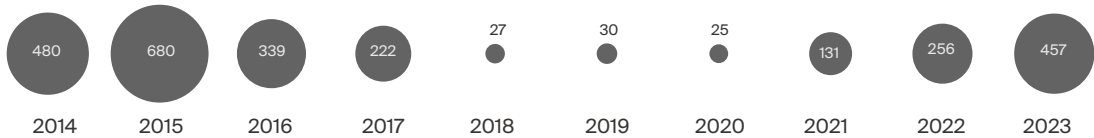
	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
China
Indonesia
Iran
Kuwait	.					.				
Malaysia
North Korea	.	.	.							
Saudi Arabia
Singapore
Vietnam

53 See the 'Methodology' section above for definitions of each of the categories.

Most countries in the High Application category have remained in this category since 2014, ie. China, Iran, Malaysia, Saudi Arabia, Singapore, Vietnam. Not accounting for China, Vietnam and North Korea, the three top executioners in the list - **Iran, Saudi Arabia and Singapore** - represent over 95% of total known executions for drug offences over the period.

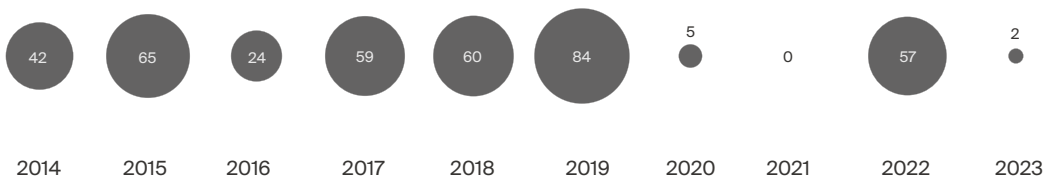
At least 2647 people were executed for drug offences by the Iranian government between 2014 – 2023. This accounts for an average of 22 executions each month every year. Although the beginning of the decade the country saw a downward trend between 2016 and 2018, followed by stagnation until 2020, the trend is back to an increase starting from 2021 until 2023, with a notorious increase of 18-fold between 2020 (25 executions) and 2023 (457 executions). This marked a setback from previous efforts to limit the use of the death penalty through the country’s Anti-Narcotic Law amendment (discussed below). Iran’s application of the death penalty also has disproportionate impact on ethnic minorities, especially Baluchis. In 2022 alone, 40 % of those executed for drug offences in the country were identified as Baluchi, while this ethnic group represents around 2% of the total population.

NUMBER OF KNOWN EXECUTIONS FOR DRUG-RELATED OFFENCES IN **IRAN** BETWEEN 2014 AND 2023



Saudi Arabia has persistently executed people for drug offences, contributing to the large proportion of drug executions globally. It peaked at its highest record of execution in 2019, with 84 people killed in the name of the war on drugs and has recorded a minimum confirmed of 398 people executed for drug offences in the last decade. Although HRI did not record evidence of executions in 2021, presumably due to the implementation of a moratorium, 2022 saw the return to executions with 57 people recorded as executed for drug offences. While 2023 has seen a stark decrease in recorded executions, figures are not definitive due to transparency issues.

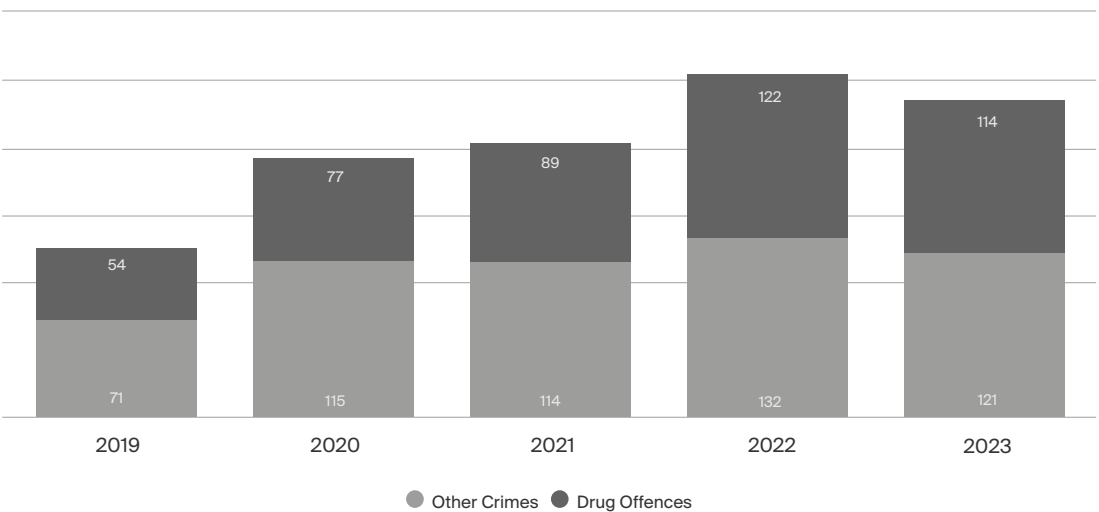
NUMBER OF KNOWN EXECUTIONS FOR DRUG OFFENCES IN **SAUDI ARABIA** BETWEEN 2014 AND 2023



Singapore is another country that has consistently executed people for drug offences in the last decade, except for a brief pause in 2020 and 2021. Nearly all executions carried out over the decade studied are for drug offences, representing 86% of all executions in the country. The execution for drug offences in Singapore reached its peak in 2018 and 2022 with 11 executions in each of these two years.

Indonesia made into the list of High Application States in 2015 when the government executed 14 people, all for drug offences; twelve of them were foreign nationals, and two were women (one Indonesian national, and one Vietnamese national). Although the country’s last execution was in 2016, death sentences for drug offences continued to be imposed, putting the country constantly in the High Application category between 2015 and 2023. Figures of death sentences in the past five years show that drug offences represent over 82.4% of all known death sentences. The number of confirmed death sentences peaked at 122 people in 2022; while 2023 showed a slight decrease, with 114 death sentences for drug offences.

NUMBER OF DEATH SENTENCES FOR ALL CRIMES VS FOR DRUG OFFENCES IN **INDONESIA** BETWEEN 2014 – 2023



North Korea was added to the High Application States category in 2021, when HRI monitoring documented sufficient evidence that drug-related death sentences and executions had taken place in the past five years, although information remains minimal. **Kuwait** was added to the High Application States category in 2023 when the first drug-related execution was carried out in the country since 2007.



LOW APPLICATION STATES THROUGHOUT THE DECADE

	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
Bahrain		.			.	.				
Bangladesh				
Brunei Darussalam							.			
Egypt			
India								.		
Iraq			
Kuwait	
Lao PDR		
Myanmar						.				
Pakistan	
Qatar								.		
Sri Lanka
State of Palestine			
Thailand						
United Arab Emirates
Yemen	.	.								

The Low Application category saw more changes compared to the High Application one. However, some countries, such as **Pakistan, Sri Lanka and United Arab Emirates**, have remained in this category consistently since 2014. Other countries were included when nine or fewer death sentences handed down for drug offences were documented and removed when they have not applied the death penalty for drug offences for five years. At least 513 death sentences were imposed by countries under this category for the past decade, although official and complete figures are missing for most of these countries.

Although **Sri Lanka** has been one of the longest-standing de facto abolitionist countries with no recorded executions since 1976,⁵⁴ courts persistently sentenced people to death for drug offences between 2014 and 2023. Records indicate a minimum of 122 people were sentenced to death for drug offences in the decade reviewed, although the actual figure is expected to be much higher. Likely influenced by the government’s attempt to end a

54 Girelli. G. (2020, March 1). The Death Penalty for Drug Offences: Global Overview. Harm Reduction International. p. 37.

43-year moratorium on executions through threats of resuming executions for drug crimes in 2018 and 2019, a rise in the number of death sentences for drug offences imposed was recorded in 2018, when the figure doubled from the previous year. Since then, the number of death sentences handed out every year continued to increase until its peak in 2020 with 45 death sentences. However, the fluctuation in the annual known figures throughout the decade means Sri Lanka did not meet the definition of a High Application States. In 2023, the government passed a legal amendment that expanded the application of the death penalty for certain drug offences (discussed below), which could potentially contribute to a higher figure from 2023 onwards.

While HRI’s research shows that **Bangladesh** had not executed or sentenced people for drug offences between 2014 and 2017, 2018 marked a regress when three people were sentenced to death for drug offences. This setback could be linked to Bangladesh’s introduction of a new Narcotics Control Act that expands the applicability of capital punishment to the manufacture and distribution of methamphetamine (discussed below). Since then, HRI has recorded death sentences for drug offences nearly every year, reaching its highest number in 2022 with 10 death sentences for drug offences imposed.




SYMBOLIC APPLICATION STATES THROUGHOUT THE DECADE

	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
Bahrain							*	*	*	*
Bangladesh							*	*	*	*
Brunei Darussalam	*	*						*	*	*
Cuba	*	*	*	*	*	*	*	*	*	*
Egypt								*	*	*
India	*	*	*						*	*
Jordan	*	*	*	*	*	*	*	*	*	*
Mauritania	*	*	*	*	*	*	*	*	*	*
Myanmar	*						*	*	*	*
Oman	*	*	*	*	*	*	*	*	*	*
State of Palestine								*	*	*
Qatar	*	*	*							
South Korea	*	*	*	*	*	*	*	*	*	*
South Sudan	*	*	*	*	*	*	*	*	*	*
Sudan	*	*	*	*	*	*	*	*	*	*
Taiwan	*	*	*	*	*	*	*	*	*	*
United States of America	*	*	*	*	*	*	*	*	*	*
Yemen			*	*	*	*				

Nine retentionist countries and territories have not executed nor sentenced people to death for drug offences in the decade studied, although they may have sentenced people to death or executed people for other crimes. These are **Cuba, Jordan, Mauritania, Oman, South Korea, South Sudan, Sudan, Taiwan and the United States of America**. The reasons behind the continued existence of the death penalty for drug offences in these countries when no evidence of its application has been recorded are often unclear.

Apart from these nine countries, HRI’s monitoring recorded country movements between low and symbolic applications categories. **Bahrain, Bangladesh, Egypt and State of Palestine** started the decade by sitting on the symbolic application category, but they were subsequently moved to the Low Application category when there were records of death sentences for drug offences. Like those countries, **Brunei Darussalam, India and Myanmar** started in the Symbolic Application, then moved to Low Application for the same reason. However, these countries were then returned to Symbolic Application when there were no records on the use of the death penalty for drug offences.



INSUFFICIENT DATA

	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
Iraq								•	•	•
Libya	•	•	•	•	•	•	•	•	•	•
North Korea				•	•	•	•	•	•	•
Syria	•	•	•	•	•	•	•	•	•	•
Yemen							•	•	•	•

The last category is countries where there is not enough data to be able to classify them into any other categories. Countries that have remained in this category are Libya and Syria. Yemen was moved to the Symbolic Application category when HRI’s monitoring could confirm that there were no death sentences handed down for drug offences and no executions took place in the country. The rest, ie. **Iraq** and **North Korea** were subsequently moved to, respectively, Low Application and High Application categories.

NATIONAL POLICY DEVELOPMENT

The international community's increased attention to the death penalty for drugs appears to be having some impacts on developments at the national level where some positive steps were recorded during the decade, but regressions were also documented.

EFFORTS TO LIMIT THE APPLICATION OF THE DEATH PENALTY FOR DRUG OFFENCES

Between 2014 and 2023, there are at least seven concrete examples of efforts to restrict the application of the death penalty for drug offences, as will be discussed below.

In 2016, **Thailand** approved a legislative amendment which entered into force in 2017. The amendment reduced penalties for possession, import, export and production for the sale of drugs. The reform also removed the *mandatory* death penalty for the offences of selling drugs, by adding alternative sentences. Thailand's progress on the use of the death penalty for drug offences was later followed by the country's drug policy reform where it became the first country in Asia to legalise the possession and cultivation of cannabis in mid-2022.⁵⁵

In 2017, **Iran** introduced an amendment to its Anti Narcotics Law which, among others, raised the minimum quantity of drugs required to incur death sentences. Such change was applied retroactively, triggering the review of at least 3,300 death sentences for drug offences handed out prior to the amendment - opening doors for commutation. This development was followed by an order issued by Judiciary Chief, Sadegh Larijani, which required judges to rescind death sentences that did not meet the new conditions set by Parliament for the death penalty. Though promising, the review process was clouded by allegations of corruption. Human rights groups criticised it as opaque and tainted by insufficient resources. Many commutations resulted in

55 Ekvitthayavechnukul, Ch. (2022, January 26). *Thailand first in Asia to move to decriminalize marijuana*. AP. <https://apnews.com/article/health-asia-marijuana-thailand-62cb278fe7eb269cf2bf967d272ab098>

long-term prison sentences (some as long as 30 years) and heavy financial penalties. Signs of improvement in the country's use of the death penalty for drug offences were visible in the first few years after the reform when HRI documented a notable decrease in drug-related executions (from at least 222 in 2017 to 27 in 2018). This significantly impacted overall executions in the country and globally. However, the number of confirmed executions started rising again in 2021, when execution numbers passed 100 people; and have been steadily increasing since. Regrettably, the country still failed to provide information on the number of death sentences handed out for drug offences all along.

Still in 2017, **Malaysia** partially removed the mandatory aspect of the death penalty for drug offences through an amendment to the Dangerous Drugs Act 1952 (revised 1980). The amendment allowed for some judicial discretion in death-eligible drug trafficking cases if certain conditions were met. At the same time, the Malaysian government started considering the possibility of a broader reform aimed at abolishing capital punishment in all or in part. After years of debate and study - and a backtrack in 2019 when the government claimed to want to exclude drug offences from the reform - two landmark bills were adopted in 2023 that fully removed the death penalty as *mandatory* punishment for several crimes, including drug trafficking. This long-awaited reform allows all people sentenced to death under the previous regime, most of whom were convicted of drug trafficking, to apply for resentencing.

Another development was witnessed in Indonesia. In late 2022, the government adopted a new Criminal Code (to enter into force in 2025), which introduced a 10-year probation for people sentenced to death for all eligible crimes, including for drug offences, providing that they show good behaviour (on which definition remains unclear) during their time on death row. Though the death penalty remains in the book, such period in probation, allows for the possibility of a commutation to life imprisonment.

A landmark development came from **Pakistan** in 2023. Following a first legislative proposal to remove the death penalty for drug offences tabled in 2021 and then shelved, Pakistan officially amended its law, namely the Control of Narcotic Substance Act (CNSA), to remove the death penalty for drug offences in mid-2023. This progress made the country the first to abolish the death penalty for drug offences in over a decade.

In a few other countries, efforts to limit the use of the death penalty for drug offences were less successful, although notable. For example, in

response to the government's attempt to resume executions, in 2019, **Sri Lanka's** Supreme Court put on hold executions following a judicial challenge contesting the incompatibility of the death penalty with Sri Lanka's constitution and international law. Although the petition was granted,⁵⁶ the Sri Lankan government expanded the applicability of the death penalty for drug offences a few years after that – which will be discussed below.

Another example came from **Saudi Arabia**, which introduced a short-lived moratorium on drug-related executions. The then-new Crown Prince Mohammad bin Salman expressed his commitment to reducing executions in the country, which resulted in a 94% decrease in drug executions between 2019 and 2020. However, by 2022, rights groups documented more than 50 executions for drug offences – though the number went down again in 2023; proving how the application of the death penalty for drug offences easily fluctuates as countries' political interests change.

PERSISTENT APPETITE TO KILL IN THE NAME OF THE WAR ON DRUGS

During the period studied, some countries deliberately chose to apply harsher punishment for drug offences by resorting to the death penalty.

A common denominator of the regression seen throughout the decade studied is the countries' repressive strategies aimed at curbing drug use and/or drug trafficking. Those strategies are ill-founded, grounded in prejudice and stigma, and often clouded with intimidation and violence. Instead of proving that the death penalty is effective in tackling the so-called 'drug problem', the opposite appears to be true: UNODC 2018 World Drug Report (published after years of record-high executions for drug offences) reported that the drug market was "booming". Their 2023 edition stated that "drug use continues to be high worldwide" and acknowledged a prolonged surge where supply "readjust to demand, ... following a decline between 2006 and 2014."⁵⁷ Data from retentionist countries mirrored this global situation: despite its punitive approach to drugs, Iran has a high level of substance use disorder and continues to be a key transshipment point for drug along the Balkans and Southern trafficking routes,⁵⁸ while in Singapore, the country's Central Narcotic Bureau has documented a 10% increase on the number of people arrested for drug use in 2023 with amphetamine, heroin and cannabis among the most

56 Aljazeera. (2019, July 19). *Sri Lanka court suspends executions until October 30*. Aljazeera. <https://www.aljazeera.com/news/2019/7/19/sri-lanka-court-suspends-executions-until-october-30>

57 UNODC. (2023). *World Drug Report. 2023. Executive Summary*. p.28 https://www.unodc.org/res/WDR-2023/WDR23_Exsum_fin_SP.pdf

58 European Monitoring Centre for Drugs and Drug Addiction. (2021, April 4) *Methamphetamine Developments in South Asia: the situation in Iran and the implications for the EU and its Neighbours*. EU4MD Special Report. Lisbon, Portugal: EMCDDA. p.4. <https://>

used drugs.⁵⁹ This data suggests that death penalty does not have a unique deterrent effect on drug offences.

There are different ways for countries to apply even more repressive drug policies. First is by bringing or attempting to bring the death penalty for drug offences back into the laws after having officially removed it. For example, the Tongan government proposed to add death as a possible punishment for drug trafficking and repeated drug offences involving children as a response to Tongan 'worsening drug abuse problem' by tabling a new bill to the Parliament (2021), although subsequently rejected. In the Philippines, an abolitionist country, over 20 bills were proposed in Parliament between 2016 and 2022 to reintroduce the death penalty for drug offences, including for possession and sale. In the United States of America, the US Justice Department reinstated the use of the death penalty at the federal level (2019), which was concerning, considering that it is federal law that prescribes the death penalty for drug offences although there is no documentation of its use by 2023. Second is by expanding or attempting to expand the applicability of the death penalty for drug offences. Examples include Bangladesh's introduction of a new Narcotics Control Act that expands the applicability of capital punishment to the manufacture and distribution of methamphetamine, known as yaba (2018); Egypt's new law (2019) that expanded the scope of drug offences punishable by death, coupled with introduction of mandatory drug testing for government officials; and the expansion of death penalty for crimes that involves methamphetamine as a substance the possession, import/export, or trafficking over five grams in Sri Lanka (2022).

Other ways includes applying stricter rules to seek a retrial (such as Iraq's amendment to the Criminal Code in 2016); removing only certain drug crimes while retaining the majority of it (such as in Vietnam, where the 2015 Criminal Code amendment omitted 'illegally stockpiling narcotics' and 'appropriating narcotics' from the list of crimes punishable by death sentence, yet retaining it for 'illegally producing narcotics', 'illegally transporting narcotics' and 'illegally trading narcotics'⁶⁰); and some other ways that are not explored here.

The decade started with, among others, the resumption of executions in Singapore. Despite the momentary pause on execution between 2012 and 2013, and a law reform lifting the mandatory death sentence for people

59 Central Narcotic Bureau. (2023). Singapore Drug Situation Report. 2023. p. 4. <https://www.cnb.gov.sg/docs/default-source/drug-situation-report-documents/cnb-annual-statistics-2023.pdf>

60 Vietnam Law and Legal Forum. (2018, May 5). *Notable Changes in the New Penal Code at a Glance*. Vietnam Law and Legal Forum. <https://vietnamlawmagazine.vn/notable-changes-in-the-new-penal-code-at-a-glance-6199.html>

convicted of drug offences under certain specific conditions (which signifies possible discretion for judges in giving sentences), Singapore remains one of the strongest proponents of the death penalty for drug offences and a fierce advocate on the use of the death penalty for drug offences, both nationally and internationally. On the national level, rights groups and abolitionist activism were met with the government's hostility and reprisals. Singaporean human rights activists were interrogated for potential offences, including for breaching public order law, and fined; while lawyers representing people on death row faced arbitrary disciplinary actions and fines. The government also responded to criticism on the resumption of executions, including those made by UN bodies/agencies. They translated their advocacy into efforts to weaken any possible international documents/reports and discourses by defending the deterrent effect of the death penalty on drug trafficking – against mounting evidence to the contrary.

Repressive and punitive drug policies which often led to the imposition of the death penalty for drugs have also somewhere led to extrajudicial killings, such as in the Philippines. The horror of then-President Duterte's bloody anti-drug strategy has resulted in the extrajudicial killings of 12,000 to 30,000 people accused of using, selling, or being involved with drugs across the Philippines.⁶¹ Blatantly, Duterte urged law enforcement agencies as well as the public to kill people suspected of using or trafficking drugs, with no respect to their laws; as well as ignored calls by UN bodies and international human rights organisations for an official probe into these killings. Unfortunately, such bad practices are copied by Bangladesh, where civil society reported 391 extrajudicial killings in the context of anti-drug operations in 2019.

61 Ratcliffe, R. (2023, February 26). *'They were shot in the head': morgue gives up truth of Rodrigo Duterte's drug war*. The Guardian. <https://www.theguardian.com/world/2023/feb/26/they-were-shot-in-the-head-morgue-gives-up-truth-of-rodrigo-dutertes-drug-war>

CASE STUDY: COVID-19 AND ITS IMPACT ON JUDICIAL PROCESSES

2020 was an unprecedented, peculiar year for the death penalty for drug offences. The year witnessed a record-low number of confirmed executions – not just in the decade, but since HRI started reporting on the use of the death penalty for drug offences in 2007. Yet, the number of death sentences for drugs was still on the rise compared to years before.

The COVID-19 pandemic and related emergency measures disrupted judicial processes in countries around the world, including those related to capital cases, in ways that risked exposing defendants to additional vulnerabilities and violations of their fair trial rights. National responses to the COVID-19 emergency have led to worrying changes in the operations of the criminal justice system. Lawyers in Pakistan and Saudi Arabia reported that their access to detained clients had been restricted, which prevented them from discussing and developing effective defence strategies in capital cases. In some countries, prison officers could facilitate a virtual consultation between the lawyers and the defendant, but this raised an issue of confidentiality because often the prison officers would be in the same room as the defendant thus able to hear the conversation.

In India and Indonesia, and possibly in many other countries, trials were held virtually/through teleconference. In drug-related cases, virtual hearings further compromised the court's ability to show the link between the drug seized, the sample of drug sent for testing, and the accused persons. Furthermore, the use of virtual platforms to conduct criminal proceedings, especially those which result in a death sentence, can expose the defendant to significant violations of their fair trial rights (such as the right to be present at a trial and the right to be tried in a public manner) and impinge on the quality of the defence (including in a situation where internet connection is not reliable, which would affect the quality of the hearing itself).

Throughout 2020 (and the years that followed), COVID-19 dominated the news. At the same time, movement restrictions resulted in, to some extent, the shrinking of monitoring and reporting by media, civil society, and/or other relevant sources of information. In addition, several UN human rights processes – whose documentation is one of the data sources on the death penalty – came to a halt or were delayed. This resulted in less information on the death penalty being available online—which was already so scarce before COVID-19 hit.

ISSUES SPOTLIGHT

The decade studied has witnessed some persistent issues arising from the application of the death penalty for drug offences globally, some of which are analysed below.

UNFAIR TRIALS

Throughout the decade, unfair trials continue to cloud the application of the death penalty for drug offences. The right to a fair trial is a crucial component to safeguard the rule of law, which is fundamental to the protection of human rights.⁶² It entails basic principles such as a) the right to equality before courts and tribunals (including equality before arms, access to legal representation and legal aid); b) the right to a fair and public hearing by a competent, independent and impartial tribunal; c) presumption of innocence; d) the right to be informed promptly and in detail in a language that they understand of the criminal charge, and other rights - all of them are interrelated and interlinked.⁶³ In the death penalty cases, the right to a fair trial is among the utmost important rights to be protected as the execution of the death penalty is irreversible.⁶⁴

The UN Human Rights Committee has stressed that “[i]n cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important” and concluded that “[t]he imposition of a sentence of death upon conclusion of a trial, in which the provisions of Article 14 of the Covenant have not been respected, constitutes a violation” of the fair trial guarantees, as well as “of the right to life”.⁶⁵ A death sentence would be arbitrary if the trial which led to it did not adhere to international standards of fairness, and the arbitrary deprivation of life, together with torture and other ill-treatment, is absolutely prohibited under international law.

Throughout the decade, HRI documented how the right to fair trials is often violated, or at risk of being violated due to certain (regressive) legal developments. At least two reports of the ‘Global Overview’ specifically

62 ICCPR (2007, August 23). *General Comment No 32. Article 14: Right to equality before court and tribunals and to fair trial*. UN. doc. CCPR/C/GC/32. para.2. p. 2. Doi <https://www.refworld.org/legal/general/hrc/2007/en/52583>

63 Ibid. Para. 7-65.

64 Inter-American Court of Human Rights. (1997, October 1). *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law*, Advisory Opinion OC-16/99, Inter-American Court of Human Rights Series A No 16. para 136. https://www.corteidh.or.cr/docs/opiniones/seriea_16_ing.pdf

65 UN Human Rights Committee. (2007, August 27) *General Comment No 32. Article 14, Right to equality before courts and tribunals and to fair trial*. UN. doc. CCPR/C/GC32, para 59. <https://www.refworld.org/legal/general/hrc/2007/en/52583>

highlighted violations of the right to a fair trial, including in the context of COVID-19 and HRI continues to see widespread violations of the right to fair trials until now.⁶⁶

In death penalty cases, human rights bodies have specified the obligation of States to ensure adequate legal assistance at every stage of the proceedings. Yet, it is one of the most common rights to be reportedly violated, be it in the form of limiting access to competent legal representation or denial of access to legal representation. Considering that people charged with capital drug offences are often from poor and/or marginalised backgrounds, the lack of adequate legal representation often puts them at risk of being sentenced to death and subsequently executed. In countries where States provide court-appointed lawyers or public defense, such as Malaysia, Indonesia and Pakistan, the limited resources and time of these lawyers often lead to subpar evidence gathering and poor quality of representation.

The right to be free from torture is another right that is frequently violated – despite its status as a non-derogable right.⁶⁷ People deprived of liberty are particularly vulnerable to torture and other ill-treatment. Despite clear international law as well as domestic laws prohibiting it, instances continue to emerge of torture and other ill-treatment on the part of police and State officials as a means of gathering information and evidence against suspects arrested on drug charges. To some extent, the risk of violation of the right to be free from torture is exacerbated by the lack of legal representation, where the absence of the latter gives room for the former to take place.

There are other ways in which the application of the death penalty might lead to a violation of the absolute prohibition of torture. The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (Special Rapporteur on torture) has elaborated on the relationship between the death penalty and the prohibition of torture and cruel, inhuman and degrading treatment in his interim report to the UN General Assembly in 2012. This includes the death row phenomenon, methods of execution, the mandatory character of the death penalty,⁶⁸ and the imposition of the death penalty on persons under 18 years of age, pregnant women, nursing mothers,

66 Larasati, A and Girelli, G (2021, March 1), The Death Penalty for Drug Offences: Global Overview 2020. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2020/>; Sander, G, Girelli, G and Cots Fernandez, A. (2020, March 1) *The Death Penalty for Drug Offences: Global Overview 2019*. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2019/>

67 Art. 7. International Covenant on Civil and Political Rights. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

68 Mendez, J. (2012, August 9) *Interim report of the Special Rapporteur in Torture and other cruel, inhumane or degrading treatment or punishment*. a/hrc/67/279. United Nations. para 59. <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/67/279&Lang=E>

elderly persons, and persons with mental disabilities,⁶⁹ as practices which may lead to torture and/or cruel, inhuman, degrading treatment and punishments. The Special Rapporteur also added that “most conditions under which capital punishment is actually applied renders the punishment tantamount to torture. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment.”⁷⁰

Also commonly reported are violations of the right to appeal and to seek pardon or commutation. The UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty states that anyone who is sentenced to death has the right to appeal to a court of higher jurisdiction, as well as the right to seek pardon or commutation of sentence.⁷¹ It further guarantees that “capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.”⁷² Enforcing this right necessitates the establishment of laws allowing for review by a higher tribunal as well as steps to guarantee that such right can be accessed and exercised effectively. HRI’s documentation shows that countries continue to violate this right, for example with the non-existence of the right to appeal for anyone convicted of drug offences (including those sentenced to death) in Iran before 2015, and the blanket denial of clemency for anyone sentenced to death for drug offences in Indonesia, or in other formats.

LACK OF TRANSPARENCY

As widely recognised by the UN human rights system, transparency is one of the fundamental safeguards of due process and fair trial as it could prevent undue process and unfair trial, leading to further violation of rights, for example, arbitrary deprivation of liberty and torture and cruel, inhuman or degrading treatment or punishment. These obligations must apply throughout the whole criminal process, including post-conviction.⁷³ HRI’s monitoring of the application of the death penalty has shown a pervasive and systemic lack of transparency around the criminal legal system in death penalty cases. For example, despite Singapore undergoing legal reform to limit the mandatory use of the death penalty in 2013, decisions on who qualified for discretionary sentencing were left entirely to the discretion of the prosecutor, and lack of transparency hindered any attempt to assess the impartiality and legality of those decisions.

69 Ibid. para 62-63.

70 Ibid. Para 75

71 UN Economic and Social Council. (1984, May 25). *Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty*. para 6-7. <https://www.ohchr.org/en/instruments-mechanisms/instruments/safeguards-guaranteeing-protection-rights-those-facing-death>

72 Ibid. para 8

73 Human Rights Council. (2021, December 17). Question of the Death Penalty. Report of the Secretary-General. UN. doc. A/HRC/48/29. para 54. <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/48/29&Lang=E> <https://www.refworld.org/legal/general/hrc/2007/en/52583>; Alston.P. (2006, March 24). *Civil and political rights, including the question of disappearances and summary executions. Extrajudicial, summary or arbitrary executions*. UN. doc. E/CN.4/2006/53/Add.3. p.2. <http://daccess-ods.un.org/access.nsf/Get?Open&DS=E/CN.4/2006/53/Add.3&Lang=E>

This practice has been denounced by national and international organisations and UN agencies

Additionally, in accordance with the right to seek and receive information, States have the obligation to make information about the application of the death penalty available to the general public.⁷⁴ However, the lack of official data, or access to data, on the application of the death penalty remains a common practice, with many countries failing to provide regularly updated and disaggregated information on death sentences, executions and death row population. Most of the information gathered is thanks to information collected locally by advocates, media, and civil society organisations; resulting in limited and incomplete pictures of the application of the death penalty. This further diminishes informed public debates, risks misleading audiences on the severity and extent of the phenomenon, and negatively impacts accountability at national and international levels.

Some countries, such as China, Vietnam and North Korea, have remained deliberately secretive about the application of the death penalty. Despite China, North Korea and Vietnam being known to have executed and/or sentenced people for drug offences continuously over the last decade, the lack of official figures and data censoring impedes the assessment of the severity of the issue. In countries where some information is available, data are often not disaggregated by the type of crimes; and in general, access to openly disaggregated data, including age, gender, and nationality of individuals, charges imposed, and circumstances of their trials, has remained limited. Iran, among other countries, is one example. Although Iran is one of the top executioners of the decade, there is no detailed information about the individuals being affected by the capital punishment nor about the criminal charges imposed, while officials only report those executions as 'drug-related charges.' The available data is mainly tracked and collected by civil society organisations and families of people on death row. To add to that, drug offences are tried under the purview of Iran's Revolutionary Court; a court notorious for secret trials, vague charges, and unfair trials which violates human rights.⁷⁵

The situation is similar in Saudi Arabia, where executions are shrouded in secrecy. While authorities provide partial and basic information on executions, this is only released once the executions have taken place. European Saudi Organisation for Human Rights (ESOHR) has consistently reported that

74 Human Rights Council. (2021, December 17). *Question of the Death Penalty. Report of the Secretary-General*. UN. doc. A/HRC/48/29, para. 56. <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/48/29&Lang=E>

75 Gholamhosseinpour, M. (2020, September 9). *Injustice Behind Closed Doors: Iran's Special and Revolutionary Courts*. Iranwire. <https://iranwire.com/en/features/67558/>

not even families of people on death row are notified about executions and circumstances of the trial.

Widespread internal conflict has also negatively impacted the death penalty monitoring, such as in Libya and Syria. Since the Arab Spring in 2011, both countries have experienced various and complex civil wars and political unrest that, among other human rights challenges, have hindered access to information on the death penalty, including confirmation of court decisions and the situation of people on death row. Therefore, despite these countries being known to have imposed death sentences for drug offences in the last decade, it has not been possible to confirm sources.

Addressing the lack of public information regarding the application of the death penalty requires increased transparency from governments, improved access to information for the public and media, and enhanced international monitoring and reporting mechanisms to ensure accountability and respect for human rights standards.

DISPROPORTIONATE IMPACT ON MARGINALISED POPULATIONS

Another persisting issue encountered over the last decade is the multilayered discrimination and overrepresentation of marginalised groups among people facing the death penalty for drug offences throughout the criminal system, from law enforcement to trial and post-conviction, making them more vulnerable to human rights violations.

Despite the lack of official disaggregated data available on people sentenced to death or executed in most countries and on the type of offences, HRI has observed a persistent pattern of application of the death penalty for drug use and possession. A similar pattern was observed against those at the lowest level of the drug trade, who may have engaged in drug dealing out of coercion or simply because of dire socio-economic needs. Many, if not most individuals charged and sentenced to death for a drug offence have limited economic resources, are from ethnic or racial minorities, and/or are foreign nationals. The drug control system becomes yet another instrument of oppression and discrimination against marginalised groups, thus reaffirming that the 'war on drugs' is indeed a war on marginalised people and the catalyser of various human rights violations.

While most countries do not provide disaggregated data on the nationality of people sentenced to death or executed for drug offences, evidence shows a disproportionate impact of the application of the death penalty against foreign nationals, including migrant workers, people who are trafficked, and asylum seekers, among others. Due to the transnational nature of drug trade, foreign nationals might be more likely to be involved in cross-border movements in regions with high levels of supplies and/or demand for drugs. That is the case of the ‘Golden Triangle’ of Laos, Myanmar and Thailand, which has contributed to the high proportion of foreigners on death row for drug offences in Thailand, Vietnam and Indonesia.⁷⁶

Zooming into country practices and trends in the last decade, the disproportionate impact on foreign nationals is noticeable. For example, in Saudi Arabia, at least 45% of all people executed for drug offences between 2018 and 2023 were foreign nationals; in two of these years, 2020 and 2023, the figure increased to 100%. In 2023, the two reported executions in the country were against foreign nationals: one Pakistani and one Jordanian national.⁷⁷ Similar trend can be observed in Malaysia, where the proportion of foreign nationals among the death row population has remained close to between 40% and 50% in the last ten years.⁷⁸

An alarming figure from 2021 is the high number of foreign nationals executed, sentenced, or on death row for drug offences. Globally, roughly a tenth of all confirmed death sentences were imposed against foreign nationals. In Kuwait, UAE and Egypt nearly all death sentences in the same year were imposed against foreign nationals. By 2021, out of the 200 people known to be on death row in the UAE, more than 90% of them were foreign nationals. In the case of Iran, experts, civil society and UN bodies and agencies have consistently denounced the disproportionate use of the death penalty against foreign nationals, including Afghan and Pakistanis.⁷⁹

- 76 Hoyle, C and Girelli, G. (2019, March 14) *The Death Penalty for Drug Offences: Foreign National. Briefing Paper*. Harm Reduction International and University of Oxford. <https://hri.global/publications/the-death-penalty-for-drug-offences-foreign-nationals/>
- 77 Girelli, G, Jofré, M, Ajeng, A. (2024, March 19). *The Death Penalty for Drug Offences: Global Overview 2023*. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2023/>
- 78 Girelli, G, Jofré, M and Larasati, A (2023, March 16). *The Death Penalty for Drug Offences: Global Overview 2022*. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2022/>; Larasati, A. and Girelli, G (2022, March 18) *The Death Penalty for Drug Offences: Global Overview 2021*. Harm Reduction International <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2021/>; Sander, G, Girelli, G and Cots Fernandez, A, (2020, March 1) *The Death Penalty for Drug Offences: Global Overview 2019*. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2019/>; Harm Reduction International, Monash University and ADPAN (n.d) *Drug Offences and the Death Penalty in Malaysia: Fair Trial Rights and Ramifications*. <https://hri.global/news/drug-offences-and-the-death-penalty-in-malaysia-briefing-papers/>; Sander, G. (2018, March 1). *The Death Penalty for Drug Offences: Global Overview 2017*. London: Harm Reduction International. p. 30. , page 30 <https://hri.global/wp-content/uploads/2018/03/HRI-Death-Penalty-Report-2018.pdf>.
- 79 Egan, B. (2023, December). The politics of capital punishment for foreign nationals in Iran. Oxford University. Death Penalty Research Unit (DPRU) Research Papers. DPRU Research Paper No. 3. <https://www.law.ox.ac.uk/sites/default/files/2023-12/Brian%20Egan%20-%20%27The%20politics%20of%20capital%20punishment%20for%20foreign%20nationals%20in%20Iran%27.pdf>; Iran Human Rights. (2023, July 27). Foreign Executions and Dual-nationals on Death Row in 2022. <https://www.iranhr.net/en/articles/6127/>; Rehman, J. (2021, January). Situation of human rights in the Islamic Republic of Iran Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. UN. Doc. A/HRC/46/50. <https://www.ohchr.org/en/documents/country-reports/ahrc4650-situation-human-rights-islamic-republic-iran-report-special>.

Foreign nationals are usually made more vulnerable by precarious socio-economic status, lack of fluency in the host country's language, and lack of understanding of the laws or criminal process. They often have no power, resources, no access to support networks and are subject to suspicion, over-policing, criminalisation and discrimination.⁸⁰ These vulnerabilities make this group more exposed to human rights violations by law enforcement and through the criminal justice system. Examples of common violations of rights include arbitrary arrest and ill-treatment, breaches to the right to be informed promptly and in detail in a language the accused understands of the nature and charges against them, right to opportune and effective legal and consular assistance, and right to appeal⁸¹.

Women are another group that is uniquely impacted by the application of the death penalty for drug crimes. Despite women remaining a minority in all prison systems globally, women in detention are increasing at a higher rate than men; with drug policy being one of the main contributing factors.⁸² A clear example of this trend can be seen in Thailand, where between 78% and 100% of the women on death row population were incarcerated for drug offences during the last five years. A similar trend was observed in Malaysia with a staggering figure of over 90% of the women awaiting execution were charged with drug-related offences.⁸³ Many of them were involved in drug offences due to a mix of socioeconomic situations such as survival needs, poverty, and gender violence, which may make them more vulnerable to engaging in the drug trade under coerced or violent conditions.⁸⁴ For example, reports suggest that many of the women who have been sentenced to death for drug offences are 'mules', from foreign countries, with low socio-economic status and from ethnic minority backgrounds.⁸⁵

Additionally, some individuals sentenced to capital punishment for drug-related offences, are shown to have a history of drug use or drug

80 Hoyle, C, Girelli, G. (2019, March 19) *The Death Penalty for Drug Offences: Foreign Nationals*. Briefing paper. Harm Reduction International and Oxford University. <https://hri.global/publications/the-death-penalty-for-drug-offences-foreign-nationals/>

81 Ibid; Antolak-Saper, N, Kowal, S. Lindsey, A, Chow Ying, N, Kananatu, T. (2020, May 29) *Drug Offences and the Death Penalty in Malaysia: Fair Trial Rights and Ramifications*. Monash University. <https://hri.global/news/drug-offences-and-the-death-penalty-in-malaysia-fair-trial-rights-and-ramifications/>

82 Penal Reform International and Thailand Institute of Justice. (2023, June) *Global Prison Trends 2023*. Prison Reform International and Thailand Institute of Justice. p.6. <https://www.penalreform.org/global-prison-trends-2023/>

83 Girelli, G, Jofré, M and Larasati, A. (2023, March 16). *The Death Penalty for Drug Offences: Global Overview 2022*. Harm Reduction International. p. 37. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2022/>; Andrews-Briscoe, C, Douglas, L, Jacobberger, A, Lourttau, D and Shapiro, H. (2021, September) *"No One Believed Me": A Global Overview of Women Facing the Death Penalty for Drug Offences*. Cornell Law School and Harm Reduction International. <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offences.pdf>; Sander, G, Girelli, G and Cots Fernandez, A (2020, March 1). *The Death Penalty for Drug Offences: Global Overview 2019*. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2019/>

84 Andrews-Briscoe, C, Douglas, L, Jacobberger, A, Lourttau, D and Shapiro, H. (2021, September) *"No One Believed Me": A Global Overview of Women Facing the Death Penalty for Drug Offences*. Cornell Law School and Harm Reduction International p.5. <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offences.pdf>

85 Sander, G, Girelli, G and Cots Fernandez, A (2020, March 1). *The Death Penalty for Drug Offences: Global Overview 2019*. Harm Reduction International. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2019/>; Harry, L and Girelli, G. (2019, March 19). *The Death Penalty for Drug Offences: The Impact on Women*. Harm Reduction International and Oxford University. <https://hri.global/publications/the-death-penalty-for-drug-offences-the-impact-on-women/>

dependence, and/or have mental health and other underlying conditions that have situated them in the context of committing offences while impacting their ability to articulate a defence. For example, the Death Penalty Global Overview 2021 documented the disproportionate use of the death penalty against people living with mental health issues or intellectual disability in Singapore, reporting at least three cases in which people sentenced to death for drug offences had mental health issues or intellectual disability. Article 6 of the ICCPR and the Implementation of Safeguards Guaranteeing Protection of those facing the Death Penalty prohibits the imposition of the death penalty, as well as execution, against people suffering from mental or intellectual disability.⁸⁶ This obligation to protect the rights of people with mental or intellectual disability has been reiterated by UN Agencies and bodies, including the Human Rights Council and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions. The judgment of a person with a mental disability could lead to breaches of the rights to fair trial and the right to defence. For example, at the time of the investigated crime, the person may not have had the capability to understand the nature of the act, or what the person is doing is wrong or contrary to the law. During the trial and after the sentence, their mental or intellectual disability may impact the ability to understand the proceedings and articulate a defence, affecting the outcome of the trial and further impacting the ability to appeal, apply for pardon or commutation of the death sentence.

LOOKING AHEAD: A CONTINUED FIGHT TO ABOLISH THE DEATH PENALTY FOR DRUG OFFENCES

A decade review of the death penalty for drug offences has elucidated that the work towards its abolition is far from over. The ongoing heavy reliance on punitive policies as a tool of drug control has led to an average of one in three executions being imposed for drug offences in the last ten years, with a disproportionate impact on marginalised groups and widespread human rights violations. By 2023, the figure had increased to almost one in two; signalling that the situation is worsening as drug offences dominate the use of the death penalty over all other crimes. The increased application of the death penalty for drugs goes firmly against the global trend toward abolition. Yet, several countries around the world have in recent years implemented increasingly harsh policies against people who use drugs and other marginalised groups.

Despite the majority of retentionist countries having not executed people for drug offences in the last ten years, it is hardly a sign that the countries are moving away from the death penalty. The decade between 2014 and 2023 observed that retentionist countries continuously sentence people to death for drug offences. Moreover, the resumption of the long-paused executions or capital punishment in some countries demonstrates how much the abolition or reintroduction of the death penalty is dependent on political will and the fragility of progress made towards limiting its use. If no structural changes are made in drug policies and punitive approaches, there is a reasonable fear that countries aiming for harsher drug laws will turn to the death penalty, as witnessed in the Philippines and Tonga –with efforts to reintroduce and introduce the death penalty for drug offences.

The decade studied has also shown that pathways towards abolition of the death penalty are long-term efforts that require the commitment of multiple

actors at national and international levels. Constant efforts are needed to ensure that progress continues to happen with a lasting impact and that more countries replicate the good practices that have been adopted by other States. The active involvement of, among other actors, UN bodies and agencies, including the UNODC is key to achieving that. Nevertheless, international endeavours must not only focus on the reduction of executions but overall on structural drug policy reforms, reforms in sentencing and on the death row.

Additionally, a comprehensive understanding of the application of the death penalty requires the availability and accessibility of disaggregated data. However, this study confirmed, amongst others, the systemic lack of transparency around the death penalty which has become a barrier to accurately monitoring and ultimately holding States accountable.

Based on the report, HRI has developed **key recommendations** to achieve the abolition of the death penalty for drug offences:

- Pending abolition, retentionist countries should impose moratorium on executions.
- Retentionist countries should respect applicable international human rights obligations, including on fair trial, the right to apply for pardon or commutation of their death sentence, prohibition of torture and ill-treatment, among others.
- Retentionist countries should systematically and publicly provide complete, accurate, and disaggregated data by sex, age, disability, nationality and race, and other applicable criteria, with regard to their use of the death penalty, including the number of persons sentenced to death, the number of persons on death row and the location of their detention, the number of executions carried out, and the number of death sentences reversed or commuted on appeal or in which amnesty or pardon has been granted, as well as information on any scheduled execution.
- All countries that pursue punitive drug policies should work on policy reforms that are aligned with human rights standards and are evidence-based.
- Abolitionist countries should cease any efforts to reintroduce the death penalty.
- Abolitionist countries should actively condemn the use of the death penalty while sharing best practices and supporting efforts to restrict and abolish the death penalty for drug offences.

- Abolitionist countries, together with international agencies and bodies, including the UN, should stop funding punitive drug policy and prohibitionist regimes that retain the death penalty for drug offences. Instead, investment should be made in drug policy reforms that are evidence-based and health and human-rights-centred, including harm reduction.
- International organisations and bodies, including the UN, should take urgent and concrete steps to ensure that retentionist countries are held accountable for the human rights violations committed when applying the death penalty for drug offences, including by withdrawing funding for international cooperation when it is used to fund efforts that contribute to the application of the death penalty.
- UN bodies, including the UNODC, should pay more targeted attention to the application of the death penalty for drug offences globally, monitoring the human rights violations that occurred during its application, and condemning, both publicly and through appropriate diplomatic channels, all executions handed down in the name of drug control.
- International donors should increase and sustain funding for the death penalty abolition movement, making sure that experts, advocates, international, regional organisations, and civil society receive core, flexible and long-term funding for all work related to the abolition of the death penalty for drug offences.



A DECADE-LONG REVIEW ON THE DEATH PENALTY FOR DRUG OFFENCES