

MITIGATING FACTORS **WOMEN** SYSTEMIC BARRIERS
DEATH PENALTY
GENDER-BASED DISCRIMINATION
SOCIO ECONOMIC DISADVANTAGE

MANDATORY HEIGHTENED **RISK**
ARBITRARINESS UNFAIRNESS
GENDER BASED VIOLENCE INHUMAN RIGHT TO LIFE EXPLOITATION
DISPROPORTIONATE DEATH ROW EXECUTIONS
ARBITRARY DEPRIVATION OF LIFE
MARGINALIZED **CRUEL**
DEGRADING CYCLE OF VIOLENCE LETHAL LOTTERY
OPPRESSION REPRESSION **SECRECY**
HUMAN RIGHTS VIOLATION INJUSTICE OPPRESSION **DEATH**
LACK OF PROTECTION **ABUSE**
FAMILY
ACTIVISM

2021 WORLD DAY AGAINST THE DEATH PENALTY

THE ADDITIONAL BURDEN OF THE DEATH PENALTY ON WOMEN

Amnesty International is a global movement of 10 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

© Amnesty International 2021

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence.

<https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode>

For more information please visit the permissions page on our website: www.amnesty.org

Where material is attributed to a copyright owner other than Amnesty International this material is not subject to the Creative Commons licence.

First published in 2021 by Amnesty International Ltd
Peter Benenson House, 1 Easton Street, London WC1X 0DW, UK

Index: ACT 50/4791/2021
Original language: English
amnesty.org



Cover: Illustration by Colin Foo

AMNESTY
INTERNATIONAL



CONTENTS

INTRODUCTION	4
1. WOMEN FACING THE DEATH PENALTY: WHAT THE NUMBERS TELL US	5
2. AT THE BOTTOM OF THE CHAIN: WOMEN FACING THE DEATH PENALTY FOR DRUG-RELATED OFFENCES	8
3. GENDER-BASED VIOLENCE AND DISCRIMINATION: EXPERIENCES OF WOMEN CONVICTED OF MURDER	11
3.1 AUTHORITIES' FAILURE TO END THE CYCLE OF VIOLENCE	11
3.2 AUTHORITIES' FAILURE TO END DISCRIMINATORY LAWS AND PRACTICES	13
3.3 POVERTY, ABUSE AND UNFAIR PROCEEDINGS: WOMEN MIGRANT WORKERS	16
IN FOCUS: INTERVIEW WITH ANIES HIDAYAH, FROM INDONESIAN NGO MIGRANT CARE	17
4. FAMILY MEMBERS – WOMEN AS “SECONDARY VICTIMS” OF THE DEATH PENALTY	20
IN FOCUS: THE BURDEN ON THE FAMILIES	21
5. WOMEN HUMAN RIGHTS DEFENDERS AT THE CENTRE OF ANTI-DEATH PENALTY ACTIVISM	23
TAKE ACTION!	24
RECOMMENDATIONS	26

INTRODUCTION

10 October 2021 marks the 19th World Day Against the Death Penalty, which is dedicated to the impact of the death penalty on women. Many governments do not make publicly available figures on their use of the death penalty, but the limited information available outlines concerning trends, which see women being disproportionately represented on death row for certain offences and confronted with additional challenges in their experience of the criminal justice system.

Some women who were sentenced to death lacked effective protection against gender-based violence and other forms of discrimination before the crime was committed. For them, the death penalty has been the tip of the iceberg of the many injustices they have faced. The death penalty must stop immediately.



19TH WORLD DAY AGAINST THE DEATH PENALTY



INTERNATIONAL STANDARDS

DISCRIMINATION RENDERS THE USE OF THE DEATH PENALTY ARBITRARY

“The right to life must be respected and ensured without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or any other status, including caste, ethnicity, membership of an indigenous group, sexual orientation or gender identity, disability, socioeconomic status, albinism and age. Legal protections for the right to life must apply equally to all individuals and provide them with effective guarantees against all forms of discrimination, including multiple and intersectional forms of discrimination. Any deprivation of life based on discrimination in law or fact is *ipso facto* arbitrary in nature.”

Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, UN Doc. CCPR/C/GC/36, 30 October 2018, para.61

The use of death penalty has further impacted women relatives and supporters of those on death row, as existing structural socio-economic inequalities, stigmatization and discrimination have been deepened by the sentencing to death of their loved ones.

This campaigning briefing highlights some of the prevailing human rights concerns associated with the impact of the death penalty on women and calls for action to end the injustice and arbitrariness of the death penalty. Amnesty International opposes the death penalty in all cases without exception, as a violation of the right to life as proclaimed in the Universal Declaration of Human Rights and the ultimate cruel, inhuman and degrading punishment. Amnesty International is a founding member of the [World Coalition Against the Death Penalty](#), which coordinates this global day of activism against the death penalty every 10 October.

1. WOMEN FACING THE DEATH PENALTY: WHAT THE NUMBERS TELL US

We currently do not know how many women have faced, or are facing the death penalty. Only a minority of governments of countries that still retain this punishment have been making this information publicly available; and even fewer provide figures disaggregated by offence, gender, race, age, among other characteristics.



INTERNATIONAL STANDARDS

WHAT INFORMATION SHOULD STATES MAKE PUBLIC?

In its most recent resolution on a moratorium on the use of the death penalty, the UN General Assembly called on states to “make available relevant information, disaggregated by sex, age, nationality and race, as applicable, and other applicable criteria, with regard to their use of the death penalty, inter alia, the number of persons sentenced to death, the number of persons on death row and the number of executions carried out, the number of death sentences reversed or commuted on appeal or in which amnesty or pardon has been granted, as well as information on any scheduled execution, which can contribute to possible informed and transparent national and international debates, including on the obligations of States pertaining to the use of the death penalty”.

[Resolution 75/183](#) of 16 December 2020

At Amnesty International we have been gathering daily information on the global use of the death penalty and we regularly receive reports on women who have been sentenced to death or executed in several countries. [We report these figures](#) when there is reasonable confirmation, or we deem the information to be adequately representative – but what we publish does not paint the full picture. For some countries, such as China – where figures on the use of the death penalty are classified as a state secret and where we believe thousands of people every year are executed and sentenced to death – we do not publish disaggregated data from our monitoring as it would constitute a gross underestimate of what we believe the reality to be. There are too many gaps in our knowledge to be able to estimate the extent to which women are subjected to the death penalty worldwide.

The information that we have been able to gather suggests that women have represented a small proportion of those executed, newly sentenced to death or living under a death sentence – in absolute terms. In recent years, known executions of women constituted between 1% and 3% of the recorded total. Two countries have been consistently responsible for executing women in recent years, Iran and Saudi Arabia, where the death penalty is the mandatory punishment in cases of murder falling under qisas (or qesas), retribution-in-kind under Islamic law. Others have been known to have also carried out executions of women, including Egypt, Japan, Oman and – as recently as 2021– Sudan and the USA. The known executions have been carried out predominantly as punishment for murder.

16 EXECUTIONS OF

WOMEN WERE RECORDED IN 2020

IRAN 

EGYPT 

SAUDI ARABIA 

OMAN 

YEAR	KNOWN EXECUTIONS OF WOMEN GLOBALLY 2016-2020
2020	16 women out of 483 people, 3%, as follows: <ul style="list-style-type: none"> • Egypt: 4 out of 107; • Iran: 9 out of 246; • Oman: 1, out of 4; • Saudi Arabia: 2 out of 27.
2019	21 women out of 657 people, 3%, as follows: <ul style="list-style-type: none"> • Iran: 15 out of 251; • Saudi Arabia: 6 out of 184.
2018	7 women out of 690 people, 1%, as follows: <ul style="list-style-type: none"> • Iran: 5 out of 253; two women were below 18 years of age when the crime was committed; • Saudi Arabia: 2 out of 149.
2017	9 women out of 993, 1%, as follows: <ul style="list-style-type: none"> • Egypt: 1 out of 35; • Iran: 6 out of 507; • Saudi Arabia: 2 out of 146.
2016	20 women out of 1,032, 2%, as follows: <ul style="list-style-type: none"> • Egypt: 8 out of 44; • Iran: 8 out of 567; • Japan: 1 out of 3; • Saudi Arabia: 3 out of 154.

When considering the limited information available in relation to new death sentences imposed and people under sentence of death, it is immediately apparent that new death sentences are mainly linked to murder, but also involve convictions for non-lethal crimes, such as financial or drug-related offences, in violation of international human rights law and standards.



INTERNATIONAL STANDARDS

PENDING ABOLITION, DEATH PENALTY ONLY FOR “MOST SERIOUS CRIMES”

Article 6(2) of the International Covenant on Civil and Political Rights and Safeguard No.1 of the UN Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted through UN Economic and Social Council resolution 1984/50, provide that the imposition must be restricted to the “most serious crimes”.

The UN Human Rights Committee has stated that “The term ‘the most serious crimes’ must be read restrictively and appertain only to crimes of extreme gravity, involving intentional killing. Crimes not resulting directly and intentionally in death, such as attempted murder, corruption and other economic and political crimes, armed robbery, piracy, abduction, drug and sexual offences, although serious in nature, can never serve as the basis, within the framework of article 6, for the imposition of the death penalty. In the same vein, a limited degree of involvement or of complicity in the commission of even the most serious crimes, such as providing the physical means for the commission of murder, cannot justify the imposition of the death penalty. States parties are under an obligation to review their criminal laws so as to ensure that the death penalty is not imposed for crimes which do not qualify as the most serious crimes. They should also revoke death sentences issued for crimes not qualifying as the most serious crimes and pursue the necessary legal procedures to re-sentence those convicted for such crimes. Under no circumstances can the death penalty ever be applied as a sanction against conduct whose very criminalization violates the Covenant, including adultery, homosexuality, apostasy, establishing political opposition groups, or offending a head of state.”

Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, UN Doc. CCPR/C/GC/36, 30 October 2018, para.35-36.

2020 KNOWN EXECUTIONS OF WOMEN AND OFFENCES INVOLVED

16 women out of 483 people globally, 3%, as follows:

- Egypt: 4 out of 107; for murder;
- Iran: 9 out of 246; for murder;
- Oman: 1, out of 4; for murder
- Saudi Arabia: 2 out of 27; for murder.



2020 KNOWN DEATH SENTENCES OF WOMEN AND OFFENCES INVOLVED

19 women out of 1,477 people globally, 1%, as follows:

- Bangladesh: 2 out of 113; for murder;
- Indonesia: 4 out of 117; 2 for murder and 2 for drug-related offences;
- Laos: 4 out of 9; for drug-related offences;
- Taiwan: 1 out of 5; murder;
- Thailand: 1 out of 35; drug-related offence;
- Viet Nam: 7 out of 54; one for embezzlement, one for murder and five for drug-related offences.

2020 KNOWN WOMEN UNDER SENTENCE OF DEATH (as of the end of 2020)

113 women out of 28,567 people globally, as follows:

- Ghana: 5 out of 160 people;
- Japan: 7 out of 120 people;
- Maldives: 1 out of 19 people;
- Taiwan: 2 out of 49 people;
- Thailand: 26, out of 235 people;
- USA: 48 out of 2,485 people;
- Zambia: 24 out of 495 people.



Transparency and information on the use of the death penalty are important not just to assess its numerical impact, but but also to identify how the figures intersect with aspects of the identity of the people affected, allowing to understand and address any possible discrimination arising from these which could prevent the arbitrary deprivation of life.

If the number of women represent a comparatively small proportion of the totality of those on death row, the information available shows that women are disproportionately sentenced to death for certain crimes. Amnesty International has received reports of death sentences imposed in Iran for “adultery”, extra-marital sexual relations among consenting adults, which the 2013 Islamic Penal Code criminalizes and punishes with the mandatory death penalty. Women and girls are disproportionately impacted by the criminalization of “adultery” and, although no reports of judicial executions by stoning have been received since 2009, at least three people – all women – were convicted of “adultery” and sentenced to death by stoning in recent years.

The figures available to Amnesty International indicate that women convicted of drug-related offences in some countries are disproportionately represented on death row. In Thailand, 62% of all those known to be under sentence of death at the end of August 2021 (255) had been sentenced for these crimes. Whereas 58% of men recorded to be on death row (225) had been found guilty of drug-related offences, close to all women (27 out of 30) known to be sentenced to death were convicted of drug-related offences. Similarly, the use of



Anti-Death Penalty Activists Protest US Federal Execution in 2001. © Getty Images

the death penalty for drug-related offences in Malaysia disproportionately impacts women, where 95% of all women known to be under sentence of death in 2019 were convicted for this reason. Remarkably, while the numbers of those convicted of drug-related offences overall were split almost equally between Malaysian (51%) and foreign (49%) nationals, almost all women (90%) known to be sentenced to death for drug-related offence were foreign nationals. In recent years, Iraqi courts have sentenced to death several women, particularly foreign nationals, after convicting them of belonging to the armed group calling itself ‘Islamic State’ as a male relative, often their husband, was suspected of belonging to the group.

2. AT THE BOTTOM OF THE CHAIN: WOMEN FACING THE DEATH PENALTY FOR DRUG-RELATED OFFENCES

Drug-related offences are still punished or punishable by death in more than 30 countries. Known drug-related executions have significantly decreased in recent years, from at least 272 in 2017 to at least 30 last year, but still represented 14% and 6% of all recorded executions of 2019 and 2020, respectively. The imposition of death sentences for these offences continues to be of alarm, with 179 new death sentences (12% of all death sentences recorded by Amnesty International in 2020) known to have been imposed in 8 countries in 2020. Drug-related death sentences alarmingly constitute a significant proportion of all death sentences imposed in some South-East Asian countries, such as Indonesia (101 out of 117 recorded death sentences, or 86%), Laos (9 out of 9, 100%), Singapore (6 out of 8, 75%), and Viet Nam (47 out of 54, 87%).

The use of the death penalty for drug-related offences is the most extreme sign of the predominantly punitive response that states have put in place in the context of the so-called “war on drugs”. As has been shown in recent [UN studies](#), such policies have been detrimental to the enjoyment of human rights and have had a particularly dire effect on the most marginalized sectors of society. The heavy reliance on criminal laws, repressive policies and other measures based on prohibition has resulted in widespread human rights violations; and have failed to address the underlying socio-economic factors that increase the risks that lead people to engage in the drug trade, including ill-health, denial of education, unemployment, lack of housing, poverty and discrimination.

In the cases it analysed, Amnesty International found that those on death row for drug trafficking were frequently convicted after they were found in possession of and transporting relatively small quantities of drugs, without having committed or being involved in any form of violence; and were often people at the low-end of the drug chain (often referred to as drug “couriers”). For example, in [Singapore](#), the majority of the recorded cases of those sentenced to death for drug trafficking or convicted and awaiting sentencing between 2013 and 2017 (more than 70%) were carrying under 50 grams of diamorphine. In many of the cases [Amnesty International analysed](#) from Malaysia, defendants claimed that they were forced or lured into the drug trade by their partners or people they knew, for example, or because of their lack



Activist outside Sungai Buloh prison, Malaysia. © Amnesty International Malaysia

of financial means. Given their low-ranking status and the elevated risks such positions entail, many of those who have been sentenced to death had little or no control over what drugs and what amounts they were asked to carry; they had little or no information about where the prohibited substances were coming from or going to; in many cases they only had a name and a mobile phone to call once they arrived at their assigned destination. This situation has left people carrying drugs more exposed to the risk of the death penalty, as they had no information about those occupying higher positions in the hierarchy of criminal drug networks to share with the authorities to avoid being sentenced to death.

These vulnerabilities have frequently been present in cases of women convicted of drug-related offences considered by Amnesty International. In 25 of 30 cases of women that Amnesty International reviewed in its [2019 report on Malaysia](#), the women were convicted of trafficking after they were caught with drugs as they tried to enter Malaysia at international airports. The drugs were mostly found in bags; in some cases, these were tied to their bodies and in two others the drugs were found in capsules that had been swallowed. The substances and amounts they carried varied, but in most cases, the women said that they were not aware that they were carrying illicit drugs. During the trial, some women argued that they were asked to carry a bag containing items for sale, such as clothes or shoes, for a person known to them, without obtaining any financial compensation. In other cases, the women had agreed to travel to Malaysia to transport fashion items, for example, for a business contact or a known person, in exchange for some money (which in several cases it was indicated to be the equivalent of approximately USD500), but stated that they were not aware they were transporting drugs, or that the plan was changed at the last minute. Even those found with drugs tied to their bodies told the police and judges that they were not informed of the content and weight of the drugs found in the packages. Several of these women were meant to travel to Malaysia with their partner or a friend, who at the last minute had to pull out of the trip for visa or other reasons. In some cases, the women claimed that they were in financial trouble and were coerced by the circumstances to take on or continue the job.

Once apprehended, the systemic violations of human rights associated with the death penalty in Malaysia played a critical role in adding multiple layers of arbitrariness, further compounding the challenges they were facing. These included barriers to accessing

effective legal representation from the time of arrest and exposure to the risk of giving self-incriminating statements; the imposition of the mandatory death penalty, which meant that any mitigating factors could not be taken into account at sentencing; and the retention of legal presumptions that defendants found with specified amounts of certain drugs, or even simply in possession or in control of objects or premises in which prohibited substances are found, are guilty of drug trafficking. In those circumstances, the burden of proof is shifted onto the defendant, in violation of the presumption of innocence and other fair trial guarantees.



INTERNATIONAL STANDARDS

MANDATORY DEATH PENALTY: ARBITRARY IN NATURE

“In all cases involving the application of the death penalty, the personal circumstances of the offender and the particular circumstances of the offence, including its specific attenuating elements must be considered by the sentencing court. Hence, mandatory death sentences that leave domestic courts with no discretion on whether or not to designate the offence as a crime entailing the death penalty, and on whether or not to issue the death sentence in the particular circumstances of the offender, are arbitrary in nature. The availability of a right to seek pardon or commutation on the basis of the special circumstances of the case or the accused is not an adequate substitute for the need for judicial discretion in the application of the death penalty.”

Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, UN Doc. CCPR/C/GC/36, 30 October 2018, para.37.

The combination of these systemic barriers also means that women who have been subjected to violence, abuse and exploitation have little to no chance to get these factors taken into account at sentencing, but also that the cycle of violence and exploitation of the most vulnerable in the drug trafficking chain remains substantially unabated.

Q CASE STUDY

A foreign national who was found at a Malaysian airport with 689.10 grams of cocaine in small bags in her body testified in court that a friend had promised her the equivalent of approximately USD2,200 to carry some diamonds back from Brazil. Once there, a contact of her friend locked her in a house, blindfolded her and asked her to swallow round-shaped objects for four hours, which she was told were diamonds. She said that she was threatened to be killed if she refused to do so. She was then made to swallow four pills which made her feel drowsy and sleepy, and when she woke up the two men inserted more small bags in her vagina. The trial and appeal judges dismissed her defence, stating for example that “if indeed she was under duress, she had ample time while at the Sao Paulo airport to inform the relevant authorities of her condition. However, she chose not to do so. [...] This is [...] inconsistent with the conduct of someone who was at one point of time under the threat of being killed. What we could make out from the above evidence was that the evidence which the defence sought to adduce was no more than a mere attempt to convince the trial judge that she did not have custody and control of the sausage-shaped capsules, knowledge and thus possession of the impugned drug therein which is one of the requisite elements of the offence with which the appellant was charged. There was not a scintilla of doubt in our minds that the capsules were swallowed and inserted into the appellant’s vagina voluntarily”.

Amnesty International, [Fatally flawed: Why Malaysia must abolish the death penalty \(ACT 50/1078/2019\)](#), October 2019, p.21

Of additional concern is the fact that several women convicted of drug-related offences are foreign nationals, which has added another layer of discrimination in their cases. International law affords them the additional protections of consular and language assistances, but Amnesty International has documented numerous cases, including some involving women, where the authorities have failed to correctly identify and notify consular officials of the arrest of their nationals and provide the accused with interpretation throughout the proceedings from the time of arrest. Discriminatory laws and practices have also resulted in foreign nationals not being able to make use of all avenues of appeal available to the country’s own nationals, for example in [Indonesia](#); and in their bodies not being returned to their families after the executions, for example in [Saudi Arabia](#).

In addition to this, since consular assistance can be critical for defendants to gather evidence which could enable them to present mitigating factors at sentencing or when appealing for clemency, foreign nationals can find themselves at further disadvantage depending on the status of the death penalty in their country of origin; the political agenda and willingness of the government of their country to intervene; as well as the resources available to the relevant foreign representation to assist and advocate for nationals facing the death penalty abroad. Therefore, the nationality of the defendants can become a factor directly impacting the ability of persons to defend themselves and the outcome of death penalty cases, which can render the execution arbitrary. This is not only because the imposition of the death penalty where the proceedings do not adhere to the highest standards of fair trial constitutes arbitrary deprivation of life, and governments that fail to make all efforts to provide effective assistance to their nationals abroad bear some of the responsibility for the outcome of the case; but also because there is an additional element of arbitrariness depending on the extent to which particular states intervene in support of their own nationals facing the death penalty abroad, with an individual’s specific nationality becoming an additional significant factor in determining their fate in the lethal lottery of the death penalty.



INTERNATIONAL STANDARDS

“The imposition of the death penalty after violation of the right to a fair trial violates the right to life.”

Human Rights Committee, General Comment No. 32-Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32, 23 August 2007, para.59.

3. GENDER-BASED VIOLENCE AND DISCRIMINATION: EXPERIENCES OF WOMEN CONVICTED OF MURDER



INTERNATIONAL STANDARDS

“In many cases, women have been sentenced to death or subject to the death sentence for the crime of murder, often of close family members [...] Research on the death penalty applied to women has uncovered meaningful similarities among the women, across jurisdictions, including histories of long-term abuse and absence of effective assistance. Other common factors are economic dependence, fear of losing child custody, a culture of widespread tolerance of violence against women and the difficulties and stigma involved in obtaining a divorce.”

Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings, A/HRC/35/23, 6 June 2017, para 42.

Amnesty International has traced violence and discrimination in several cases of women who have faced the death penalty in different countries. At their roots are unaddressed crimes committed against the women, long-held systemic barriers, direct, indirect and multiple discrimination, for example based on gender, nationality and economic background; and oppressive power dynamics, as well as the pervasive and continued lack of action on the part of the authorities to stop the crimes and end the discrimination; or, put simply, to provide protection for the human rights of all.

“In many cases, women have been sentenced to death or subject to the death sentence for the crime of murder, often of close family members...”

3.1 AUTHORITIES’ FAILURE TO END THE CYCLE OF VIOLENCE

Q CASE STUDY

Li Yan, from Sichuan province in Southwest China, was sentenced to death in August 2011 for the murder of her abusive husband. Shortly after the couple got married, the man began beating and brutalizing her

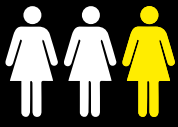


Li Yan, © Private

frequently. He cut off one of her fingers, stubbed cigarettes out on her face and during the freezing Sichuan winters locked her outside on the balcony of their apartment for several hours with little clothing. Li Yan contacted the authorities, including the police, on several occasions to seek protection, and required hospital treatment after one attack. The police took pictures of her injuries after one beating, but no action was taken.

In May 2014, the Supreme Court sent the case back to the Sichuan Provincial High People’s Court for a retrial, which eventually [commuted](#) her death sentence to a “suspended death sentence” – a death sentence usually commuted to terms of imprisonment after two years when no other crimes are committed. Following Li Yan’s case, in March 2015 the Supreme People’s Court and government issued new sentencing guidelines on cases involving domestic violence. Her case was prominent in public debates in the lead-up to the adoption of the country’s first [Domestic Violence Law](#), which came into effect in March 2016..

THE UN ESTIMATES THAT ALMOST



ONE IN THREE WOMEN GLOBALLY

HAS BEEN SUBJECTED TO INTIMATE PARTNER VIOLENCE, NON-PARTNER SEXUAL VIOLENCE, OR BOTH AT LEAST ONCE IN THEIR LIFE.

In cases documented by Amnesty International, some women who have faced the death penalty were left to suffer violence and abuse before the crime for which they have been convicted was committed. Some had endured the cruelty in silence due to fear of stigma; others had reported it to the authorities, in vain. For all of them, the mandatory death penalty that punishes the offence of murder in some jurisdictions; the lack of gender sensitive legal defences; or even the lack of recognition of gender-based violence and discrimination as a human rights issue, have all meant that circumstances that could be relevant to the crime were not considered as mitigating factors and a sentence of death was imposed. Poverty and ineffective legal representation also played a significant role in defining this outcome.



INTERNATIONAL STANDARDS

“The element of non-discrimination applies both procedurally and substantively. [...] [T]he imposition of the death penalty amounts to an arbitrary killing in cases where the courts have ignored essential facts of a capital defendant’s case. This should logically include a long history of domestic violence, including because of larger social patterns of gender inequality. Women facing capital prosecution arising out of domestic abuse suffer from gender-based oppression on multiple levels. For instance, it is exceedingly rare for domestic abuse to be treated as a mitigating factor during capital sentencing proceedings. Even in those countries with discretionary capital sentencing, courts often ignore or discount the significance of gender-based violence.” (para.32)

“The imposition of the death penalty against clear evidence of self-defence constitutes an arbitrary killing. This is particularly important for women charged with murder of their intimate partners, or others, when defending themselves.” (para.44)

Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings, A/HRC/35/23, 6 June 2017



Banners in the windows of Amnesty International New Zealand's Auckland office, April 2015. © Amnesty International

The authorities' lack of intervention has a much broader impact, as the cases of the women victims of violence and abuse who have eventually been sentenced to death are just the “tip of the iceberg”. The absence of no meaningful action to end violence against women means that many more women have been subjected to it and remain at significant risk. The UN estimates that almost one in three women globally have been “subjected to intimate partner violence, non-partner sexual violence, or both at least once in their life.” Too many women have lost their life to gender-based violence and the inaction of the authorities to put an end to it – recent calls for the death penalty for the perpetrators, which have dominated debates in several countries in South Asia and beyond, are a testament to the lack of understanding of the root causes of the violence and discrimination and long-term, effective solutions.

3.2 AUTHORITIES' FAILURE TO END DISCRIMINATORY LAWS AND PRACTICES

In some cases known to Amnesty International, the failure of the authorities to protect human rights can also be seen through their lack of action towards repealing laws and policies that allow practices which are directly or indirectly discriminatory; and interact with and foster a culture that endorses violence, abuse and discrimination against women, as well as impunity for their perpetrators. These include child and forced marriage, male guardianship, or male approval as an essential condition for divorcing, discrimination in access to education and employment, cultural and social norms on family “honour”, lack of adequate state registries and social support systems, among other examples.

Q CASE STUDY

Noura Hussein Hamad Daoud, a high-school graduate, was forced into early marriage at the age of 16. Her father and her new husband signed a marriage contract, but she wanted to finish her education and train as a teacher. When her family insisted that she marry the man, she ran away to her aunt's house. Three years later, when she finished school in April 2017, she was tricked into returning home by her family. They handed her over to her husband, forcing her to move into his home. When she refused to consummate the marriage for six days after the wedding, the man with help of two of his brothers and a male cousin violently beat her and held her down while he raped her. On the following day, he tried to rape her again, but Noura Hussein managed to escape to the kitchen where she grabbed a knife. In the ensuing scuffle, the man sustained fatal knife wounds. A medical examination report from the fight indicated that she had sustained injuries, including a bite and scratches.

Her trial began in July 2017 and the Central Court of Omdurman found her guilty of murdering her husband. The judge who presided in the case applied an outdated law which does not recognize marital rape as an offence and sentenced her to “retribution in kind”, meaning that the family of the murder victim had the choice between the death penalty or pardoning her, in exchange for financial compensation (diya or “blood money”). They demanded the former and she was sentenced to death. In June 2018, the Court of Appeal commuted her death sentence to five years' imprisonment and financial compensation of about USD8,400.



Noura Hussein Hamad Daoud, © Private

In contexts where the death penalty is a possible – or even the only – punishment for murder and where violations of the right to a fair trial are frequent, gender-based discrimination is relevant to the commission of the offense itself, and it also puts women at greater disadvantage in their experience of the criminal justice system and further exacerbates the injustice in their cases. Literacy levels and financial independence can be determining factors in a woman's ability to prepare her defence; the understanding of marital rape as rape can have a direct impact on how a judge adjudicates a case, among other examples.



CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, ARTICLE 2:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.



Stills grab from a sand art video produced by Amnesty International Korea. ©Amnesty International

Other aspects of a woman's identity can also contribute to exacerbating her disadvantage in the experience of justice, for example when she has a mental or intellectual disability or is a child. International law and standards on the use of the death penalty have established restrictions to the use of this punishment to [safeguard](#) the rights of those facing execution, but in practice their implementation has been in many cases absent or arbitrary.

This not only means that states committed human rights violations as they used the death penalty when evidence existed of such circumstances putting people in vulnerable position – for example, linked to youth or when the age of a child offender at the time of the crime is below 18 years of age or disputed.



Article 6(5) of the ICCPR and Article 37(a) of the Convention on the Rights of the Child; Paragraph 3 of the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty prohibits the use of the death penalty for anyone who was **under the age of 18 at the time the crime** was committed. If there is doubt about whether an individual was under 18, the individual should be presumed to be a child, unless the prosecution proves otherwise. (Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, UN Doc.CCPR/C/GC/36, 30 October 2018, para.48.)

Q CASE STUDY

Fatemeh Salbehi, a 23-year-old woman, was hanged in Adelabad prison in Shiraz in Fars Province in Iran on 13 October 2015 for a crime she allegedly committed when she was 17. Fatemeh Salbehi was convicted and sentenced to death in flawed trial and appeal proceedings in 2010, in relation to the murder of her 30-year-old husband, whom she had been forced to marry at the age of 16. An expert opinion from the Legal Medicine Organization of Iran, which is a state forensic institute working under the supervision of the judiciary, provided at trial had found she had had severe depression and suicidal thoughts around the time of her husband's death.

New [juvenile sentencing guidelines](#) were introduced in the 2013 Islamic Penal Code and allowed for a re-examination by the courts of all existing cases of those who were under 18 years of age at the time of the crime, including Fatemeh Salbehi's. Article 91 of the Code provides judges with discretion to replace the death penalty with an alternative punishment if they determine that the juvenile did not comprehend the nature of the crime or its consequences, or their "mental growth and maturity" were in doubt at the time of the crime. The re-examination of Fatemeh Salbehi's case was deeply flawed, lasting only three hours and focusing mostly on whether she prayed, studied religious textbooks at school and understood that killing another human being was "haram" (religiously forbidden). On this basis, the Provincial Criminal Court of Fars Province ruled in May 2014 that she had the maturity of an adult and therefore deserved the death penalty.

In addition to judicial processes, clemency processes can be riddled with arbitrariness, which can become further compounded when those sentenced to death are stripped of the right to seek pardon or commutation from state authorities, as enshrined under international law; and the power to decide on life or death for the person facing execution is shifted on to family members, as practiced in some countries as part of the *qisas* and *diyat* systems under Shari'a law.

In cases of women victims of domestic violence sentenced to death for the murder of their male relatives, the decision to grant a pardon or commutation is left to relatives of the deceased, who, in some cases, may have been complicit or involved in the victims' abuse.

Q CASE STUDY

Zeinab Sekaanvand was born in northwest Iran into an economically disadvantaged and culturally conservative Iranian Kurdish family. At the age of 15 she ran away from home to marry a man, which she said seemed her only opportunity for a better life. However, her husband quickly became physically and verbally abusive. Zeinab Sekaanvand requested a divorce on more than one occasion, but her husband refused. Although Zeinab Sekaanvand registered several complaints about her husband's violent abuse with the police, they repeatedly ignored her pleas for help and failed to launch an investigation against him. Desperate, Zeinab Sekaanvand tried to return to her parents, but they had disowned her for running away. She said that, meanwhile, her brother-in-law had begun to regularly rape her.

In February 2012, at the age of 17, Zeinab Sekaanvand was arrested for the murder of her husband. She was denied access to a lawyer and said that she was tortured and beaten during police interrogation which resulted in her "confessing" to stabbing her husband. It was only at her final court hearing, three years after her arrest, that the authorities provided her with a lawyer. At this point, she retracted her "confession," telling the judge that her husband's brother – the man she accused of raping her – had committed the murder. Zeinab Sekaanvand said in court that her brother-in-law had told her that if she accepted responsibility, he would pardon her. But rather than request further investigations, the authorities dismissed Zeinab Sekaanvand's statement and convicted her of the murder, imposing a death sentence. Zeinab Sekaanvand was executed on 2 October 2018 in Urumieh prison in Iran's West Azerbaijan province.

3.3 POVERTY, ABUSE AND UNFAIR PROCEEDINGS: WOMEN MIGRANT WORKERS

Foreign nationals, particularly migrant workers, are additionally exposed to abuse and discrimination before the crime for which they are convicted is committed and through their experience of criminal justice. Often from disadvantaged economic backgrounds and seeking employment in other countries to sustain their families back home, migrant workers are disproportionately represented on death row in some countries. In [Saudi Arabia](#), for example, 49% of 2,208 executions recorded between January 1985 and June 2015 were of foreign nationals, men in the majority of cases.

As also highlighted in relation to drug-related cases, the systemic barriers that render the use of the death penalty arbitrary – its mandatory imposition, for example, which does not allow for the consideration of mitigating factors – are exacerbated in the cases of foreign nationals who do not speak the local language; lack the support of family members or other networks; are not able to independently hire legal counsel; and often receive no or limited consular support, which leaves them at greater disadvantage in the preparation of their defence and appeals. Additionally, in some cases documented by Amnesty International, foreign women employed as domestic workers – and therefore entirely dependent on their job for income, accommodation and access to essential services – also reported abuse at the hands of their employers prior to the commission of the crime for which they have been convicted.

Foreign nationals, including women migrant workers, are also at greater disadvantage in the clemency process. Amnesty International's [research on Saudi Arabia](#) shows that networks can be very important in getting the death sentence commuted, particularly when the decision on pardon is shifted on to the family of the murder victim under Shari'a law in qesas cases. Those able to influence the victim's relatives through power or money, or a combination of both, through kinship or friendship, or who through good fortune succeed in obtaining a pardon from the heirs of the crime victim, can have significantly higher chances to avoid the execution – the help of legal representatives in these negotiations is generally not enough in itself. Migrant workers typically lack relationships and resources that could facilitate the issuing of a pardon and are therefore, in the great majority of cases, unable to obtain one.

Q CASE STUDY

Sri Lankan domestic worker [Rizana Nafeek](#) was arrested in May 2005 at the age of 17 on charges of murdering an infant in her care. On 16 June 2007, she was convicted and sentenced to death by a court in Dawadmi, a town west



Rizana Nafeek, © Private

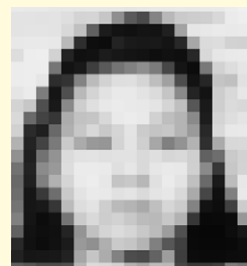
of the Saudi Arabian capital Riyadh, and had her sentence subsequently upheld by the Court of Cassation. The Supreme Judicial Council sent her case back to the lower court for further clarification, and eventually upheld the death sentence on or around 25 October 2010. The death sentence was then ratified by the King and Rizana Nafeek was executed on 9 January 2013.

The passport Rizana Nafeek used to enter Saudi Arabia in May 2005 has her year of birth as 1982, but according to statements from her family the date was forged to allow her to seek overseas employment and support the family's income. Her birth certificate stated that she was born six years later, making her 17 at the time of the infant's death. She was not allowed to present her birth certificate or other evidence of her age to the court during her trial in 2007. While she may have been able to do so in later legal proceedings, this appears not to have swayed the decision of the judges, who in Saudi Arabia have discretion to decide the age of majority for children.

Rizana Nafeek had no access to lawyers either during her pre-trial interrogation or at her trial in 2007. She initially "confessed" to the murder during interrogation, but later retracted this account saying that she was forced to make the "confession" under duress following a physical assault and argued that the baby died in a choking accident while drinking from a bottle. Concerns were raised that the man who translated her statement was not an officially recognized translator and that he may not have been able adequately to translate between Tamil and Arabic.

Q CASE STUDY

[Siti Zainab Binti Duhri Rupa](#), an Indonesian domestic worker and mother of two, was executed on 14 April 2015 in the city of Medina, Saudi Arabia, for killing her employer in 1999. According to Migrant Care in Indonesia, Siti Zainab had stated in two letters sent before she was arrested that she was being abused at the hands of her employer and her employer's son. According to media sources that year, Siti Zainab made her "confession" during police interrogation, and was subsequently convicted of the murder and sentenced to death. She had no legal representation throughout her detention and trial, and did not have access to a consular representative during the police interrogation. The police had suspected that she had a severe mental (psychosocial) disability at the time of the interrogation.



Siti Zainab Binti Duhri Rupa ,
© Private

Neither her family nor the Indonesian government were notified in advance of her execution, but found out about the execution of their relative or national through the media or public announcements. The Saudi Arabian authorities had waited for more than 15 years for the youngest of the victim's children to reach adulthood, to allow the family of her employer to either pardon her or demand her execution under qisas (retribution-in-kind).

IN FOCUS

INTERVIEW WITH ANIES HIDAYAH, FROM INDONESIAN NGO MIGRANT CARE

1. As part of your work you have been supporting Indonesian women on death row in other countries and their families. Can you tell us about their cases?

Our migrant workers are facing the death penalty in several countries, such as China, Malaysia and Singapore in Asia, and Saudi Arabia and Qatar in the Middle East.

About 70% of the 649 Indonesian nationals who have faced the death penalty in other countries since 2011 are women; and about 67% of all cases involve women being trapped by drugs syndicates, mainly as drug "mules". In some cases, it's an old friend or acquaintance who approaches them; in others, it's people who they just met, for example at the airport. Some cases are quite disturbing. The women are taken under the guise of a vacation, as if they were dating the person dealing the drugs, around several different countries, seemingly to obscure their travel history. Then, in a particular country, the women are given a suitcase to carry and are eventually caught.

The second most common offence of which the women are charged is murder, in about 14% of the cases involving women. Most of those cases involve self-defense, and about 90% of the cases



Anies Hidayah, © TEMPO/Imam Sukamto

involve women who are migrant workers. In most of the murder cases, the women have said that they were forced to kill because they could no longer stand their terrible working conditions. They often experience sexual and physical exploitation, and go for long periods without being paid. So they tried to stand up for themselves because they had no other choice.

The third most common [type of] offence is "sorcery", a criminal offence in Saudi Arabia. Based on our observations, in most cases those accused have been migrant workers who have worked for a long time in Saudi Arabia and were not paid for 10 years or more. We believe that to escape from the responsibility [of paying the workers] some employers accused the workers of sorcery and made up evidence. For example, in some cases, [the migrant workers] were given a prayer written on a piece of paper by their religious leaders or relatives back home and that was used as evidence of "sorcery", leading to death sentences being imposed.

2. What pushes these women to migrate and work abroad?

I think in Indonesia there's a "feminization of migration". Many women from various regions become migrant workers to try to improve their families' economic status, as well as escape the situation that they're in – such as divorce, domestic violence, or child marriage. Some of them were also forced to drop out of school because their families couldn't afford it. There's a continuous chain of violence for the women. Here they experience violence, when they go abroad they also experience violence, when they come back home they experience violence again because their husbands marry again using the money they sent back home for polygamy, and it ends in divorce, which leads to the women going abroad to work again.

The women who decide to leave are aware of the problems, during their training at the work training center and during the pre-departure orientation they are also informed about the human rights violations and abuses that migrant workers experience abroad. But they are motivated by the stories of workers who can improve their economic standing – they can buy a house, send their children to school, own a vehicle and so forth.

Many women from various regions become migrant workers to try to improve their families' economic status, as well as escape the situation that they're in – such as divorce, domestic violence, or child marriage

3. How does your organization, Migrant Care, usually find out about these cases?

We usually receive the information from the families of the workers who are imprisoned, they send their families a letter or talk through the phone, then the families report it to us and then we give the information to the Foreign Affairs Ministry and to our embassies abroad. There are some cases that the government was already handling and we receive the information from them. But in most cases, it's civil society groups that provide the information to the government; or in some cases, an Indonesian citizen may be released from prison and will report to the embassy [that an Indonesian is facing the death penalty]. Representatives of the Indonesian embassy visiting a prison will also find a [death penalty] case there, but they don't regularly visit prisons, especially in Malaysia and Saudi Arabia. Up until 2011, there was no data collection, no advocacy, and no adequate consular support for death penalty cases.

4. What happened in 2011?

In 2010, when Ruyati was executed in Saudi Arabia, it opened a Pandora's box. It was revealed that hundreds of our migrant workers were facing the death penalty abroad. The government at the time formed a task force that consolidated and reviewed data and found that there were many cases where [the migrant workers] received no support, they weren't even provided with a lawyer. The government also hired lawyers on a retainer in Saudi Arabia, Malaysia, and Singapore to handle serious criminal cases, particularly death penalty cases. And since then, there has been more intensive support [from the government] for migrant workers who face the death penalty, particularly support for their families. Now the government has a call center, so it's faster [to detect cases]. There was also a shift in Indonesia's foreign policy, now protecting citizens abroad is more of a priority, but there is a large backlog of cases from before 2011.

5. What would you say have been the determining factors in the cases of women migrant workers facing the death penalty abroad?

It is a mix of factors. One has to do with the culture around the employment of migrant workers. In Saudi Arabia and other places in the Middle East, many employers really treat their workers like slaves, they are just seen as objects to be exploited. You can see this from the mechanism for placing migrant workers there. The employers “buy” the workers from an agency there that collaborates with an agency here, in Indonesia. The [workers] are in a very unequal position and that makes them vulnerable.

In addition to this, because of patriarchal culture, the legal system in some countries is quite discriminatory against women. For example, sexual violence [that some of the migrant workers experience] is hard to prove. In death penalty cases, it almost never comes up in court that the accused was a victim of sexual violence, especially in Saudi Arabia because there needs to be two witnesses. This makes it harder for the women migrant workers and sometimes they feel forced to “confess” to expedite the legal process. This makes their legal defense even more difficult.

6. What is the impact of the death penalty on the families of the migrant workers?

The impact on the families is huge, as they often face stigmatization. For example, the case of a woman executed in 2018 was highlighted by the media and her mother didn’t dare to go to the market – every time she went, someone would say “that’s the mother of a murderer.” Or in some other cases, people would ask “have they been executed?” Even if they’re trying to sympathize, it’s still painful. In some cases this goes on for years, some people don’t dare to leave the house and close their shops. The children [of the migrant workers] also face the same [stigma] at school, labelled as “children of a murderer”.

Unfortunately, the government has not taken a big role in protecting the families and trying to reintegrate [the workers], when they are freed. For example, a woman is recognized wherever she goes, which makes it difficult to apply for work. The government seems to only give support up to when the worker can come home. After that they’re left on their own.

In death penalty cases, it almost never come up in court that the accused was a victim of sexual violence, especially in Saudi Arabia because there needs to be two witnesses.

7. In your view, what should the government of Indonesia do to support migrant workers facing the death penalty abroad?

The most helpful thing is legal support. Looking back at the cases of migrant workers who were eventually released, most of them had legal help from the start of their cases, from the first time they were interrogated up to the end of the legal process. It makes a really big difference – together with public pressure.

Multi-stakeholder advocacy, including from civil society and the international community, is also important. For example, in the case of a young woman convicted in Malaysia, we found out that her passport was forged and she was only 17 when she left, so we quickly formed a team with the local legislature and church and got her birth certificate certified. The local authorities also facilitated the woman’s family to go to Malaysia accompanied by Migrant Care, Change.org, legislators to monitor the case.

When we can’t affect the legal process, diplomacy can also be key and government officials have a big role to play in speaking with their counterparts abroad. The government must also ensure that there is a real mechanism to ensure safe migration. We have a new regulation, the Migrant Worker Protection Law, which if fully implemented can reduce the vulnerability of migrant workers and can prevent exploitative employment practices, like forcing workers to work 18 hours a day, physical or sexual abuse, and so forth - which was at the origin of the murder cases.

4. FAMILY MEMBERS: WOMEN AS “SECONDARY VICTIMS” OF THE DEATH PENALTY

As members of the family or support network of people under sentence of death, women have also been impacted by the death penalty as its “secondary victims”.



Iwao and Hideko Hakamada. Iwao Hakamada has been on death row for more than four decades. He was temporarily released, awaiting a retrial, in March 2014. His sister Hideko has been tirelessly campaigning on his behalf. ©Amnesty International

In some countries, such as Belarus, Japan and Botswana, through secrecy that surrounds the time of execution and location of burial of their relatives the authorities have subjected these women to cruel, inhuman or degrading treatment.

“A letter arrived in the post a month later. Just a piece of paper notifying us that the sentence has been carried out. [...] It has been very hard to believe that this has actually happened because they never returned any of his personal belongings. They didn't give us his body. With no body to bury it's very hard to believe.”

Family member of a man executed in Belarus



INTERNATIONAL STANDARDS

“[F]ailure to provide relatives with information on the circumstances of the death of an individual may violate their rights under article 7 [of the International Covenant on Civil and Political Rights], as could failure to inform them of the location of the body, and, where the death penalty is applied, of the date in which the carrying out of the death penalty is anticipated. Relatives of individuals deprived of their life by the State must be able to receive the remains, if they so wish.”

Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, UN Doc. CCPR/C/GC/36, 30 October 2018, para.56

The death penalty has also significantly impacted women as family members in several other ways. In several countries, men who are sentenced to death do not have access to visits, recreational activities and work programmes which can be available to men sentenced to lesser punishments. This in turn has left women family members with a greater financial and emotional burden, heightened in societies that follow traditional patriarchal family models.

In many cases, including those documented by Amnesty International, women as family members of those on death row face greater barriers in obtaining the appropriate legal support for their relative, which impacts the enjoyment of the right to a fair trial for those facing the death penalty. Patriarchal structures within societies have led to situations where many women do not have access to education, independent and sufficient incomes, and independent support networks that can be accessed at such times. This therefore

means that they are often more vulnerable to financial and other exploitation when seeking legal advice and support for their relatives or may not be able to get the most appropriate legal support. For example, women family members of people on death row in Malaysia stated that their relatives' trial counsel was incompetent, inexperienced, or participated in misconduct in the representation of people of less advantaged backgrounds during trial. They said, for example, that some attorneys would rush through cases in two to three days to claim their fees and move quickly to the next one; or ask for substantial amounts of money from family members without taking the requested action in the case.

In a [landmark study](#) on the death penalty in India, the Death Penalty Research Project at the National Law University, Delhi, highlighted how over 60% of those under sentence of death had engaged private legal representation at trial and High Court stages of the judicial process, even if in the majority of cases having an economically disadvantaged background. Many described in their interviews for the study borrowing money or selling their homes, land, livestock and other belongings to afford the private legal representation, but nonetheless being able to pay very little to the private



Nguyễn Thị Loan, mother of Hồ Duy Hải, protesting on his behalf on 30 November 2014. © LanThang

lawyers. This resulted, in many cases, in little interaction between the lawyer and the person under sentence of death or their families, which in turn translated into possible mitigating circumstances in the case not being investigated and presented in court by the lawyer. In addition to this, the study highlighted the prohibitive costs of travelling long distances to visit their relative on death row, often to meet under very restrictive conditions.

IN FOCUS

THE BURDEN ON THE FAMILIES by Shamala T. Manickarajah

I am part of a network that supports families of people on death row in Malaysia. There are about 38 of us and the network is comprised mostly of women—many are mothers, while some are wives or sisters, of men who have been sentenced to death. It's a mix of people from different ethnic groups, from different parts of the country.

The women in the network come from different economic status. Some are doing okay financially, but many are struggling with very little income, so we do our best to support them. In addition to taking care of their respective families, they also have to send some funds to their loved ones on death row for food — if not, they can only eat the standard prison meals, which is not very good — money for phone calls, and so on. These can add up to hundreds of *ringgit* a month. On top of this, they also have to set aside funds for transportation and other expenses for when they visit their loved ones in prison.

Despite the many challenges they face, many of the women I work with are strong and resilient. I know one lady who is singlehandedly raising her



Shamala T. Manickarajah, ©Private

grandson. The boy's father was arrested for drug trafficking when he was just a baby, and his mother left him. This grandmother had no one else to turn to and had to find work while raising the young child. The boy is now grown up, but she is also getting older, not in the best of health and depends on government aid. Yet she would take three to four buses on her own just to get to visit him. Her biggest concern now is who will care for her grandson after she is no longer around.

The women are also resourceful. One mother, whose husband has been on death row for 13 years now, struggled to raise her three young children, one with a disability, while having to work. Eventually she quit her job and started selling food from her own stall instead. Despite the difficulty, she and her family still carry hope that her husband will one day be free. Many of these women never give up despite facing such huge challenges with so little support.

It is not easy to have to earn a living, raise a family while also doing what they can to advocate and look out for their loved one on death row, which is what many of the women are forced to do. We call the pardons board regularly to inquire about their application for clemency. If there are any issues faced by their loved ones in prison, we also do what we can from the outside.

The wife of one inmate who is severely ill depends on her small business selling flowers to support her family as well as her husband's medication. When he complained to her that a prison warden abused him, she took action and lodged a complaint, leading to the warden being transferred.

While the women don't really face too much stigma from the public or the community, it is often their relatives and friends who gossip and say negative things. I know someone who was asked by a relative if their loved one had already been executed. Since then, she's never attended family events. That's the insensitivity they are sometimes forced to deal with.

Now, Covid-19 has made things worse for many of them. There are outbreaks in many prisons and many are very worried for their loved ones. Families are trying their best to make sure their sons, husbands, brothers or fathers are safe in prison. Every day in our chat groups, we have questions about infections, vaccinations and so on.

I hope the government will one day abolish the death penalty. Some of them have been [on death row] for more than 15 years already. They already know what they have done wrong, many of them have changed. But until that happens we do our best to support one another. Everyone is like family in the network.



COVID-19 HAS MADE THINGS WORSE FOR MANY OF THEM. THERE ARE OUTBREAKS IN MANY PRISONS AND MANY ARE VERY WORRIED FOR THEIR LOVED ONES.



5. WOMEN HUMAN RIGHTS DEFENDERS AT THE CENTRE OF ANTI-DEATH PENALTY ACTIVISM

Women and girls have been critical players in the global effort to abolish the death penalty, for several decades – from women under sentence of death, to relatives of those on death row, lawyers, policy-makers, judges, members of law enforcement agencies, religious officers, medical professionals, academics and independent experts, supporters of those on death row and their families, campaigners and journalists. Our gratitude goes out to them all. They have helped document the human rights violations associated with the use of the death penalty; defended those facing this cruel punishment; provided relief and support to their family members in the darkest hours; lent their voice to the voiceless behind prison bars.

Some women have peacefully mobilized against the death penalty in incredibly hostile environments, at great personal cost; and have been subjected to arbitrary detention, torture or other ill-treatment, prosecutorial harassment and violations of their right to a fair trial.



Action against the death penalty in Ghana, 1 October 2021. ©Amnesty International



TAKE ACTION!

Amnesty International urges the Iranian authorities to immediately and unconditionally release human rights defenders Atena Daemi, Narges Mohammadi and Nasrin Sotoudeh, who have been convicted in relation to their peaceful human rights activities.

Atena Daemi, 33, was first arrested in October 2014 and held in section 2A of Tehran's Evin prison for 86 days, during which she was detained in prolonged solitary confinement for 51 days, denied access to a lawyer and repeatedly interrogated. In May 2015, she was convicted and sentenced to 14 years in prison, later reduced to seven, on charges including "gathering and colluding to commit crimes against national security", "spreading propaganda against the system", and "insulting the founder of the Islamic Republic of Iran and the Supreme Leader". Her trial was only 15 minutes long and was held jointly with three other activists. Her convictions stemmed solely from her peaceful human rights activities, including writing posts on Facebook and Twitter criticizing the authorities' execution record; distributing anti-death penalty leaflets; participating in a peaceful protest against the 2014 execution of a young Iranian woman; visiting the grave sites of those killed during the protests that followed the disputed 2009 presidential election; and sending information about abuses against prisoners held in politically-motivated cases to human rights groups outside Iran.



Atena Daemi. ©Private

In June 2019, Atena Daemi and co-defendant Golrokh Ebrahimi Iraee were unjustly convicted and sentenced to an additional three years and seven months imprisonment in relation to singing in the visitation hall of the prison the revolutionary anthem "Oh martyrs", to protest the executions after grossly unfair proceedings of [three Kurdish men](#) in September 2018; and writing open letters, including to the authorities, about these executions and prison conditions.

As Atena Daemi began serving her second sentence after she completed the first in July 2020, she was convicted and sentenced to two additional years' imprisonment and 74 lashes for holding a sit-in with other prisoners in December 2019 to protest the killings of demonstrators and bystanders during the November 2019 protests. . On 16 March 2021, Atena Daemi was transferred from Evin prison to Lakan prison far from her family in Gilan province in northern Iran, and where prison officials are punishing her for speaking out against the ill-treatment of prisoners there and for denouncing human rights violations committed against prisoners of conscience and other prisoners held for politically motivated reasons across Iran.

Since August 2021, her ability to call her family is restricted and conditioned upon the presence of prison officials monitoring the calls and she has only been able to speak to her relatives during prison visits within earshot of prison officials.

Some women have peacefully mobilized against the death penalty in incredibly hostile environments, at great personal cost.



TAKE ACTION!

Narges Mohammadi, Executive Chairperson of the disbanded Centre for Human Rights Defenders, was released from prison on 8 October 2020 after serving an unjust prison sentence in relation to her vocal opposition to the death penalty and her participation in gatherings outside prisons in support of families of death row prisoners.

Prior to her release, on 22 February 2020, prosecution and intelligence officials visited Narges Mohammadi in Zanjan's prison and informed her that she faced several national security-related charges in connection to her human rights activism inside prison, including issuing statements condemning the death penalty, prolonged solitary confinement, and other forms of torture or ill-treatment, the killings of protesters in November 2019, and for calling for a referendum on the country's political system. The authorities also opened a second criminal case against her for "causing disruption in prison", for holding a sit-in with other prisoners in Evin prison between 21 and 24 December 2019 to protest the killings of protesters in November 2019; and "libel against the head of Evin prison", in relation to a complaint that she filed in December 2019, alleging that the head of Evin prison and several other officials subjected her to verbal abuse, death threats, and beatings during her transfer to Zanjan prison, resulting in bruises on her body and injuries from shattered glass when her hand hit a glass door.

In a 24 May 2021 post on her Instagram account, Narges Mohammadi wrote that she was convicted and sentenced to two-and-a-half years in prison, 80 lashes and two separate fines for charges that include "spreading propaganda against the system". In September 2021, Narges Mohammadi reported being summoned to begin serving this sentence.



Narges Mohammadi, ©Private



Nasrin Sotoudeh, ©Private

Nasrin Sotoudeh, now 58, was sentenced to a total of 38 years and six months in prison and 148 lashes following two grossly unfair trials in 2016 and 2018 for her peaceful human rights work. Citing the unjust nature of the proceedings, she refused to attend her trial, which took place on 30 December 2018. Three of the charges against her – "forming a group with the purpose of disrupting national security", "spreading propaganda against the system" and "gathering and colluding to commit crimes against national security" – were based on peaceful activities including belonging to human rights groups such as the Centre for Human Rights Defenders and the Campaign for Step by Step Abolition of the Death Penalty. She was also charged with "inciting corruption and prostitution"; "openly committing a sinful act by... appearing in public without a hijab"; "disrupting public order"; and "disturbing public opinion" for her opposition to forced veiling.

In a separate case from September 2016, Nasrin Sotoudeh was sentenced to five years imprisonment for "assisting in hiding spies with the intent to harm national security" by Branch 28 of the Revolutionary Court in Tehran, which tried her in her absence because the court authorities said she was not wearing appropriate Islamic dress and refused her entry. In late March 2020, a prison official verbally told Nasrin Sotoudeh that she had been granted a pardon for the 2016 sentence, but she has not been formally notified in writing. If this pardon applies, under Iran's sentencing guidelines, she must serve 12 years. While on granted medical leave in January 2021, Nasrin Sotoudeh underwent an angiography to determine the condition of her heart. Following this, doctors found that she has a condition called a myocardial bridge in which one or more of the coronary arteries goes through the heart muscle instead of lying on its surface. While Nasrin Sotoudeh was granted temporary releases from prison for some of her desperately-needed health care in 2021, the Iranian authorities forced her to return to prison before her treatment was complete.

RECOMMENDATIONS

Amnesty International calls on countries that still retain the death penalty to immediately abolish it for all crimes.

Pending this, we urge them to:

- 1** Immediately establish a moratorium on all executions and commute all death sentences;
- 2** End the imposition and implementation of death sentences on people who were below 18 years of age when the offence was committed, and if the age is disputed to give the benefit of the doubt in favour of the defendant;
- 3** Remove the mandatory death penalty for all crimes, including for drug trafficking, and mandate a judicial body, whether existing or established specifically for this aim, to review all cases where people have been sentenced to death, with a view to commuting the death sentences as a matter of urgency;
- 4** Bring national legislation in line with international law and standards, including by:
 - removing legal provisions that allow for the use of the death penalty for offences that do not meet the threshold of the “most serious crimes” of intentional killing, and ensuring that all those who have been sentenced to death for other offences, such as drug-related offences or for acts that should not be criminal offences at all, such as “adultery”, have their cases reviewed and sentences commuted accordingly;
 - repealing legal “presumptions” of guilt, which undermine the right of a defendant to a fair trial and shift the burden of proof onto them;
 - repealing laws that punish sexual relationships outside marriage, exclude marital rape from the crime of rape, grant impunity to the perpetrators of rape and criminalize adultery, as well as discriminatory laws that limit or otherwise impede women’s independence, such as discriminatory laws and practices governing inheritance, ownership of property or male guardianship;
 - making appeals mandatory in all death penalty cases, including when the death sentence is imposed by a higher court during the appeal process, and establishing post-conviction recourse procedures.
- 5** Ensure that all persons facing the death penalty – including those from disadvantaged or marginalized socio-economic backgrounds – are provided access to effective legal assistance, from the moment of arrest or when they first face criminal charges, all the way through to appeals and other recourse procedures, and ensure that legal aid programmes are provided sufficient resources to appoint competent pro bono lawyers in all regions.
- 6** Regularly publish full and detailed information, disaggregated at least by gender, nationality and ethnic background, about the use of the death penalty which can contribute to a public debate on the issue. The data should include, at minimum: the number of persons sentenced to death and for what offences; the number of prisoners appealing the sentences and at what level; location of detention; information on past and imminent executions; the total number of persons under sentence of death; the number of death sentences reversed or commuted on appeal; and the number of instances in which pardon has been granted.

- 7** Remove provisions from national legislation that have a disproportionate impact on those from less advantaged socio-economic backgrounds, women, young people, ethnic minorities and foreign nationals; and implement alternatives to the criminalization of minor and non-violent drug-related offences that do not cause harm to others.
- 8** Put in place a wide set of gender-sensitive and holistic socio-economic protection measures to ensure that crime control laws and policies contribute to overcoming structural factors for inequality, stigma and discrimination that affect people who use drugs or who engage in the drug trade, especially women and those belonging to marginalized and disadvantaged communities. These include ill-health, denial of education, unemployment, lack of housing, poverty and discrimination.
- 9** Address effectively gender stereotypes through, for example, community outreach and public education campaigns, and promote women's and girls' participation in public life.



