**UNODC contribution to the Secretary General’s**
**Report on the question of the death penalty**

Please find below some detailed inputs from UNODC outlining pertinent developments since 1 July 2020 on the question of the death penalty on specific countries and on judicial cooperation.

**Country Information**

**Cambodia**

Cambodia stands at the forefront of the abolishment of the death penalty in Asia, with capital punishment abolished in 1989. In particular, the country has been active in the political forum of ASEAN.

**Chad**

In 2020, Chad issued an amendment to its counter-terrorism law in which the death penalty was abolished. The death penalty was imposed for certain crimes of terrorism under the original counter-terrorism law (loi 034/PR/2015).

**China**

China performs the most executions in the region and the world and has voted against the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) and the UN Moratorium Resolution.[[1]](#footnote-2) Since the beginning of 2021, China has executed over 2,000 people and 4,000 in 2020, and at least 1,500 people are currently on death row.[[2]](#footnote-3) Children under 18 and pregnant women are exempt from receiving the death penalty; however, there is no protection for people with mental or physical disabilities. For instance, a man from Hong Kong with a history of mental illness received a death sentence for drug smuggling.

**India**

India continues to impose the death penalty and voted against the Second Optional Protocol to the ICCPR and the UN Moratorium Resolution. Offenders who have committed violent, sexual or drug-related crimes have been subjected to the death penalty. Although reports are conflicting, Amnesty International reported four executions in 2020. Children under 18 and people with physical or mental disabilities are excluded from receiving the death penalty. If a woman is pregnant, her execution date may be deferred until after giving birth or her sentence may be commuted to a life sentence, depending on the crime. A developing story in India is that of Shabnam Ali, a woman sentenced to death for the 2008 murder of seven of her family members and set to become the first female to be executed. After it was revealed that she is pregnant, the status of her execution remains to be determined.

As per the Death Penalty in India Report, 2021 saw the highest number of prisoners on death row since 2016 at 488, an increase of nearly 21% from 2020.  The report suggested that the constrains put on the courts due to the COVID-19 pandemic has impacted the priority usually given to death penalty-related cases. According to the report, while trial courts imposed a total of 144 death sentences in 2021, high courts decided only 39 matters in the same period. In 2020, high courts decided 31 matters related to the death penalty compared to 76 in 2019. Trial courts imposed a total of 144 death sentences in 2021; high courts decided only 39 matters in the same period. In 2020, high courts decided 31 matters related to the death penalty compared to 76 in 2019.

The Supreme Court, despite listing death penalty cases as priority in September 2021, decided only six cases in 2021 compared to 11 in 2020. However, of the 39 cases involving the death penalty decided by high courts, only four resulted in confirmation of the death sentences. While 18 were committed to life imprisonment, 15 in the acquittal of all charges, and two cases were remitted to the trial court.[[3]](#footnote-4)

**Indonesia**

Indonesia supports the death penalty and has voted against the Second Optional Protocol to the ICCPR and the UN Moratorium Resolution. In early 2021, there were 308 people on death row, although no executions have occurred since 2016. [[4]](#footnote-5)

**Maldives**

In December 2020, Maldives voted against the UNGA Resolution [A/RES/75/183](https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/372/89/PDF/N2037289.pdf?OpenElement) on the moratorium on the use of the death penalty. The country has maintained an informal moratorium for over half a century and plans for this to continue.

**Myanmar**

Myanmar has drastically changed its position vis-à-vis the death penalty. While the country had been considered a *de facto* abolitionist state moving to amend its death penalty legislation, there are now nine people on death row.[[5]](#footnote-6)

**Nigeria**

Since 2012, UNODC has worked with the Nigerian Government on a standalone bill on piracy and actively campaigned against death penalty clauses. The legislation called the Suppression of Piracy and Other Maritime Offences Act (SPOMOA) under Section 12 (1) does not include any provisions on death penalty. Using this law in July 2021, Nigeria sentenced 10 persons to 12 years imprisonment each for the hijack of the fishing vessel Hailufeng II in the Ivorian Exclusive Economic Zone. The provision was retained in the Bill signed into law in June 2019.

For more than five years, Nigeria has discussed a new Terrorism Prevention and Prohibition Bill with Articles 8, 20, 33, 38, and 39 currently envisaging the possible imposition of the death penalty for serious terrorism-related offences.

**Sri Lanka**

The death penalty remains part of the Sri Lankan legal framework. Trial courts are required to impose it for convictions of murder, and it can be imposed in the case of drug-related offences. There are 1,299 people on death row, as of December 2018, but no executions have been carried out since 1976.[[6]](#footnote-7) Children under 18 may be sentenced to death whereas pregnant women and people with disabilities are excluded from the death penalty.

In early 2019, the Sri Lankan government lifted the 43-year moratorium on the use of the death penalty. Then in June 2019, the former President Maithripala Sirisena ordered the execution of four drug offenders, claiming it would end increasing addiction problems. However, the Supreme Court issued an interim order staying the executions.[[7]](#footnote-8)

Following the 2019 incident, a Private Member’s Bill was tabled in Parliament combining two pending actions in court to raise the possibility of legally abolishing the death penalty by statute or judicial interpretation.

**Thailand**

Thailand retained the death penalty and voted against the Second Optional Protocol to the ICCPR Rights and the UN Moratorium Resolution. The death penalty sentence is applied for murder and drug-related crimes of certain gravity. As of early 2021, there were 551 people on death row, but the last known execution dates back to 2018.[[8]](#footnote-9) Pregnant women, children under 18 and people with disabilities are excluded from the death penalty.

**Tunisia**

In September 2020, President Kais Saied announced his position in favor of the death penalty, stating ‘murder deserves the death penalty’, breaking with the established practice of not carrying out capital punishment.

The death penalty is under a moratorium that has been observed in practice since 1991. Nonetheless, it has not yet been enshrined into law yet and the constitution still provides several exceptions to the right to life, such as terror offences. In January 2022, a court specialized in terrorism cases sentenced nine to death.[[9]](#footnote-10) However, these execution warrants cannot be enacted without a presidential signature, hence the alarming nature of President Saied’s statement on the capital punishment.

Human rights organizations warned that reinstating the death penalty would be a huge step backwards for Tunisia. These organizations called on the government of Tunisia to establish an official moratorium on executions.

**Viet Nam**

Viet Nam opposes making any changes to the death penalty legislation. In early 2021, there were 600 people on death row and at least 85 have been executed in 2021. The total number of executions is assumed to be around 100, because these statistics are classified as “State secrets”.[[10]](#footnote-11)

**Report of the Secretary-General on Capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty**

In 2020, the Secretary-General submitted [the report](https://documents-dds-ny.un.org/doc/UNDOC/GEN/V20/022/02/PDF/V2002202.pdf?OpenElement), drafted by UNODC, to ECOSOC on the 2014-2018 quinquennium trend on the abolition and restriction of the use of capital punishment. Although the number of States that have abolished the death penalty continue to grow, there have been also an increase in the number of executions, which are carried out by a small number of countries. One of the main concerns is that the death penalty continues to be imposed upon children under the age of 18 years old as well as vulnerable persons such as pregnant women.

The report cited that the death penalty was imposed or implemented for drug-related offences in various countries, including China, Indonesia, Iran (Islamic Republic of), Kuwait, the Lao People’s Democratic Republic, Malaysia, Saudi Arabia, Singapore, Sri Lanka, Thailand, the United Arab Emirates and Viet Nam. Harm Reduction International said that 35 States had legislation providing the death penalty for drug - related crimes, and that it was mandatory for certain offences in 12 of them. Until 2017, approximately 30 per cent of executions worldwide were for drug crimes.

1. China does not provide any official data related to the death penalty and executions. [↑](#footnote-ref-2)
2. World Coalition Against the Death Penalty. Country profile: China. URL: https://worldcoalition.org/pays/china/ [↑](#footnote-ref-3)
3. Project 39A (2022) Death penalty in India: <https://www.livelaw.in/pdf_upload/annualstatisticsreport2021-408596.pdf> p. 7 [↑](#footnote-ref-4)
4. World Coalition Against the Death Penalty. Country profile: Indonesia. URL: https://worldcoalition.org/pays/indonesia/ [↑](#footnote-ref-5)
5. World Coalition Against the Death Penalty. Country profile: Myanmar. URL: https://worldcoalition.org/pays/myanmar/ [↑](#footnote-ref-6)
6. World Coalition Against the Death Penalty. Country profile: Sri Lanka. URL: https://worldcoalition.org/pays/sri-lanka/ [↑](#footnote-ref-7)
7. Amnesty International (26 Jun. 2019) Sri Lanka: President Maithripala Sirisena Signs Execution Warrants for Four Prisoners, Plans Shrouded in Secrecy: https://www.amnesty.org/en/latest/news/2019/06/sri-lanka-president-maithripala-sirisena-signs-execution-warrants-for-four-prisoners-plans-shrouded-in-secrecy/ [↑](#footnote-ref-8)
8. World Coalition Against the Death Penalty. Country profile: Thailand. URL: https://worldcoalition.org/pays/thailand/ [↑](#footnote-ref-9)
9. Reuters (14 Jan. 2022) Tunisian court sentences nine to death for killing a first sergeant in the army – TAP: https://www.reuters.com/world/africa/tunisian-court-sentences-nine-death-killing-1st-sergeant-army-tap-2022-01-14/ [↑](#footnote-ref-10)
10. Amnesty International. Viet Nam 2020: https://www.reuters.com/world/africa/tunisian-court-sentences-nine-death-killing-1st-sergeant-army-tap-2022-01-14/ [↑](#footnote-ref-11)