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## GOING BACKWARDS

# The death penalty in Southeast Asia

Cover photo: An anti-death penalty advocate displays a placard in front of the Supreme Court in Manila on 26 January 2004 to call on the government to stop the scheduled executions of two convicted kidnappers. © Joel Nito / AFP

# TABLE OF CONTENTS

Introduction	4
Brunei Darussalam: Death penalty under Sharia Criminal Code looms	5
Burma: Happy to remain <i>de facto</i> abolitionist	5
Indonesia: Executions continue, more crimes punishable by death	6
Laos: No progress towards abolition	8
Malaysia: Reform stalled amid ongoing executions	9
Philippines: New President proposes reintroduction of capital punishment	10
Singapore: Government defends capital punishment, executions continue	12
Thailand: Dragging its feet on abolition	13
Vietnam: Capital punishment still on the books despite law amendments	15
The death penalty in Southeast Asia: Key facts & figures	16
Recommendations to countries in Southeast Asia	17

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## Introduction

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Over the past year, Southeast Asia has witnessed significant setbacks with regard to the abolition of the death penalty. Indonesia, Malaysia, and Singapore have all carried out executions. It is unknown whether any executions were carried out in Vietnam, where statistics on the death penalty continue to be classified as 'state secrets.' In the name of combating drug trafficking, Indonesian President Joko Widodo is rapidly becoming Southeast Asia's top executioner. The Philippines, which effectively abolished the death penalty for all crimes in 2006, is considering reinstating capital punishment as part of President Rodrigo Duterte's ill-conceived and disastrous 'war on drugs.'

Over the past year, slow or no progress towards the complete abolition of the death penalty for all crimes has been observed in Brunei Darussalam, Burma, Laos, and Thailand – countries that have attained, or are close to attaining, the status of *de facto* abolitionist.

Across retentionist countries in Southeast Asia, a disproportionate number of death sentences continue to be imposed for drug-related offenses. Countries that have ratified the International Covenant on Civil and Political Rights (ICCPR) and that continue to impose capital punishment for drug-related offenses are in contravention of their own international legal obligations. Article 6 of the ICCPR reserves the death penalty solely for the "most serious crimes," a threshold that international jurisprudence has repeatedly stated drug-related offenses do not meet.<sup>1</sup>

All retentionist countries in Southeast Asia allow the death penalty for **terrorism**. However, the application of such laws is subject to abuse and arbitrary application because governments define this crime in very broad and vague terms. In addition, many alleged violent terrorism acts do not meet the threshold of the "most serious crimes."<sup>2</sup>

In many Southeast Asian countries, governments maintain a high degree of **secrecy** over information concerning the use of the death penalty. This practice is contrary to international standards on the use of the death penalty. United Nations (UN) jurisprudence has found that the lack of transparency in the application and imposition of the death penalty can result in inhuman or degrading treatment or punishment under Article 7 of the ICCPR and Article 1 of the Convention against Torture (CAT). It also contravenes the public's right to information under Articles 14 and 19 of the ICCPR.

The **denial of fair trial rights and due process** also remain a major concern in connection with the prosecution of cases involving the death penalty. In July 2016, several inmates facing the firing squad in the latest round of executions in Indonesia alleged that they had been convicted based on evidence from confessions obtained through torture.

On the occasion of the 2016 World Day Against the Death Penalty, this report provides an update on the situation concerning the death penalty in Southeast Asia over the past year.<sup>3</sup> It also provides a set of recommendations to governments in the region with a view to make genuine and tangible progress towards the abolition of the death penalty for all crimes.

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1. FIDH, *The Death Penalty For Drug Crimes in Asia*, October 2015

2. The 14th World Day Against the Death Penalty, 10 October 2016, is raising awareness about the application of the death penalty for terrorism-related offenses.

3. This report provides an update on the situation concerning the death penalty in Southeast Asia one year after the publication of FIDH's report, "*The Death Penalty For Drug Crimes in Asia*," in October 2015.

Asia has the highest number of retentionist countries in the world. Eight of the 10 Association of Southeast Asian Nations (ASEAN) member states retain the death penalty. Only Cambodia and the Philippines have abolished capital punishment. East Timor, which is not an ASEAN member state, has also abolished the death penalty. None of the eight retentionist or *de facto* abolitionist ASEAN countries have established a moratorium on executions.

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## Brunei Darussalam:

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### Death penalty under Sharia Criminal Code looms

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Since May 2014, Brunei Darussalam has been implementing its Sharia Criminal Code, enacted on 22 October 2013.<sup>4</sup> The 2013 Sharia Criminal Code prescribes death sentences for a broad range of offenses, including: robbery; rape; adultery; sodomy; blasphemy; and murder. It also specifies stoning as the specific method of execution for crimes of a sexual nature.<sup>5</sup> However, the imposition of capital punishment under the Sharia Criminal Code will be delayed until at least 2018.<sup>6</sup>

While there have been no executions in Brunei Darussalam since 1957, courts have continued to impose death sentences. Approximately five people are believed to be on death row in Brunei Darussalam. A number of laws, including the 1978 Misuse of Drugs Law, the 1982 Internal Security Act, the 1983 Public Order Act, and certain provisions of the Criminal Code prescribe the death penalty for offenses such as murder, drug trafficking, and unlawful possession of firearms and explosives.

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## Burma: Happy to remain *de facto* abolitionist

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In the last 12 months, there was one reported instance of a court imposing a death sentence in Burma. On 4 December 2015, Rangoon's Thanlyin Township Court sentenced a 47-year-old man, Tin Myint, to death under Article 302(1)(b) of the Criminal Code for the murder of two police officers in September 2015.<sup>7</sup> On 22 January 2016, then-President Thein Sein commuted the death sentences of 77 prisoners to life imprisonment in a presidential amnesty.<sup>8</sup>

Burma's Parliament has made minor progress in repealing legislation that prescribes the death penalty. On 4 October 2016, President Htin Kyaw signed a law that repealed the 1950 Emergency Provisions Act, which allowed the death penalty for treason, abetting treason, and sabotage.<sup>9</sup>

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4. AFP, *Sultan of Brunei introduces death by stoning under new Sharia laws*, 22 October 2013

5. UN News Centre, *UN concerned at broad application of death penalty in Brunei's revised penal code*, 11 April 2014

6. Brunei Times, *HM questions delay in Syariah law enforcement*, 28 February 2016; UN Human Rights Council, 19th session, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 - Brunei Darussalam*, 30 January 2014, UN Doc. A/HRC/WG.6/19/BRN/1, Para 9

7. DVB, *Death penalty for three-time police killer*, 4 December 2015

8. Myanmar Times, *52 political prisoners released in amnesty*, 22 January 2016

9. Global New Light of Myanmar, *Colonial-era law repealed, Law revoking Emergency Provisions Act approved*, 5 October 2016

An FIDH survey of political parties' human rights commitments, conducted from August to September 2015, found that more than 52% of the political parties surveyed said that, if elected, they would introduce or vote in favor of legislation that abolished the death penalty.<sup>10</sup>

In March 2016, the government released its full response to Burma's second Universal Periodic Review (UPR), which was held on 6 November 2015. With regard to the death penalty, the government did not accept nine recommendations that called for the establishment of a moratorium on all executions and the abolition of capital punishment. The government justified its decision by claiming that Burma retained the death penalty "to deter heinous crimes."<sup>11</sup> However, in a contradictory move, Burma accepted four recommendations that called for the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty.<sup>12</sup>

Burma has not executed anyone since 1988. Several articles of the Criminal Code allow the imposition of the death penalty for: premeditated murder; treason; abetting of mutiny; and giving or fabricating false evidence with intent to procure a conviction for a capital offense. Laws such as the 1993 Narcotic Drugs and Psychotropic Substances Law and the 2005 Anti-Trafficking in Persons Law prescribe capital punishment for drug-related offenses and human trafficking respectively.

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## Indonesia:

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### Executions continue, more crimes punishable by death

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Over the past year, ongoing executions, a pledge to continue using the death penalty to combat drug trafficking, and the imposition of capital punishment for additional crimes marked a significant step backwards on Indonesia's path towards abolition.

On 18 April 2016, President Joko Widodo reiterated his administration's support for capital punishment for drug-related offenses.<sup>13</sup> In June 2016, authorities stated that the executions of convicted drug traffickers would be prioritized, with plans to execute 16 in 2016 and 30 in 2017.<sup>14</sup> As of 4 October 2016, there were 179 inmates on death row, 89 of whom had been convicted of drug-related offenses.<sup>15</sup>

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10. FIDH, *Half Empty: Burma's political parties and their human rights commitments*, November 2015

11. UN Human Rights Council, 31st session, *Report of the Working Group on the Universal Periodic Review - Myanmar*, 10 March 2016, UN Doc. A/HRC/31/13/Add.1, Para 12

12. UN Human Rights Council, 31st session, *Report of the Working Group on the Universal Periodic Review - Myanmar*, 23 December 2015, UN Doc. A/HRC/31/13, Para 143.6; UN Human Rights Council, 31st session, *Report of the Working Group on the Universal Periodic Review - Myanmar*, 10 March 2016, UN Doc. A/HRC/31/13/Add.1, Para 7

13. AP, *Indonesian president defends death penalty for drug offenses*, 19 April 2016; Jakarta Post, *Jokowi meets with German President, discusses death penalty*, 19 April 2016

14. AAP, *Indonesia to execute 16 this year*, 14 June 2016

15. KontraS, *Death penalty log in Indonesia*, 4 October 2016; [http://kontras.org/data/20161004\\_Data\\_Hukuman\\_Mati\\_di\\_Indonesia\\_2016\\_987jg2478n2y.pdf](http://kontras.org/data/20161004_Data_Hukuman_Mati_di_Indonesia_2016_987jg2478n2y.pdf), accessed on 4 October 2016



Convicted drug smuggler on death row Mary Jane Veloso, a Philippine national, is escorted by Indonesian police as she arrives at a court in Sleman, Central Java, for a hearing of judicial review on 3 March 2015 after a plea for clemency was rejected by Indonesian President Joko Widodo. © Suryo Wibowo / AFP

On 29 July 2016, shortly after midnight, Indonesian Freddy Budiman, South African Seck Osmane, and Nigerians Michael Igweh and Humphery Eleweke were executed by firing squad in Nusakambangan prison in Central Java.<sup>16</sup> Authorities granted 10 other drug convicts (nine men and one woman), scheduled to face the firing squad at the same time, a last-minute reprieve “to conduct further study.”<sup>17</sup>

A lack of transparency usually surrounds executions. In contrast to the two previous batches of executions carried out in 2015, Indonesian authorities failed to make an official announcement about the impending date of the executions and the identity of the inmates that would face the firing squad in July 2016.<sup>18</sup>

As in 2015, serious doubts emerged over the fairness of the judicial processes that led to the conviction of several of the inmates that faced execution on 29 July 2016. At least two of them alleged that they were convicted based on confessions obtained through torture. Michael Igweh claimed that police had inflicted electric shocks to his genitals to force him to confess to possessing heroin.<sup>19</sup> Pakistani Zulfiqar Ali, among those who obtained a reprieve, claimed that he was tortured following a wrongful arrest and forced to confess to drug possession, a charge he later denied.<sup>20</sup>

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16. AP, *Indonesia executes 4 drug traffickers*, 29 July 2016

17. Straits Times, *Indonesia executes 4 inmates, 10 get reprieve*, 30 July 2016; Antara News, *Executions of 10 death row inmates postponed: Attorney general*, 29 July 2016

18. Guardian, *Indonesia kills four prisoners in first executions in a year*, 29 July 2016

19. SMH, *'They electrocuted me' says Indonesia's death-row prisoner nearing execution*, 24 July 2016

20. SMH, *'They electrocuted me' says Indonesia's death-row prisoner nearing execution*, 24 July 2016



A group of Christians hold a candlelight vigil to protest the death penalty at Nusakambangan port in Cilacap, Central Java, across from Nusakambangan prison on 29 April 2015. © Romeo Gacad / AFP

Proposed and newly enacted legislation contain provisions that add the imposition of the death penalty for existing crimes. Proposed amendments to the 2003 Anti-Terrorism Law, which is under consideration by Parliament, would make certain offenses punishable by death. On 25 May 2016, President Widodo signed a decree that amended the 2002 Child Protection Law to introduce capital punishment for individuals convicted of committing sexual violence against children.<sup>21</sup> The death penalty would be imposed in cases where the victims died or suffered serious mental or physical injury.<sup>22</sup> The decree is awaiting ratification by the House of Representatives.

Indonesia prescribes capital punishment for various crimes, including: murder; terrorism-related offenses; gang-robbery; drug trafficking; drug possession; treason; and spying. In March 2013, the resumption of executions ended an unofficial moratorium that had been in place since November 2008. In 2015, Indonesia executed 14 individuals who had been convicted of drug-related offenses. Authorities are legally required to issue a 72-hour notice to inmates facing execution.

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## Laos: No progress towards abolition

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Up-to-date information on the death penalty, including statistics, is difficult to obtain in Laos. The Lao government has repeatedly announced that it was in the process of amending the Criminal Code in order to limit capital punishment to the most serious crimes, in accordance with international standards.<sup>23</sup> However, the government has made no tangible progress on this commitment to date.

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21. CNA, *Indonesian president introduces death penalty for child rapists*, 26 May 2016; Jakarta Post, *Govt issues Perppu on sexual violence against children*, 25 May 2016

22. AFP, *Indonesians divided over death, castration for child abusers*, 26 May 2016

23. UN Human Rights Council, 21st session, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 - Lao People's Democratic Republic*, 5 November 2014, UN Doc. A/HRC/WG.6/21/LAO/1, Para 36; UN Human Rights Council, 29th session, *Report of the Working Group on the Universal Periodic Review - Lao People's Democratic Republic*, 23 June 2015, UN Doc. A/HRC/29/7/Add.1, Para 121.37, 121.85



On 9 October 2015, it was reported that from 2010 to 2015, courts imposed about 20 death sentences each year.<sup>24</sup>

Despite the fact that Laos has not executed anyone since 1989, courts have continued to impose death sentences on convicted criminals, mostly for drug-related offenses. The Criminal Code prescribes capital punishment for a range of crimes, including: premeditated murder; terrorism-related offenses; robbery; drug trafficking; drug possession; treason; and spying. The 2004 Law on the Development and Protection of Women also prescribes the death penalty for cases of trafficking of women and children that result in lifetime incapacity, HIV/AIDS, or the death of the victim. In 2014 and 2015, the government stated that it was necessary to retain the death penalty in Laos to deter the “most serious” crimes.<sup>25</sup>

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## Malaysia: Reform stalled amid ongoing executions

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Over the past year, the Malaysian government indicated it was in the process of reforming the use of the death penalty. Despite several encouraging statements to that effect, no progress towards meaningful reform, or the establishment of a moratorium, has been made.

On 13 November 2015, Attorney-General Mohamed Apandi Ali said he would propose to the cabinet that the mandatory death penalty be abolished.<sup>26</sup> Apandi justified his position by saying that the mandatory death penalty “robbed judges of their discretion to impose sentences on convicted criminals.”<sup>27</sup>

On 17 November 2015, Minister in the Prime Minister’s Department Nancy Shukri said the government wanted to abolish mandatory death sentences for drug-related offences.<sup>28</sup> Nancy said proposed legislation would be introduced in Parliament in March 2016.<sup>29</sup> However, the proposal never surfaced.<sup>30</sup> According to Nancy, as of 16 May 2016, there were 1,041 death row inmates in Malaysia.<sup>31</sup> Most of the inmates under death sentence had been convicted of drug-related offenses.<sup>32</sup>

On 29 March 2016, Malaysia’s National Human Rights Commission (SUHAKAM) expressed concern over the mandatory imposition of capital punishment for certain crimes and called for the establishment of a moratorium on the use of the death penalty.<sup>33</sup>

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24. Vientiane Times, *EU campaigns to end capital punishment*, 9 October 2015

25. UN Human Rights Council, 21st session, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 - Lao People’s Democratic Republic*, 5 November 2014, UN Doc. A/HRC/WG.6/21/LAO/1, Para 36; UN Human Rights Council, 29th session, *Report of the Working Group on the Universal Periodic Review - Lao People’s Democratic Republic*, 23 June 2015, UN Doc. A/HRC/29/7/Add.1, Para 121.37, 121.85

26. Malaysian Insider, *A-G seeking to abolish mandatory death penalty*, 13 November 2015; Star, *Government wants mandatory death penalty abolished*, 17 November 2015

27. Malaysian Insider, *A-G seeking to abolish mandatory death penalty*, 13 November 2015

28. New Straits Times, *Govt plans to scrap mandatory death penalty: Nancy*, 17 November 2015

29. New Straits Times, *Govt plans to scrap mandatory death penalty: Nancy*, 17 November 2015

30. Guardian, *Malaysia hangs three men for murder in ‘secretive’ execution*, 25 March 2016

31. Malaysiakini, *Nancy explains delay in amending death penalty law*, 10 July 2016

32. AFP, *Amnesty denounces ‘shocking’ Malaysian executions*, 25 March 2016

33. SUHAKAM, *The Death Penalty Violates the Right to Life and is the Ultimate Cruel, Inhuman and Degrading Punishment*, 29 March 2016

Obtaining information about upcoming executions and the status of death row inmates continues to be a challenge. Authorities do not disclose any information to the public before, and sometimes even after, executions are carried out. Malaysian media reported on four executions from October 2015 to September 2016.

On 25 March 2016, three convicted murderers, Gunasegar Pitchaymuthu, 35, Ramesh Jayakumar, 34, and his brother Sasivarnam Jayakumar, 37, were executed by hanging.<sup>34</sup> In August 2011, the Alor Setar High Court had found them guilty of murdering a 25-year-old man in 2005.<sup>35</sup> Authorities notified the families of the men two days before the execution, while the three were told of their execution one day before they were hanged.<sup>36</sup>

On 23 September 2016, a 40-year-old man, Ahmad Najib Aris, was executed by hanging in Kajang prison, Selangor State.<sup>37</sup> On 23 February 2005, the Shah Alam High Court sentenced Ahmad Najib to death after finding him guilty of the murder of a 29-year-old woman in June 2003.<sup>38</sup>

Malaysia allows the imposition of the death penalty for numerous crimes, including: murder; rape or attempted rape resulting in the victim's death; terrorism-related offenses; robbery; burglary; kidnapping; drug trafficking; trafficking in firearms; and treason. The death penalty is mandatory for various crimes, including: murder; terrorism-related offenses; drug trafficking; robbery; burglary; and kidnapping. According to official statistics, between 2010 and 22 February 2016, Malaysian courts sentenced 829 prisoners to death.

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## Philippines: New President proposes reintroduction of capital punishment

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The Philippines risks having the death penalty reinstated as part of its 'war on drugs' under President Rodrigo Duterte, who was elected on 9 May 2016.

On 16 May 2016, during his first press conference after being elected, President Duterte vowed to reinstate the death penalty for a wide range of crimes, with a particular focus on crimes involving drugs.<sup>39</sup> Other crimes for which President Duterte said the death penalty would be reinstated include rape, robbery, and kidnapping that result in the victim's death.<sup>40</sup> From 30 June to 6 September 2016, members of the Congress introduced 16 bills to either repeal existing legislation prohibiting the death penalty or make a number of crimes punishable by death. Enacting legislation to reinstate the death penalty would be inconsistent with the Philippines' obligations under international law, namely the International Covenant on Civil and Political Rights (ICCPR)

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34. Guardian, *Malaysia hangs three men for murder in 'secretive' execution*, 25 March 2016

35. Bernama, *Three get the gallows for murder*, 28 August 2011

36. Guardian, *Malaysia hangs three men for murder in 'secretive' execution*, 25 March 2016

37. Star, *Canny Ong's murderer hanged*, 23 September 2016

38. Star, *Canny Ong's murderer hanged*, 23 September 2016

39. Al Jazeera, *Philippines' Rodrigo Duterte recommends death penalty*, 16 May 2016

40. CNN, *Duterte wants to restore death penalty by hanging*, 18 May 2016

and the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty.<sup>41</sup>

In addition, the spate of summary killings of drug peddlers in the Philippines since the election of President Duterte is cause for concern. According to police figures, 39 suspected drug dealers were killed from the start of the year until the 9 May 2016 presidential election.<sup>42</sup> Since 1 July 2016, police officers and vigilantes have been responsible for 3,671 reported cases of extrajudicial killings of suspected criminals in relation to President Duterte's 'war on drugs.'<sup>43</sup> The recent dramatic increase in the number of extrajudicial killings appears to be a direct consequence of statements made by President Duterte, including encouraging the use of vigilante justice and pledging to kill up to 100,000 criminals during his first six months in office in order to eradicate crime and corruption.<sup>44</sup>



In this picture taken on 8 July 2016, police officers examine the dead body of an alleged drug dealer, his face covered with packing tape and a placard reading "I'm a pusher," on a street in Manila. © Noel Celis / AFP

In an act that underscored his support for capital punishment, President Duterte has done little to seek clemency in the case of Filipina Mary Jane Veloso, who was sentenced to death by an Indonesian court in October 2010 for smuggling heroin. On 9 September 2016, during a visit to Indonesia, President Duterte told Indonesian President Joko Widodo to "follow [Indonesia's] laws," and that he would not interfere in the country's judicial process.<sup>45</sup>

41. The ICCPR restricts the imposition of the death penalty to the "most serious crimes." Article 6(2) states that "[i]n countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes [...]." The Second Optional Protocol to the ICCPR prevents state parties to the convention from carrying out executions. Article 1(1) states that "[n]o one within the jurisdiction of a State Party to the present Protocol shall be executed."

42. GMA News, *PNP: Number of suspected drug dealers killed up by 200%*, 17 June 2016

43. Rappler, *IN NUMBERS: The Philippines' 'war on drugs'*; <http://www.rappler.com/newsbreak/iq/145814-numbers-statistics-philippines-war-drugs>, accessed on 4 October 2016

44. AFP, *Kill the criminals! Duterte's vote-winning vow*, 16 March 2016; CNN, *Philippines' Rodrigo Duterte: Public 'can kill' criminals*, 6 June 2016

45. Guardian, *Indonesia says Duterte has given it permission to execute Mary Jane Veloso*, 12 September 2016



Activists hold a banner during a protest in front of the Indonesian embassy in Manila on 27 April 2015, as they ask Indonesia to spare Filipina Mary Jane Veloso from execution. © Ted Aljibe / AFP

The Philippines abolished the death penalty under the 1987 constitution, but reinstated it in 1993 under Republic Act No. 7659 (Death Penalty Law), and later with the amendment of Republic Act No. 8353 (Anti-Rape Law of 1997) and Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002). The last execution carried out in the Philippines was in January 2000. In March 2000, then-President Joseph Estrada announced a moratorium on executions until the end of that year to mark the Christian Jubilee year.<sup>46</sup> In June 2006, the Philippines adopted Republic Act No. 9346, a law that prohibited the imposition of the death penalty. The Philippines has ratified both the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, and the Convention against Torture (CAT).

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## Singapore: Government defends capital punishment, executions continue

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Several important aspects related to the death penalty in Singapore remain shrouded in secrecy. While the government publishes annual statistics on the total number of executions, it consistently fails to make public announcements concerning upcoming hangings and to reveal the number of prisoners on death row. According to the Singapore Anti-Death Penalty Campaign (SADPC), as of May 2016, there were at least 25 inmates on death row, 23 of whom had been convicted of drug-related offenses. During the reporting period, Singapore executed at least one individual, Malaysian national Kho Jabing.

Kho Jabing, 31, was sentenced to death in July 2010 for the murder of a Chinese citizen in February 2008. He was executed by hanging on 20 May 2016 following a judicial odyssey that saw his death sentence set aside in favor of life imprisonment with caning and then reinstated.<sup>47</sup>

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46. BBC, *Philippines suspends death sentence*, 24 March 2000

47. Straits Times, *Convicted murderer Jabing Kho hanged after latest bid to escape gallows fails*, 20 May 2016

On 5 November 2015, less than 24 hours before Kho Jabing was to be hanged, his lawyer obtained a temporary stay of execution after petitioning the Court of Appeal to reconsider its earlier decision.<sup>48</sup> On 5 April 2016, the Court of Appeal unanimously rejected Kho Jabing's motion.<sup>49</sup>

The Singaporean government continues to staunchly defend the imposition of the death penalty in international fora. During its second Universal Periodic Review (UPR), held on 27 January 2016, the government did not accept any of the 20 recommendations on the abolition of capital punishment, including six that called for the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty, and nine that called for the re-establishment of a moratorium on executions.<sup>50</sup> The government defended capital punishment as a "legitimate" exercise of state power to deter the most serious crimes, including drug trafficking.<sup>51</sup> This explanation runs counter to UN jurisprudence, which has repeatedly stated that drug-related offenses do not meet the threshold of the "most serious crimes."<sup>52</sup>

Singapore allows the imposition of the death penalty for numerous crimes, including: murder; terrorism-related offenses; kidnapping; drug trafficking; arms trafficking; gang-robbery resulting in murder; and treason. Following a reform of the mandatory death penalty regime that came into effect in January 2013, judges were given discretion to sentence defendants to life imprisonment with caning for certain categories of murder and for drug trafficking under certain circumstances. According to official figures, from 2007 to 2015, Singapore executed 24 inmates, 14 of whom had been convicted of drug-related offenses. In July 2014, authorities lifted a moratorium on executions that had been established in July 2011.

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## Thailand: Dragging its feet on abolition

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On the legislative front, Thailand has not made any attempt to decrease the number of crimes punishable by death. Drug-related offenses continue to represent a disproportionate share of the crimes for which a death sentence has been imposed. As of August 2016, 380 men and 64 women were on death row; 156 of the men (41%) and 52 of the women (81%) on death row had been found guilty of drug-related offenses.<sup>53</sup>

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48. CNA, *Court of Appeal extends stay of execution for Kho Jabing*, 23 November 2015

49. CNA, *Malaysian Kho Jabing to hang for murder after appeal dismissed*, 5 April 2016

50. UN Human Rights Council, 32nd session, *Report of the Working Group on the Universal Periodic Review - Singapore - Addendum*, 13 June 2016, UN Doc. A/HRC/32/17/Add.1, Para 41

51. UN Human Rights Council, 32nd session, *Report of the Working Group on the Universal Periodic Review - Singapore*, 15 April 2016, UN Doc. A/HRC/32/17, Para 61; UN Webcast, *Singapore Review - 24th Session of Universal Periodic Review*, 27 January 2016, <http://webtv.un.org/meetings-events/watch/singapore-review-24th-session-of-universal-periodic-review/4725866340001>

52. UN Human Rights Committee, *Concluding observations on the initial report of Indonesia*, 21 August 2013, UN Doc. CCPR/C/IDN/CO/1, Para 10

53. Department of Corrections, *Statistics of prisoners under death sentence, August 2016*, 5 September 2016, [http://www.correct.go.th/stathomepage/CCF14092559\\_0001.pdf](http://www.correct.go.th/stathomepage/CCF14092559_0001.pdf)



Myanmar nationals Zaw Lin (L) and Win Zaw Tun (R) leave the Koh Samui Provincial Court on 24 December 2015 after the court sentenced them to death for the murder of two British tourists on the nearby island of Koh Tao in 2014. © Nicolas Asfour / AFP

The head of the ruling military junta, General Prayuth Chan-ocha, has expressed contradictory views on the imposition of the death penalty. On 6 June 2016, General Prayuth called on the judiciary to ensure the death penalty for convicted rapists.<sup>54</sup> However, following the public uproar over the attempted rape and murder of a woman in Saraburi Province in July 2016, General Prayuth disagreed with calls for capital punishment and said that severe penalties would not prevent rape.<sup>55</sup>

In September 2016, the government released its full response to Thailand's second Universal Periodic Review (UPR), which was held on 11 May 2016. With regard to the death penalty, Thailand pledged to commute death sentences and review the imposition of the death penalty for drug-related offenses.<sup>56</sup> Despite this pledge, the government did not accept 12 of the 17 recommendations that either called for the abolition of capital punishment or encompassed measures aimed at making progress towards that goal. The recommendations not accepted included: the establishment of a moratorium on all executions; the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty; and the removal of economic crimes from the list of offenses punishable by death. The government said it would consider these recommendations "in subsequent UPR cycles."<sup>57</sup> Thailand stated that it was taking a step-by-step approach towards the abolition of the death penalty, as there were "different public sentiments."<sup>58</sup>

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54. Nation, *PM calls for death penalty for rapists, stepped up fight against trafficking*, 6 June 2016

55. Bangkok Post, *General Prayut against death penalty for fatal rapes*, 5 July 2016

56. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand*, 15 July 2016, UN Doc. A/HRC/33/16, Para 158.72; UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para 159.30

57. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para 12, 18, 20

58. UN Human Rights Council, 33rd session, *Report of the Working Group on the Universal Periodic Review - Thailand*, 7 September 2016, UN Doc. A/HRC/33/16/Add.1, Para 20

Thailand has not executed anyone since August 2009. However, courts continue to impose death sentences, mainly for drug-related offenses. The Criminal Code prescribes the death penalty for various crimes, including: premeditated murder; rape resulting in death; kidnapping; terrorism; spying; treason; economic crimes; and drug-related offenses. Other laws that contain provisions for the death penalty include: the 1947 Firearms, Ammunition, Explosives, Fireworks, and the Equivalent of Firearms Act; the 1979 Narcotics Act; the 1999 Anti-Corruption Law; the 2008 Anti-Trafficking in Persons Act; and the 2015 Act Regarding Offenses Relating to Air Travel.

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## Vietnam: Capital punishment still on the books despite law amendments

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Vietnam continues to classify statistics on the death penalty as 'state secrets.' During the reporting period, English-language national media and international news outlets reported on 47 court cases in which the death sentence was imposed, most of them for drug-related offenses. However, it is believed that the actual number of death sentences imposed by courts was much higher. It is estimated that more than 500 inmates are currently on death row.<sup>59</sup>

There were no reports of executions in English-language national and international media and it is unknown whether any executions were carried out during the reporting period. On 25 October 2015, authorities granted a stay of execution to Le Van Manh, a 32-year-old man convicted in November 2008 of the rape and murder of a 13-year-old girl in Thanh Hoa Province five years earlier.<sup>60</sup> Le Van Manh claimed his conviction was based on a confession that police extracted through torture.<sup>61</sup>

On 27 November 2015, the National Assembly approved amendments to the Criminal Code that reduced the number of crimes punishable by death from 22 to 18.<sup>62</sup> The amendments abolished capital punishment for several crimes including: robbery; destruction of projects of importance to national security; disobeying orders; and surrendering to the enemy.<sup>63</sup> The amendments also replaced the death penalty with life imprisonment as punishment for those charged with embezzlement or corruption, provided they pay back 75% of their ill-gotten gains.<sup>64</sup> In addition, capital punishment would no longer be imposed on persons more than 75 years old who are convicted of committing a capital crime.<sup>65</sup>

However, the amendments failed to remove capital punishment for drug-related offenses, which were reworded and renumbered in the amended Criminal Code.<sup>66</sup> The amendments also added one new criminal offense, 'terrorist activities aimed at opposing the people's administration'

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59. DPA, *Eight sentenced to death in Vietnam for drug smuggling*, 20 January 2015

60. RFA, *Vietnam Postpones Execution of Man Who Says He Was Tortured Into Confession*, 26 October 2015; Tuoi Tre News, *Vietnam court delays execution of man following family appeal*, 26 October 2015

61. RFA, *Vietnam Postpones Execution of Man Who Says He Was Tortured Into Confession*, 26 October 2015

62. VCHR, *The Death Penalty in Vietnam*, June 2016

63. VNA, *National Assembly adopts draft revised Penal Code*, 27 November 2015; Xinhua, *Vietnam passes amended Penal Code, removing death penalty for 7 crimes*, 27 November 2015

64. AFP, *Vietnam lawmakers ease death penalty on corruption*, 28 November 2015

65. Xinhua, *Vietnam passes amended Penal Code, removing death penalty for 7 crimes*, 27 November 2015

66. VCHR, *The Death Penalty in Vietnam*, June 2016

(Article 113), which is punishable by death.<sup>67</sup> On 29 June 2016, the National Assembly decided to postpone the amended Criminal Code's coming into force indefinitely after almost 90 unspecified "errors" were found in the text.<sup>68</sup>

Vietnam allows the imposition of the death penalty for a wide range of crimes, including: murder; drug-related offenses; rape of minors; manufacturing fake medicine; receiving bribes; and embezzling property. In the amended Criminal Code, six political offences perceived as 'threats against national security' are punishable by death. They are: high treason (Article 108); carrying out activities aimed at overthrowing the people's administration (Article 109); spying (Article 110); rebellion (Article 112); terrorist activities aimed at opposing the people's administration (Article 113); and sabotaging the material-technical foundations of the Socialist Republic of Vietnam (Article 114).<sup>69</sup>

## The death penalty in Southeast Asia: Key facts & figures

	<b>Brunei Darussalam</b>	<b>Burma</b>	<b>Indonesia</b>	<b>Laos</b>	<b>Malaysia</b>	<b>Singapore</b>	<b>Thailand</b>	<b>Vietnam</b>
<b>Status</b>	<i>De facto</i> abolitionist	<i>De facto</i> abolitionist	Retentionist	<i>De facto</i> abolitionist	Retentionist	Retentionist	Retentionist	Retentionist
<b>Last execution</b>	1957	1988	2016	1989	2016	2016	2009	Not available
<b>Method of execution</b>	Hanging	Hanging	Firing squad	Firing squad	Hanging	Hanging	Lethal injection	Lethal injection
<b>Number of death row inmates</b>	~5	Not available	179	200+	1,041	25	444	500+
<b>Executions over the past 12 months</b>	0	0	4	0	4	1+	0	Not available
<b>Death penalty for terrorism</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Mandatory death penalty</b>	Yes	Yes	No	Not available	Yes	Yes	No	No
<b>Moratorium on executions</b>	No	No	No	No	No	No	No	No
<b>ICCPR ratification</b>	No	No	Yes	Yes	No	No	Yes	Yes
<b>ICCPR-OP2 ratification</b>	No	No	No	No	No	No	No	No
<b>CAT ratification</b>	No (Signed)	No	Yes	Yes	No	No	Yes	Yes

67. VCHR, *The Death Penalty in Vietnam*, June 2016

68. Xinhua, *Vietnam postpones implementation of new Penal Code*, 29 June 2016

69. Numbering used here refers to articles of the amended Criminal Code.



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## Recommendations to countries in Southeast Asia

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1. Abolish the death penalty for all crimes.
2. For countries that have abolished the death penalty, ensure that the death penalty is not reinstated.
3. Establish an official moratorium on all executions and death sentences.
4. Repeal the imposition of mandatory death sentences.
5. Commute all death sentences to prison terms.
6. Significantly reduce the number of criminal offenses that can be punished by death by ensuring the death penalty is allowed only for the most serious crimes, in accordance with international standards.
7. Respect international human rights standards related to the right to a fair trial and due process, including the right to appeal to a higher court.
8. Maintain and make publicly available up-to-date information and statistics (disaggregated by nationality; sex; age; racial or ethnic origin; religion or belief; sexual orientation; and other status, including disability) on: the number of persons sentenced to death; the number of executions carried out; the number of persons under sentence of death; the number of death sentences reversed or commuted on appeal; and the number of instances in which clemency has been granted.
9. Extend invitations for official visits to the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.
10. Sign and ratify the International Covenant on Civil and Political Rights (ICCPR) and the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty.
11. Vote in favor of the next UN General Assembly resolution (due to be voted on in December 2016) that calls for a moratorium on executions.

THIS REPORT WAS PRODUCED IN COLLABORATION WITH THE FOLLOWING ORGANIZATIONS:



Alternative ASEAN Network on Burma (ALTSEAN-Burma)



Komisul untuk Orang Hilang dan Korban Tindak Kekerasan  
*The Commission for the Disappearances and Victims of Violence*

Commission for the Disappeared and Victims of Violence (KontraS)



Free Legal Assistance Group (FLAG)



Lao Movement for Human Rights (LMHR)

Malaysians Against Death Penalty and Torture (MADPET)



Singapore Anti-Death Penalty Campaign (SADPC)



Philippine Alliance of Human Rights Advocates (PAHRA)



Union for Civil Liberty (UCL)



working for human rights  
Suara Rakyat Malaysia (SUARAM)



We Believe in Second Chances



Vietnam Committee on Human Rights (VCHR)

# Keep your eyes open

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