**UNODC’s contribution to SG report on the moratorium of the death penalty, pursuant to General Assembly resolution** [**75/183**](https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/372/89/PDF/N2037289.pdf?OpenElement)

As the UN entity that assists Member States in facing challenges related to drugs, crime and terrorism through a human rights-based approach, UNODC supports the Moratorium on the use of the death penalty as a first step towards its abolition for those States that retain it in their Criminal Codes. The Office expresses particular concern for the ongoing executions occurring in some countries for the punishment of offences related to drugs and terrorism.

In the context of drug-related crimes, the imposition of capital punishment violates Article 6(2) of the 1966 International Covenant on Civil and Political Rights (ICCPR), which states that “In countries which have not abolished the death penalty, sentence of death may be imposed *only for the most serious crimes*”. With respect to terrorism-related offences, UNODC supports counter-terrorism measures that are based on human rights standards and therefore discourages the use of the death penalty for such offences. The premise of this human rights-based approach is that when communities believe that terrorist acts can be successfully prevented and punished by legal mechanisms that faithfully incorporate human rights protections, there will be less demand for harsher measures and more respect for the rule of law.[[1]](#footnote-1)

The present contribution offers an update on the country information provided to inform the 2020 SG report on the Moratorium of the use of the death penalty, pursuant to General Assembly resolution 73/175, as well as a number of examples of developments in the context of the use of death penalty, particularly in its application for drug- and terrorism-related offences.

**UNODC work against the death penalty in 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. Since 2010, Nigeria has abstained from voting in favour of the Moratorium,[[2]](#footnote-2) after voting against in 2007 and 2008[[3]](#footnote-3). In 2020, the country was not present for the vote.[[4]](#footnote-4)

**Information on the death penalty for drug-related offences**

**China**

In the People’s Republic of China, the death penalty is still exercised and the country remains strongly opposed to applying a moratorium to it. The last revision of China’s Penal Code took place in 2015, resulted in the reduction of the number of crimes punishable by death to 46, including 24 violent crimes and 22 non-violent crimes. Although the number of crimes punishable by death has been reduced, this has not had a significant impact on the number of death sentences and executions, of which information remains extremely limited, being categorized as State secret. Therefore, access to reliable data disaggregated by sex, age, nationality and race remain a challenge[[5]](#footnote-5). Despite the small number of reported death penalty cases, China is believed to be the country with the most death sentences and executions. According to an estimate of the World Coalition Against the Death Penalty, 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.[[6]](#footnote-6) 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, which remains a crime punished with death penalty.

**India**

India continues to impose the death penalty and voted against the Second Optional Protocol to the ICCPR and the 2020 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.

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.[[7]](#footnote-7)

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.[[8]](#footnote-8)

**Indonesia**

Indonesia supports the death penalty and has voted against the Second Optional Protocol to the ICCPR and the UN Moratorium Resolution. The offences punishable with the death penalty include murder, robbery terrorism, and drug offences. According to the Death Penalty Project, half of the executions carried out in the past 20 years have been for drug related crimes.[[9]](#footnote-9) In early 2021, there were 308 people on death row, although no executions have occurred since 2016[[10]](#footnote-10), when four men, including three foreign nationals, were executed for drug trafficking.

**Iran**

The Islamic Republic of Iran continues to impose the death penalty for a wide range of crimes, including those that are not consider the most serious crimes under international human rights law. The death penalty applies to women and minors as well. In his report to the Human Rights Council, presented in January 2022, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Mr. Javaid Rehman, called on the country to immediately impose a moratorium on executions as a first step towards abolition. While disaggregated data regarding the death penalty are not made available by authorities, the Special Rapporteur reported to the Council that, between 1 January and 1 December 2021, at least 275 people were executed in Iran, including at least two child offenders and 10 women. 2021 saw an exponential increase in convictions for drug-related crimes, which constituted 80 of the 2021 executions, compared to 25 in 2020.[[11]](#footnote-11)

**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.[[12]](#footnote-12) Pregnant women, children under 18 and people with disabilities are excluded from the death penalty.

**The Philippines**

Despite the Philippines being a state party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in March 2021, the House of Representatives of the Philippines adopted a bill amending the Comprehensive Dangerous Drugs Act of 2002 to increase the penalties for drug-related offences, including by re-introducing the death penalty.[[13]](#footnote-13)

**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”.[[14]](#footnote-14) Capital punishment is most often used to sanction drug-related crime, that are listed by Viet Nam’s Criminal Code as extremely serious crimes: “*death sentence is a special sentence imposed upon people committing extremely serious crimes that infringe national security, human life, drug-related crimes, corruption-related crimes, and some other extremely serious crimes defined by this Code”* (Article 40.1). Harm Reduction International estimates that in 2021 alone more than 87 people were sentenced with capital punishment for drug-related crimes. The number of executions remains unknown.[[15]](#footnote-15)

**Information on the death penalty for terrorism-related offences**

**Chad**

In 2020, Chad abolished the death penalty for terrorism-related offences, by amending its counter-terrorism law, which previously imposed the death penalty for certain crimes of terrorism (loi 034/PR/2015).

**Saudi Arabia**

On 12 March 2022, in Saudi Arabia 81 men were executed for a wide range of offences, including terrorism-related crimes, murder, armed robbery and arms smuggling. While mass executions had not occurred in the country since 2019, this one was by far the largest in years and exceeded the total of 67 executions that reportedly took place in the country during the whole of last year.[[16]](#footnote-16) A number of those executed were also convicted of charges such as “disrupting the social fabric and national cohesion” and “participating in and inciting sit-ins and protests” which describe acts that are protected by the rights to freedom of expression, peaceful assembly and association.[[17]](#footnote-17) In early 2021, Saudi Arabia implemented a moratorium on executions for drug-related crimes. However, the moratorium has not been formalized yet and people found guilty of drug-related crimes remain on death row. In the country, the death penalty continues to be handed down at the discretion of the judge.

**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.[[18]](#footnote-18) 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.

**Other country information**

**Armenia**

Armenia signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in September 2019. The Protocol was then ratified in March 2021.[[19]](#footnote-19)

**Kazakhstan**

Kazakhstan signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in September 2020. On 24 March 2022, the country proceeded with the ratification of the Protocol.[[20]](#footnote-20)

**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.[[21]](#footnote-21) The country has maintained an informal moratorium for over half a century and plans for this to continue.[[22]](#footnote-22)

**Myanmar**

Myanmar has voted against the Moratorium from 2007 to 2012 and has abstained from voting since 2014. [[23]](#footnote-23) The country retains the death penalty in its Penal Code for the most serious crime, such as murder committed in the course of committing an offence that is itself punishable by a prison term of seven years of more.[[24]](#footnote-24) Nonetheless, no executions have been carried out since 1988[[25]](#footnote-25). Data from November 2019 reported 82 prisoners on death row and 975 whose death sentences was commuted to 20-year life sentence or longer. However, since the military takeover of 1 February 2021, the imposition of the death sentence has become more common. This has been favored by martial law being imposed in eleven townships, resulting in the establishment of military tribunals to process charges, including against peaceful protesters and journalists.[[26]](#footnote-26) The penalties faced by those convicted by these military tribunals are significantly tougher than those emanated by civilian courts and often include death sentence, prison at hard labor for unlimited years, or the highest punishment designated for the crime in existing law.[[27]](#footnote-27)

No official data is available on the exact numbers of death sentences imposed since the military coup, with human rights groups reporting different statistics.[[28]](#footnote-28) However, with martial law in place in parts of the country, there is widespread concern over the increased use of capital punishment, although no executions have been recorded so far.[[29]](#footnote-29) Most recently, in January 2022, under Myanmar’s Counter-terrorism Law, a prominent democracy activist and a lawmaker from the opposition party were sentenced to death, accused of offences involving explosives, bombings and financing terrorism, that could not be verified by independent sources.[[30]](#footnote-30)

1. UNODC (2008) Legislative Guide to the Universal Legal Regime against Terrorism. <https://www.unodc.org/documents/terrorism/Publications/Legislative_Guide_Universal_Legal_Regime/English.pdf> p.5 [↑](#footnote-ref-1)
2. [A/RES/65/206](https://digitallibrary.un.org/record/700454?ln=en); [A/RES/67/176](https://digitallibrary.un.org/record/740182?ln=en); [A/RES/69/186](https://digitallibrary.un.org/record/820128?ln=en); [A/RES/71/187](https://digitallibrary.un.org/record/855172?ln=en); [A/RES/73/175](https://digitallibrary.un.org/record/1656169?ln=en) [↑](#footnote-ref-2)
3. [A/RES/62/149](https://digitallibrary.un.org/record/614676?ln=en); [A/RES/63/168](https://digitallibrary.un.org/record/644537?ln=en) [↑](#footnote-ref-3)
4. https://digitallibrary.un.org/record/3894866?ln=en [↑](#footnote-ref-4)
5. World Coalition Against the Death Penalty (15 Feb. 2022) The Status Quo of China’s Death Penalty and the Civil Society Abolitionist Movement. https://worldcoalition.org/2022/02/15/china-death-penalty-2022/ [↑](#footnote-ref-5)
6. World Coalition Against the Death Penalty. Country profile: China. URL: <https://worldcoalition.org/pays/china/> [↑](#footnote-ref-6)
7. Project 39A (2022) Death Penalty in India: Annual Statistics Report 2021: [https://static1.squarespace.com/static/5a843a9a9f07f5ccd61685f3/t/61f6d7e8f0e77848cc843477/1643567095391/Annual+Statistics+Report+2021+%281%29.pdf](https://static1.squarespace.com/static/5a843a9a9f07f5ccd61685f3/t/61f6d7e8f0e77848cc843477/1643567095391/Annual%2BStatistics%2BReport%2B2021%2B%281%29.pdf) p.7 [↑](#footnote-ref-7)
8. Ibid [↑](#footnote-ref-8)
9. The Death Penalty Project (June 2021): <https://deathpenaltyproject.org/new-research-revealing-the-attitudes-of-indonesians-towards-the-death-penalty-provides-new-data-that-could-facilitate-fresh-discourse-on-the-future-of-capital-punishment-in-the-country/> [↑](#footnote-ref-9)
10. World Coalition Against the Death Penalty. Country profile: Indonesia. URL: <https://worldcoalition.org/pays/indonesia/> [↑](#footnote-ref-10)
11. [A/HRC/49/75](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/005/44/PDF/G2200544.pdf?OpenElement) [↑](#footnote-ref-11)
12. World Coalition Against the Death Penalty. Country profile: Thailand. URL: <https://worldcoalition.org/pays/thailand/> [↑](#footnote-ref-12)
13. <https://www.amnesty.org.ph/2021/03/amendments-to-dangerous-drugs-act-an-alarming-knee-jerk-reaction-to-pnp-pdea-shootout/> [↑](#footnote-ref-13)
14. 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-14)
15. Harm Reduction International (2022) Death Penalty For Drug Offences: Global Overview 2021: <https://www.hri.global/death-penalty-2021> [↑](#footnote-ref-15)
16. UN News (14 March 2022) *UN rights chief decries mass execution of 81 people in Saudi Arabia*: <https://news.un.org/en/story/2022/03/1113922> [↑](#footnote-ref-16)
17. Amnesty International (15 March 2022) *Saudi Arabia: Mass execution of 81 men shows urgent need to abolish death penalty*: <https://www.amnesty.org/en/latest/news/2022/03/saudi-arabia-mass-execution-of-81-men-shows-urgent-need-to-abolish-the-death-penalty/#:~:text=In%20early%202021%2C%20the%20Saudi,than%20mandated%20under%20Sharia%20law> [↑](#footnote-ref-17)
18. 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-18)
19. United Nations Treaty Collection: Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4>. Accessed 31 March 2022. [↑](#footnote-ref-19)
20. Ibid [↑](#footnote-ref-20)
21. <https://digitallibrary.un.org/record/3894866?ln=en> [↑](#footnote-ref-21)
22. Amnesty International (2021) Death sentences and executions 2020. <https://www.amnesty.de/sites/default/files/2021-04/Amnesty-Bericht-Todesstrafe-2020-April-Englische-Version.pdf> p.30 [↑](#footnote-ref-22)
23. [A/RES/65/206](https://digitallibrary.un.org/record/700454?ln=en); [A/RES/67/176](https://digitallibrary.un.org/record/740182?ln=en); [A/RES/69/186](https://digitallibrary.un.org/record/820128?ln=en); [A/RES/71/187](https://digitallibrary.un.org/record/855172?ln=en); A/RES/73/175; [A/RES/62/149](https://digitallibrary.un.org/record/614676?ln=en); [A/RES/63/168](https://digitallibrary.un.org/record/644537?ln=en) [↑](#footnote-ref-23)
24. Frontier Myanmar (21 Jan, 2021) The ultimate penalty: Debating the death sentence. <https://www.frontiermyanmar.net/en/the-ultimate-penalty-debating-the-death-sentence/> [↑](#footnote-ref-24)
25. World Coalition against the Death Penalty (2021) Country profile: Myanmar. <https://worldcoalition.org/pays/myanmar/> [↑](#footnote-ref-25)
26. Ibid [↑](#footnote-ref-26)
27. Human Rights Watch (16 Mar. 2021) Martial Law in Myanmar a Death Knell for Fair Trials. <https://www.hrw.org/news/2021/03/16/martial-law-myanmar-death-knell-fair-trials> [↑](#footnote-ref-27)
28. For example, while [Human Rights Watch](https://www.hrw.org/news/2021/07/21/myanmar-junta-tribunals-impose-65-death-sentences#:~:text=Myanmar%20has%20not%20carried%20out,to%20sentence%20people%20to%20death) reports 65 people sentenced to death only between February and July 2021, [Amnesty International](https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/myanmar/report-myanmar/) refers to an indefinite ‘dozens’ of people sentenced in 2021. [↑](#footnote-ref-28)
29. <https://www.law.ox.ac.uk/research-and-subject-groups/death-penalty-research-unit/blog/2021/04/death-penalty-post-coup-myanmar> [↑](#footnote-ref-29)
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