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## The impact of punitive drug policies on the rights of women and girls

*Submission by Anti-Death Penalty Asia Network, Eleos Justice, Monash University & Capital Punishment Justice Project*

This submission examines the experiences of women in criminal justice systems which sentence people to death for drug offences, focusing on policies entrenching existing structural and socioeconomic disadvantages faced by women, the benefits of legislative reform in Malaysia, and the impact on women whose family members are convicted of capital drug offending.

Harm Reduction International (HRI) reported that 1,212 people were executed in 2025 for drug-related crimes globally, marking a 97% annual increase.<sup>1</sup> This included at least 23 women:<sup>2</sup> 20 from Iran,<sup>3</sup> two Nigerians in Saudi Arabia,<sup>4</sup> and the last woman known to be on death row in Singapore.<sup>5</sup> Additionally, 331 people were sentenced to death for drug-related offending including at least seven women.<sup>6</sup> These figures are alarming given the death penalty for drug-related offences is a violation of international law. Article 6(2) of the International Covenant on Civil and Political Rights (ICCPR) stipulates that the death penalty may be imposed only for the 'most serious crimes', or 'crimes of extreme gravity involving intentional killing'.<sup>7</sup>

Women convicted of drug-related offences represent the fastest-growing segment of the global prison population<sup>8</sup> and are incarcerated at significantly higher rates than men for non-violent drug-related offences.<sup>9</sup> Globally, 35 percent of women in prison have been convicted of drug-related offences, compared to 19 percent of men.<sup>10</sup> In 2019, Amnesty International reported that 95 percent of women on death row in Malaysia had been convicted of drug-

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<sup>1</sup> Harm Reduction International, *The Death Penalty for Drug Offences: Global Overview 2025* (Report, 2026) <<https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2025/>> 8.

<sup>2</sup> Ibid 9.

<sup>3</sup> Ibid 13.

<sup>4</sup> Ibid 15.

<sup>5</sup> Ibid 17.

<sup>6</sup> Ibid 9.

<sup>7</sup> Human Rights Committee, *General Comment No. 36 on Article 6: right to life*, UN Doc CCPR/C/GC/36 (3 September 2019) [35].

<sup>8</sup> Jocelyn Hutton and Lucy Harry, 'International Women's Day 2021: Women, Drug Trafficking & The Death Penalty in Southeast Asia', *Oxford Faculty of Law Blogs* (Blog Post, 8 March 2021) <<https://blogs.law.ox.ac.uk/centres-institutes/centre-criminology/blog/2021/03/international-womens-day-2021-women-drug>>.

<sup>9</sup> Penal Reform International and Thailand Institute of Justice, *Global Prison Trends 2017* (Report 2017) <<https://www.penalreform.org/resource/global-prison-trends-2017/>> 16.

<sup>10</sup> Human Rights Council, *Arbitrary detention: Report of the Working Group on Arbitrary Detention*, UN Doc A/HRC/48/55 (6 August 2021) [29].



related offences, in contrast to 70 percent of men.<sup>11</sup> Similar disparities were seen in Thailand: 94 percent of women, compared to 60 percent of men.<sup>12</sup> The proportion of women on death row for drug-related offending in Thailand has escalated: 41 of the 42 women in 2025 were convicted of drug-related offending.<sup>13</sup>

The vast majority of women convicted of drug trafficking served as couriers of large syndicates.<sup>14</sup> They were enlisted as they were “less likely to be caught and more easily controlled as they lack resources to buy or sell drugs for their own profit”.<sup>15</sup> Despite operating at the lowest levels of the drug trade, they face the harshest punishments. In 2025, execution data revealed a disturbing trend of targeting low-level or peripheral actors rather than high-level traffickers.<sup>16</sup>

### **Structural vulnerabilities**

While capital drug laws are not necessarily discriminatory in form, their application often fails to account for the distinct structural vulnerabilities that may lead women into drug-related offending. Women are pushed into the drug trade by economic marginalisation and a lack of viable alternatives, yet these circumstances rarely receive meaningful consideration in sentencing.<sup>17</sup>

Limited education, literacy, or language fluency prevents women from understanding legal documents or fully participating in their defence.<sup>18</sup> Many lack financial resources or property to retain qualified legal counsel or pursue appeals. Unable to pay bail, they comprise the majority of the pre-trial prison population, in turn inhibiting their ability to prepare an effective defence.<sup>19</sup>

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<sup>11</sup> Amnesty International, *Fatally flawed: Why Malaysia must abolish the death penalty* (Report, 2019) <<https://www.amnesty.org/en/documents/act50/1078/2019/en/>> 20.

<sup>12</sup> Cornell Center on the Death Penalty Worldwide, “No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses (Report, 2021) <<https://dpw.lawschool.cornell.edu/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>> 16.

<sup>13</sup> Harm Reduction International (n 1) 20.

<sup>14</sup> Leavides Domingo-Cabarrubias, ‘Intersectional impact of capital drug laws on foreign national women’, *Eleos Justice Blog Posts* (Blog Post, 8 March 2024) <<https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/ntersectional-impact-of-capital-drug-laws-on-foreign-national-women>>.

<sup>15</sup> Eleos Justice and Cornell Center on the Death Penalty, *Silently Silenced: State-Sanctioned Killing of Women* (Report, 2023) <[https://bridges.monash.edu/articles/report/Silently\\_Silenced\\_State-Sanctioned\\_Killing\\_of\\_Women/22357627](https://bridges.monash.edu/articles/report/Silently_Silenced_State-Sanctioned_Killing_of_Women/22357627)> 22.

<sup>16</sup> Harm Reduction International (n 1) 9.

<sup>17</sup> Leavides Domingo-Cabarrubias, ‘Women, State Violence, and the Right to Life’, *Eleos Justice Blog Posts* (Blog Post, 4 March 2026) <<https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/women-state-violence-and-the-right-to-life>>.

<sup>18</sup> ‘Illiteracy, poverty silencing Afghan women victims of violence’, *United Nations Assistance Mission in Afghanistan* (Yakawlang, 14 September 2015) <<https://unama.unmissions.org/en/illiteracy-poverty-silencing-afghan-women-victims-violence>>.

<sup>19</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime* (Report, 2018) <<https://dpw.lawschool.cornell.edu/publication/judged-more-than-her-crime/>> 18.



Given the large volume of migrant workers, foreign nationals may encounter language barriers that may compromise procedural fairness. Drug syndicates exploit trans-national movements of female labour, particularly of migrant domestic workers, utilising them as unwitting drug couriers.<sup>20</sup> Foreign national women may be victimised by imbalanced power relationships with male partners who are co-defendants, especially when they lack independent counsel.<sup>21</sup> In Malaysia, when a couple was arrested for drug trafficking, the man spoke to the police in English, which his partner did not speak, and attributed the drugs to her. He was released whilst she received a death sentence.<sup>22</sup>

In countries retaining the death penalty for drug-related offences, including Indonesia, Iran, Malaysia, Singapore and Thailand, women who enter the drug trade do so because of systemic factors rooted in gender discrimination.<sup>23</sup> Women from ethnic minorities are particularly vulnerable, such as the Baloch in Iran, who are disproportionately subjected to the death penalty for drug-related offences and more heavily policed than the general population.<sup>24</sup>

### **Women who have been manipulated or coerced**

Some women engage in drug smuggling to assist or please a person in their lives, often a male figure.<sup>25</sup> Women on death row for drug offences are charged alongside male co-defendants, and there is often an element of coercion within their relationships.<sup>26</sup> A Thai study found that a quarter of 16 women imprisoned for drug-related offences were influenced by their romantic partners.<sup>27</sup>

HRI reported that of the 20 women known to have been executed in Iran in 2025, at least two were executed with their co-accused husbands, and a number were executed after drugs found on a family property were deemed to be in their possession.<sup>28</sup>

Many cases in Indonesia involve coercive relationships with men, often intimate partners whom women were convicted alongside as co-defendants.<sup>29</sup> In 2017 in Indonesia it was

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<sup>20</sup> Lucy Harry, 'Rethinking the Relationship between Women, Crime and Economic Factors: The Case-Study of Women Sentenced to Death for Drug Trafficking in Malaysia' (2021) 10(1) *Laws* 12, 13.

<sup>21</sup> Domingo-Cabarrubias (n 17).

<sup>22</sup> Cornell Center on the Death Penalty Worldwide (n 12) 26.

<sup>23</sup> Cornell Center on the Death Penalty Worldwide (n 19) 12.

<sup>24</sup> Mai Sato, *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, UN Doc A/HRC/61/59 (9 March 2026) [40].

<sup>25</sup> Melvina T Sumter et al, 'Mule Tales: An Exploration of Motives among Female Drug Smugglers' (2017) 1(1) *The Journal of Global Engagement and Transformation* <<https://scholarworks.iu.edu/journals/index.php/joget/article/view/24269>>.

<sup>26</sup> Cornell Center on the Death Penalty Worldwide (n 19) 26.

<sup>27</sup> Samantha Jeffries et al, 'Extending borders of knowledge: gendered pathways to prison in Thailand for international cross border drug trafficking' (2021) 28(6) *Psychiatry, Psychology, and Law* 909.

<sup>28</sup> Harm Reduction International, *The Death Penalty for Drug Offences: Global Overview 2025* (Report, 2026) <<https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2025/>> 13.

<sup>29</sup> LBH Masyarakat, Research Report to the Cornell Center on the Death Penalty Worldwide (Report, 2017); Cornell Center on the Death Penalty Worldwide (n 19) 26.



reported that seven of the nine cases of women with finalised death sentences for drug-related offences also involved male co-defendants, usually an intimate partner.<sup>30</sup>

Yet courts show reluctance to accept claims that a woman was coerced or duped into transporting drugs unless she aligns with stereotypical narratives of a “helpless female victim: poor, uneducated, and - in cases involving a male co-conspirator - inexperienced with men”.<sup>31</sup>

Women who conform to stereotypes may receive more lenient sentences, whereas those seen as violating entrenched social norms of female behaviour are punished more harshly.<sup>32</sup> For example, a Pakistani court, in refusing bail to a woman charged with drug smuggling, remarked that “had the accused been concerned about her suckling baby, she would not have resorted to indulge in such activity which had afflicted the whole society and especially the younger generation”.<sup>33</sup> In such cases, courts apply a reductive gendered lens, judging a woman according to her socially prescribed role rather than the offence itself, thereby reinforcing broader gender conventions.

Women’s involvement is also shaped by threats against their families: English national Lindsay Sandiford, who was sentenced to death in Indonesia for smuggling cocaine, maintained that she had acted under threats from a drug syndicate to harm her son.<sup>34</sup>

### **Sentencing reform reducing women on death row**

Under Malaysia’s mandatory death penalty regime, judges had no discretion to consider mitigating factors such as the offender’s age, background, coercion, minor role, or lack of intent, meaning coerced or exploited women could receive the same death sentence as more prominent traffickers.<sup>35</sup> In 2019, Amnesty International reported that of the 129 women on death row for drug-related offences, 95 percent were foreign nationals.<sup>36</sup> In 2022, the World Coalition Against the Death Penalty reported that Malaysia had the highest number of women on death row globally.<sup>37</sup>

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<sup>30</sup> Ibid 8.

<sup>31</sup> Cornell Center on the Death Penalty Worldwide (n 12) 7; Harry (n 20) 9.

<sup>32</sup> Cornell Center on the Death Penalty Worldwide (n 19) 6.

<sup>33</sup> Qamar Abbas Jafri, Javed Iqbal Khokhar and Mubasher Mubeen, ‘Intersectionality and Gendered Criminal Justice in South Asia: The Case of Pakistan’ (2022) 35(4) *Women & Criminal Justice* <<https://doi.org/10.1080/08974454.2022.2157232>>.

<sup>34</sup> Lucy Harry and Giada Girelli, ‘The Death Penalty For Drug Offences: The Impact on Women’, (Briefing Paper, 2019) <<https://www.hri.global/files/2019/03/12/death-penalty-impact-women.pdf>>.

<sup>35</sup> Office of the United Nations High Commissioner for Human Rights, ‘Malaysia: UN experts hail parliamentary decision to end mandatory death penalty’ (Press Release, 11 April 2023) <<https://www.ohchr.org/en/press-releases/2023/04/malaysia-un-experts-hail-parliamentary-decision-end-mandatory-death-penalty>>.

<sup>36</sup> Amnesty International, *Fatally flawed: Why Malaysia must abolish the death penalty* (Report, 2019) <<https://www.amnesty.org/en/documents/act50/1078/2019/en/>> 5.

<sup>37</sup> ‘Mapping of Women on Death Row’, Report, World Coalition Against the Death Penalty, August 2023, p16, <[https://worldcoalition.org/wp-content/uploads/2023/08/ENG\\_Country-Mapping-report\\_Women-on-Death-Row.pdf](https://worldcoalition.org/wp-content/uploads/2023/08/ENG_Country-Mapping-report_Women-on-Death-Row.pdf)>



In April 2023, the Abolition of Mandatory Death Penalty Act 2023 and Revision of Sentence of Death and Imprisonment for Natural Life Act 2023 repealed mandatory sentencing laws and allowed those sentenced to death and natural life imprisonment the opportunity to be resentenced with judicial discretion by the Federal Court of Malaysia.

In November 2023, 840 (65%) of 1,275 persons on death row had committed drug-related offences; by January 2025, the number was 40 (28.5%) of 140 persons.<sup>38</sup> As women convicted of drug offences comprised 95% of the women on death row in Malaysia,<sup>39</sup> the legislative reform that allowed judicial discretion in sentencing resulted in correcting the over-representation of women on death row. As a result, the proportion of women on death row declined from an estimated 11% in 2019 to an estimated 1.43% by January 2025.<sup>40</sup> The number of women on death row in Malaysia is now thus well below the global average of approximately 5%.<sup>41</sup>

### **Conditions on death row**

While on death row, women face challenges including an increased risk of direct violence and exploitation from male staff, poor sanitation, limited access to healthcare, insufficient maternal support and resources, and separation from family due to strict visitation policies.<sup>42</sup> In India's Tihar Jail, one of South Asia's largest prisons, the women's ward, which includes death row inmates, holds twice its official capacity.<sup>43</sup> In both Thailand and Myanmar, women have reportedly given birth alone while incarcerated.<sup>44</sup> Mental health support is largely inaccessible, a serious concern given that incarcerated women may experience poorer mental health outcomes than men.<sup>45</sup>

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<sup>38</sup> Syed Jamal Zahiid, 'Two years after abolishing the mandatory death penalty, data shows Malaysia may be moving on for good', Malay Mail, 5 April 2025, <<https://www.malaymail.com/news/malaysia/2025/04/05/two-years-after-abolishing-the-mandatory-death-penalty-data-shows-malaysia-may-be-moving-on-for-good/170026>>

<sup>39</sup> Amnesty International (n 36) 20.

<sup>40</sup> Anti-Death Penalty Asia Network, 'ADPAN Statement on Malaysia's Progress in Death Penalty Reform and Indefinite Juvenile Detention' (Statement, 13 March 2025) <<https://adpan.org/malaysiasprogress/>>. In September 2025, it was reported that there were 98 people on death row including 19 male foreign nationals, 78 male Malaysian citizens and 1 female Malaysian citizen (Malaysia, Dewan Rakyat Malaysia, [Penyata Rasmi \(Hansard\)](#), *Written Question No 592*, Third Meeting, Fourth Session, Fifteenth Parliament (2025), question by Teresa Kok Suh Sim, answered by Ministry of Home Affairs Malaysia, 30 September 2025; Teresa Kok Suh Sim, 'Jawapan Bertulis KDN: Bilangan Banduan Akhir Warga Malaysia & Bukan Warganegara setakat 30 Sep 2025' (Facebook Post, 31 December 2025) <<https://www.facebook.com/TeresaKokSuhSim/posts/pfbid02ZVhU6HGzCm7hxKPAPw9vA6Cx7GwWc5654Gk7TGrEvzHgJiFpTZsZLQxGWjFFQY7I>>). Amnesty International reported that on 11 November 2025 the Prisons Department reported to the Malaysian Parliament that there were 97 people on death row (Amnesty International, 'Malaysia: Announced review of death penalty must be first step to abolish it once and for all', (Web Page, 17 November 2025) <<https://www.amnesty.org.au/malaysia-announced-review-of-death-penalty-must-be-first-step-to-abolish-it-once-and-for-all/>>)

<sup>41</sup> Cornell Center on the Death Penalty Worldwide (n 19) 9.

<sup>42</sup> Eleos Justice and Cornell Center on the Death Penalty (n 15) 10, 63.

<sup>43</sup> Neeta Lal, 'Indian Jails Slammed as Purgatory for the Poor', *Inter Press Services*, (online, 9 August 2016) <<https://www.ipsnews.net/2016/08/indian-jails-slammed-as-purgatory-for-the-poor>>.

<sup>44</sup> Cornell Center on the Death Penalty Worldwide (n 19) 5.

<sup>45</sup> Eleos Justice and Cornell Center on the Death Penalty (n 15) 16; Jennifer Bronson and Marcus Berzofsky, *Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011–12* (Bureau of Justice Statistics, US Department of Justice, June 2017) <<https://bjs.ojp.gov/content/pub/pdf/imhprpi1112.pdf>>.



## **Impact of capital sentencing and execution of male family members on women**

Women with family members on death row face emotional, mental, and financial burden.<sup>46</sup> When a male family member faces the death penalty, the women of the family most often rally public, political or financial support on their behalf, all whilst enduring stigma and community isolation.<sup>47</sup>

In a 2016 speech, the Iranian Vice President of Women and Family Affairs of Iran, Shahindokht Molaverdi, described the appalling situation of a village in the south-eastern province of Sistan and Baluchistan “where all the men have been executed.”<sup>48</sup> She continued that, “Their survivors are now potential smugglers, both to avenge their fathers and to make ends meet. Nobody is supporting these families.”<sup>49</sup> Ahmed Shaheed, then UN special rapporteur on the situation of human rights in Iran, described Sistan and Baluchistan as “arguably the most underdeveloped region in Iran, with the highest poverty, infant and child mortality rates, and lowest life expectancy and literacy rates in the country”.<sup>50</sup>

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<sup>46</sup> Kirsten Han, ‘Gender and the death penalty’, (Blog Post, 12 March 2026) <<https://kirstenhan.com/2026/03/12/gender-and-the-death-penalty/>>.

<sup>47</sup> Ibid.

<sup>48</sup> Roghayeh Rezaei, ‘In a Forgotten Corner of Iran, a Baluchi Woman is Sentenced to Death’, IranWire (online, 31 March 2022) <<https://iranwire.com/en/women/102651-in-a-forgotten-corner-of-iran-a-baluchi-woman-is-sentenced-to-death/>>.

<sup>49</sup> Ibid.

<sup>50</sup> Ahmed Shaheed, *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, UN Doc A/HRC/22/56 (4 October 2013) [53].