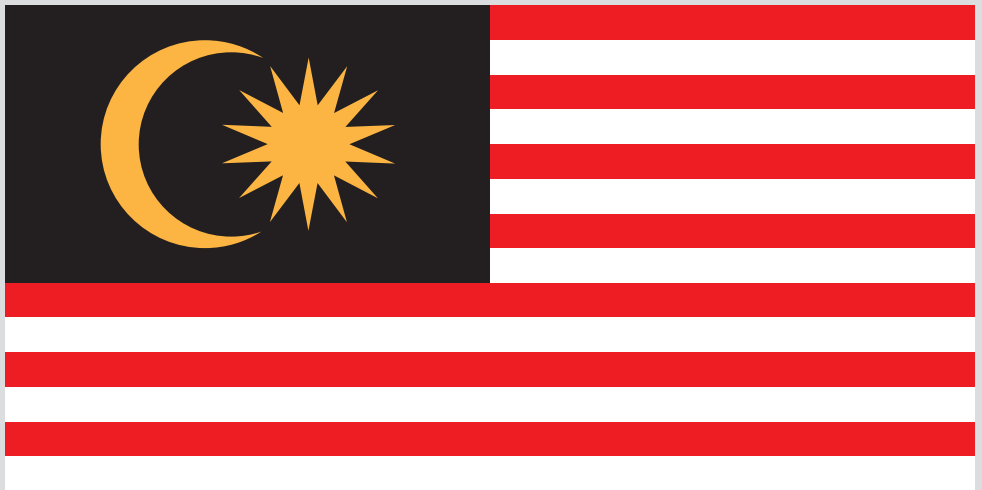


THE DEATH PENALTY IN LAW AND IN PRACTICE

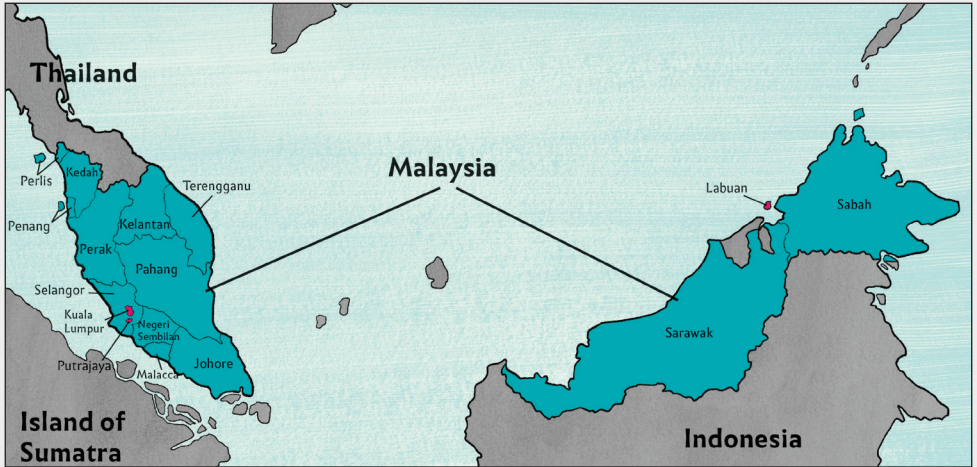
MALAYSIA



**EC
PM** TOGETHER
AGAINST
THE DEATH
PENALTY

ANTI
DEATH
PENALTY
ASIA
NETWORK

MALAYSIA



AREA 330,345 KM²

CAPITAL CITY KUALA LUMPUR

POPULATION 34 624 264 (2024, World Bank)

OFFICIAL LANGUAGES MALAY

HEAD OF STATE

SULTAN IBRAHIM IBNI ALMARHUM SULTAN ISKANDAR,
YANG DI-PERTUAN AGONG (CONSTITUTIONAL MONARCH),
SINCE 31 JANUARY 2024

HEAD OF GOVERNMENT

ANWAR BIN IBRAHIM, PRIME MINISTER SINCE 24 NOVEMBER 2022

MINISTER OF FOREIGN AFFAIRS

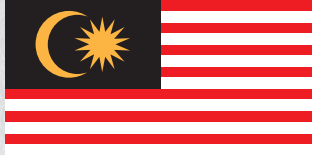
MOHAMAD HASAN, SINCE 12 DECEMBER 2023

MINISTER IN THE PRIME MINISTER'S DEPARTMENT IN CHARGE OF LAW AND INSTITUTIONAL REFORM

AZALINA OTHMAN SAID, SINCE 3 DECEMBER 2022

MINISTRY IN CHARGE OF PRISON ADMINISTRATION

MINISTRY OF HOME AFFAIRS



STATUS
RETENTIONIST

DATE OF THE LAST EXECUTION
2017

NUMBER OF DEATH SENTENCES IN 2024
24

NUMBER OF DEATH ROW PRISONERS AT THE END OF 2024
140

METHOD OF EXECUTION
HANGING

DEATH PENALTY APPLICATION AND CONDITIONS OF DETENTION OF DEATH ROW PRISONERS

THE CONDITIONS OF DETENTION OF DEATH ROW PRISONERS

Despite a moratorium on executions issued in July 2018, the courts are still issuing death sentences. The number of individuals on death row continued to grow between 2018 (1275) and 2022 (1384). At the end of 2024, 140 people remained on death row in Malaysia, including 2 women. This sharp decrease from over 1300 in recent years follows major reforms and a nationwide resentencing process conducted from November 2023 to October 2024.

The Malaysian prison system was designed to host up to 52 000 prisoners. However, according to Datuk Abdul Aziz Abdul Razak, Commissioner General of Prisons, Malaysian prisons housed 86 917 prisoners as of March 2025, exceeding their total capacity. Overcrowding has resulted in a lack of access to health care, a decrease in quality and quantity of food, and a shortage of hygienic products available free of charge (soap, sanitary towels, etc).

Prisoners sentenced to death are managed by the 'Radical Prisoners Detainee @ High Risk' unit within the Prison Department.

Malaysian law holds prisoners sentenced to death in a state of prolonged solitary confinement. Such detention conditions and treatment have been qualified as degrading and inhumane, if not tantamount to torture, by both the United Nations Human Rights Committee and the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, unlike other prisoners, those sentenced to death are not allowed to work which complicates the purchase of food, hygiene products, or telecommunication items such as phone cards without outside assistance. They are also not permitted to engage in the usual activities afforded to other prisoners such as pursuing further education and vocational trainings.

Prisoners sentenced to death are kept in separate single cells under the constant watch of the prison wardens. The facilities afforded are often limited with toilets located within sight and poorly lit cells which are damaging prisoners' visual acuity. Prisoners stay 23 hours a day in their cells. Relatives may either visit them 45 minutes once a week or address them a letter, they are not allowed to do both. In some facilities, prisoners spend their regulatory 45 minutes outdoor time in a hall, foregoing the fresh air they may receive from outdoor activities. There is no activity besides some interventions from religious organisations.

As of early 2025, foreign nationals account for 19% of all death row prisoners in Malaysia. Language barriers further increase the isolation of foreign prisoners:

discussions with religious interveners are often exclusively in Malay, and books in a foreign language are not allowed.

Conditions of detention cause some prisoners sentenced to death to suffer from “death row syndrome”. Some expressions of this syndrome are repressed by prison staff: a prisoner who makes noise or refuses to eat is at risk of being kept in a cell without daylight and with limited access to food for 21 days.

THE END OF THE MANDATORY DEATH PENALTY

In 2023, Malaysia implemented a landmark reform of its death penalty laws, marking a significant shift in the country’s approach to capital punishment. This reform, considered the first major legal change under Prime Minister Anwar bin Ibrahim’s government, aimed to bring Malaysia human rights closer to the international human rights standard.

The most crucial change was the elimination of the mandatory death penalty for all 11 offences where it was previously required. This move granted judges the discretionary authority to impose appropriate sentences based on the specific circumstances of each case. With the abolition of the mandatory death penalty, judges now have the power to consider various factors when determining sentences for capital offences. This change allows for a more nuanced approach to justice, taking into account mitigating circumstances and individual case details.

The reform also resulted in the complete abolition of the death penalty for 7 specific offenses (attempted murder; kidnapping; discharging a firearm with intent to cause death or harm; trafficking in firearms; robbery; rape), which represents a significant reduction in the scope of capital punishment in the country. Despite these reforms, 27 offences in Malaysia still carry the possibility of a death sentence, now at the discretion of the courts. Among these offences are drug-related offences, which are not considered as part of the “most serious crimes” under international standards.

PARDONS AND COMMUTATION OF SENTENCES

Since September 2023, a resentencing process has been underway, granting those already under the sentence of death and natural life imprisonment an opportunity to have their sentences reviewed and possibly commuted. Previously, in 2018, the Malaysian Prison Department notified that between 2007 and 2017, Pardons Board mitigated the sentence of 165 prisoners sentenced to death.

Article 42 of the Constitution, and Sections 300 and 301 of the Criminal Procedure Code provide some information on the clemency process. Requests for a pardon are filed to a Pardons Board for advice. On this advice, the *Yang Di-Pertuan Agong* (the King) and Sultans of each state have the power to grant clemency to death row prisoners, through a pardons board, to commute their sentence to life imprisonment (minimum of 30 years).

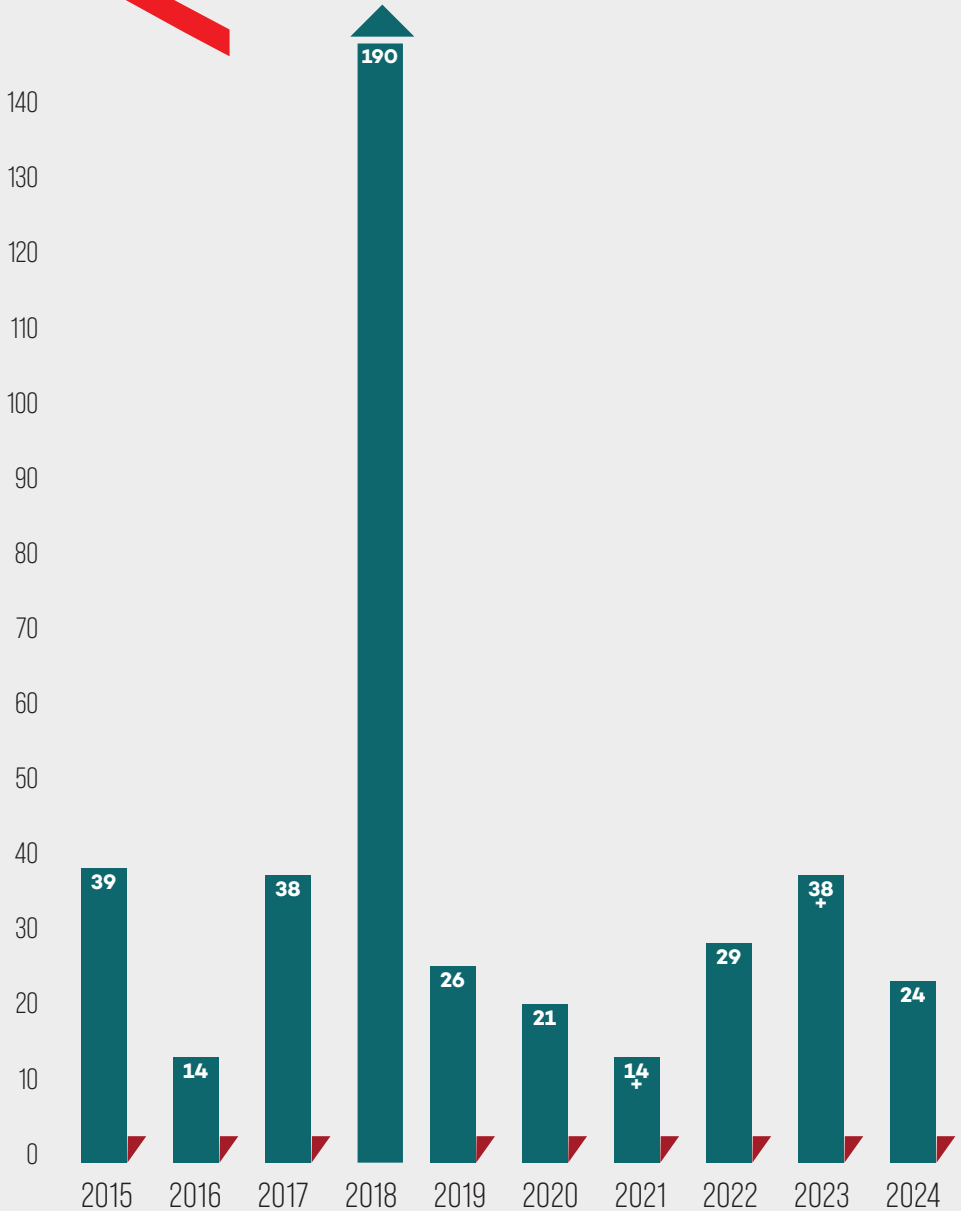
Besides these indications, there is no other law or regulation describing clemency application process. There is no legal deadline for hearing a request for pardon, and a Pardons Board may not convene for years.

Prisoners sentenced to death often wait for clemency decision for upwards of 10 to 12 years with cases where detainees were reported to have spent 27 years in detention prior to clemency. From the pre-trial custody, the entire criminal procedure may last up to a decade with the initial trial phase at the court of first instance taking up to 5 years or more.

Many prisoners sentenced to death are unaware of the existence of a procedure of pardon. This occurs despite Prison Regulations 2000 provides for automatic clemency application process for prisoners serving more than 7 years imprisonment. After application for clemency, some do not know the progress of their application and whether it was successful or denied.

For those who do not speak Malay natively, they do not necessarily have access to a translator or a lawyer (they are not mandatory after the trial phase), and may be forced to send their requests in a language that would not be understood by members of a Pardons Board.

EVOLUTION OF THE NUMBER OF DEATH SENTENCES OVER THE LAST 10 YEARS



NATIONAL LEGAL FRAMEWORK

There are at least 40 legislative provisions on the death penalty in Malaysia. Many of the offences punishable by death have no element of intentional killing, thus cannot be punished by death in accordance with international human rights law.

THE FEDERAL CONSTITUTION

Article 5 of the 2007 Federal Constitution of Malaysia enshrines the right to life and the liberty of the person. However, article 5 provides for derogations through legislative means and allows death penalty without other restriction than the principle of legality.

THE ABOLITION OF MANDATORY DEATH PENALTY ACT (ACT 846) OF 2023

The Abolition of Mandatory Death Penalty Act (Act 846) represents a pivotal reform in Malaysia's legal system, eliminating the mandatory death penalty and allowing judges to exercise discretion in sentencing. This legislation amends several key laws, including the Penal Code and the Dangerous Drugs Act, enabling alternative sentences such as imprisonment and mandatory whipping.

THE PENAL CODE (AMENDED IN 2023)

Since the abolition of the mandatory death penalty in Malaysia in 2023, the Penal Code retains the death penalty as a discretionary sentence for certain serious offenses (murder, terrorist acts resulting in death, hostage-taking resulting in death, waging war and other offences against the chief of State, rape resulting in death). Additionally, the death penalty remains as a discretionary sentence for other offences such as acts of war, mutiny, false testimony causing the execution of an innocent person, abetment of suicide and certain acts of abduction. For these offenses, judges now have the discretion to impose alternative sentences, including imprisonment terms of 30-40 years and whipping, instead of the death penalty.

THE CRIMINAL PROCEDURE CODE (AMENDED IN 2023)

The Criminal Procedure Code establishes the framework for criminal justice, detailing procedures for arrest, detention, trial, and sentencing. It governs the rights of the accused, including guidelines for bail, especially in cases involving serious offences punishable by death or life imprisonment. The Code also outlines the protocols for executing death sentences, including the roles of various officials and the necessary documentation. Additionally, it provides for inquiries into the execution process, ensuring accountability and adherence to legal standards.

Overall, the Code aims to ensure fair and just legal proceedings while balancing the need for public safety.

THE DANGEROUS DRUGS ACT OF 1952 (AMENDED IN 2023)

Prior to 2023, the Dangerous Drugs Act provided for discretionary or mandatory death penalty depending on the circumstances. As of today, judges have discretionary power in sentencing for drug trafficking offences, allowing them to consider mitigating factors and impose alternative punishments.

The 2023 amendment also differs from the 2017 changes in its retroactive application. Individuals previously sentenced under the mandatory death penalty provisions can now have their cases reviewed, potentially leading to reduced sentences.

Despite these positive changes, concerns persist about provisions that could be interpreted as presumptions of guilt, which continue to challenge principles of fair trial and the presumption of innocence enshrined in international human rights law.

OTHER NATIONAL LEGISLATIONS

Death penalty is a possible sentence under:

- The 1960 Internal Security Act
- The 1972 Armed Forces Act
- The 2006 Water Services Industry Act
- The 2010 Strategic Trade Act
 - amended in 2023 to remove the mandatory death penalty for offences related to unlawful trafficking of restricted items.

The following acts were amended by the 2023 Abolition of Mandatory Death Penalty Act and therefore no longer provide for the death penalty: the 1960 Arms Act, the 1961 Kidnapping Act and the 1971 Firearms (Increased Penalties) Act.

LIST OF LEGISLATIVE PROVISIONS ON THE DEATH PENALTY

PENAL CODE, 2006 [AMENDED IN 2023]

- Article 6** The applicability of Article 5, first paragraph, 2nd-ly is limited such that the capital punishment cannot be imposed upon an act which the capital punishment is not provided for by the law of the country where the act has been committed.
- Article 121** Whoever wages war against the Yang di-Pertuan Agong or against any of the Rulers or Yang di-Pertua Negeri, or attempts to wage such war, or abets the waging of such war, shall be punished with death or imprisonment for a term of not less than thirty years but not exceeding forty years, and if not sentenced to death shall also be liable to fine.
- Article 121-A** Whoever compasses, imagines, invents, devises or intends the death of or hurt to or imprisonment or restraint of the Yang di-Pertuan Agong or any of the Rulers or Yang di-Pertua Negeri, their heirs or successors, shall be punished with death or imprisonment for a term of not less than thirty years but not exceeding forty years and if not sentenced to death, shall also be punished with whipping of not less than twelve strokes.
- Article 130-C** (1) Whoever, by any means, directly or indirectly, commits a terrorist act shall be punished— (a) if the act results in death, with death or imprisonment for a term of not less than thirty years but not exceeding forty years and if not sentenced to death, shall also be punished with whipping of not less than twelve strokes; and (b) in any other case, with imprisonment for a term of not less than seven years but not exceeding thirty years, and shall also be liable to fine.
- Article 130-L** Whoever intentionally directs the activities of a terrorist group shall be punished— (a) if the act results in death, with death or imprisonment for a term of not less than thirty years but not exceeding forty years, and if not sentenced to death, shall also be punished with whipping of not less than twelve strokes; and (b) in any other case, with imprisonment for a term of not less than seven years but not exceeding thirty years, and shall also be liable to fine.
- Article 130-N** Whoever, by any means, directly or indirectly, provides or collects or makes available any property intending, knowing or having reasonable grounds to believe that the property will be used, in whole or in part, to commit a terrorist act shall be punished— (a) if the act results in death, with death or imprisonment for a term of not less than thirty years but not exceeding forty years and if not sentenced to death, shall also be punished with whipping of not less than twelve strokes; and (b) in any other case, with imprisonment for a term of not less than seven years but not exceeding thirty years, and shall also be liable to fine, and shall also be liable to forfeiture of any property so provided or collected or made available.

Article 130-O (1) Whoever, directly or indirectly, provides or makes available financial services or facilities— (a) intending that the services or facilities be used, or knowing or having reasonable grounds to believe that the services or facilities will be used, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act, or for the purpose of benefiting any person who is committing or facilitating the commission of a terrorist act; or (b) knowing or having reasonable grounds to believe that, in whole or in part, the services or facilities will be used by or will benefit any terrorist, terrorist entity or terrorist group, shall be punished— (aa) if the act results in death, with death or imprisonment for a term of not less than thirty years but not exceeding forty years and if not sentenced to death, shall also be punished with whipping of not less than twelve strokes; and (bb) in any other case, with imprisonment for a term of not less than seven years but not exceeding thirty years, and shall also be liable to fine.

(2) For the purposes of subsection (1), “financial services or facilities” includes the services and facilities offered by lawyers and accountants acting as nominees or agents for their clients.

Article 130-QA Whoever accepts gratification to facilitate or enable the commission of any terrorist act shall be punished— (a) if the act results in death, with death or imprisonment for a term of not less than thirty years but not exceeding forty years and if not sentenced to death, shall also be punished with whipping of not less than twelve strokes; and (b) in any other case, with imprisonment for a term of not less than seven years but not exceeding thirty years, and shall also be liable to fine.

Article 130-ZB Whoever accepts gratification to facilitate or enable any organized criminal activity shall be punished— (a) if the act results in death, with death or imprisonment for a term of not less than thirty years but not exceeding forty years and if not sentenced to death, shall also be punished with whipping of not less than twelve strokes; and (b) in any other case, with imprisonment for a term of not less than seven years but not exceeding thirty years, and shall also be liable to fine.

Article 132 Whoever abets the committing of mutiny by an officer, soldier, sailor or airman in the Malaysian Armed Forces, shall, if mutiny is committed in consequence of that abetment, be punished with death or with imprisonment for a term which may extend to twenty years, and shall also be liable to fine.

Article 194 Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by the law for the time being in force in Malaysia, shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to fine; and if an innocent person is convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

Article 302 Whoever commits murder shall be punished with death or imprisonment for a term of not less than thirty years but not exceeding forty years and if not

sentenced to death, shall also be punished with whipping of not less than twelve strokes.

Article 305 If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide shall be punished with death or imprisonment for a term which may extend to twenty years, and shall also be liable to fine.

Article 307 (2) When any person offending under this section is under sentence of imprisonment for life or for a term of twenty years, he may, if hurt is caused, be punished with death.

Article 364 Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with death or imprisonment for a term which may extend to thirty years and shall, if he is not sentenced to death, also be liable to whipping.

Article 374-A Whoever seizes or detains and threatens to kill, to injure or to continue to detain another person ("the hostage") to compel the Government of Malaysia or the Government of any State in Malaysia, any other government, or any international organization or any other person or group of persons to do or refrain from doing any act as an explicit or implicit condition for the release of the hostage shall be punished— (a) if the act results in death, with death or imprisonment for a term of not less than thirty years but not exceeding forty years and if not sentenced to death, shall also be punished with whipping of not less than twelve strokes; and (b) in any other case, with imprisonment for a term of not less than seven years but not exceeding thirty years, and shall also be liable to fine.

Article 376 (4) Whoever whilst committing or attempting to commit rape causes the death of the woman on whom the rape is committed or attempted shall be punished with death or imprisonment for a term of not less than fifteen years and not more than thirty years, and shall also be punished with whipping of not less than ten strokes.

Article 396 If any one of two or more persons, who are conjointly committing gang-robbery, commits murder in so committing gang-robbery, every one of those persons shall be punished with death or imprisonment for a term which may extend to thirty years, and, where the punishment is not death, shall also be liable to whipping.

THE CRIMINAL PROCEDURE CODE, 1999 (AMENDED IN 2023)

- Article 15** (3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for a term of not less than thirty years but not exceeding forty years.
- Article 117** (1) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 28 and there are grounds for believing that the accusation or information is well founded the police officer making the investigation shall immediately transmit to a Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case and shall at the same time produce the accused before the Magistrate. (...)
(b) if the offence which is being investigated is punishable with death or imprisonment of fourteen years or more, the detention shall not be more than seven days on the first application and shall not be more than seven days on the second application.
- Article 275** Where a woman convicted of an offence punishable with death is alleged to be pregnant, or where the Court before whom a woman is so convicted thinks fit, the Court shall direct one or more medical practitioners to be sworn to examine that woman in some private place and to enquire whether she is pregnant or not, and if upon the report of any of them it appears that she is pregnant the sentence to be passed upon her shall be a sentence of [i] imprisonment for life instead of sentence of death.
- Article 277** When any person is sentenced to death the sentence shall direct that he be hanged by the neck till he is dead, but shall not state the place where nor the time when the sentence is to be carried out.
- Article 281** With regard to sentences of death the following provisions shall be followed:
(a) after sentence has been pronounced a warrant, under the seal of the Court, shall be made out for the commitment of the person sentenced to the custody of the officer in charge of the district prison, and the warrant shall be full authority to the said officer, or any officer appointed by him for that purpose, for receiving into his custody and detaining the person so sentenced until the further warrant or order of the Court;
(b) (i) in cases in which notice of appeal is not given within the prescribed period, the Judge passing sentence of death shall, as soon as conveniently may be after such period has elapsed, forward to the Menteri Besar of the State in which the crime was committed, a copy of the notes of evidence taken on the trial, together with a report in writing signed by him, setting out his opinion whether there are any reasons, and, if any, what reasons there are, why the sentence of death should or should not be carried out;
(ii) in cases in which notice of appeal is given the Judge who passed sentence of death shall, as soon as conveniently may be after the appeal has been determined by the Court of Appeal, forward to the Federal Court the report in writing referred to in subparagraph (i); and, if the Federal

Court dismisses the appeal made to it, the Judge presiding in that Court shall as soon as conveniently may be after the dismissal forward to the aforesaid Menteri Besar, the said report in writing together with a copy of the notes of evidence taken at the original trial, a copy of the record of the proceedings before the Federal Court and also such report, if any, on the case as the Federal Court may think fit to make signed by the Judge presiding in the Federal Court;

(c) the Menteri Besar shall, upon receipt of the proceedings, submit the same to the Ruler of the State and shall communicate to the Court of the Judge passing sentence a copy under his hand and seal of any order the Ruler of the State may, acting in accordance with Article 42 of the Constitution, make thereon, which order, if the sentence is to be carried out, shall state the place where the execution is to be held, and if the sentence is commuted into any other punishment shall so state; and if the person sentenced is pardoned shall so state;

(d) (i) on receiving the copy of the said order the Court shall cause the effect of the same to be entered in the records of the Court, and when the said order directs the sentence to be carried out shall appoint the time when it is to be carried out and shall endorse the time so appointed on the said order, and shall in all cases cause the order to be carried into effect by issuing a warrant or taking such other steps as may be necessary;

(ii) the Ruler of the State acting in accordance with Article 42 of the Constitution may order a respite of the execution of the warrant and afterwards appoint some other time or other place for its execution;

(iii) the warrant shall be directed to the officer in charge of the prison for the district where the sentence is to be carried into effect, who shall carry the sentence into effect, in accordance with law;

(e) (i) there shall be present at the execution of the sentence the Medical Officer in charge of the prison, the Superintendent of Prisons, the Officer-in-Charge of the prison and such other officers of the prison as the latter may require, and there may also be present any Minister of Religion in attendance at the prison and such relations of the prisoner or other persons as the Superintendent thinks proper to admit;

(ii) as soon as may be after judgment of death has been executed the Medical Officer shall examine the body of the person executed and shall ascertain the fact of death and shall sign a certificate thereof and deliver the same to the Officer-in-Charge;

(iii) a Magistrate of the district shall, within twenty-four hours after the execution, hold an inquiry and satisfy himself of the identity of the body and whether judgment of death was duly executed thereon, and he shall make a report of it to the Menteri Besar of the State;

(f) when a sentence of death is avoided by the escape of the person sentenced to death execution of the sentence shall be carried into effect at such other time after his recapture as the Court shall order;

(g) no omission or error as to time and place and no defect in form in any order or warrant given under this section and no omission to comply with the provisions of paragraph (e) shall be held to render illegal any execution carried

into effect under the order or warrant, or intended so to have been carried into effect, or shall render any execution illegal which would otherwise have been legal.

Article 292 (2) A sentence of death shall be executed notwithstanding the pendency of any sentence of imprisonment.

Article 388 (1) When any person accused of any non-bailable offence is arrested or detained without warrant by a police officer or appears or is brought before a Court, he may be released on bail by the officer in charge of the police district or by that Court, but he shall not be so released if there appears reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life or imprisonment for a term which may extend to forty years:

Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail.

Article 401 (3) If it appears that an offence punishable with death or with imprisonment has been committed by some person or persons unknown to the Court of a First Class Magistrate may hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence if the deponent is dead or incapable of giving evidence or is beyond the limits of Malaysia.

Article 430 Whenever it appears to any Court that a private person has shown unusual courage, diligence or exertion in the apprehension of a person accused of having committed, attempted to commit or abetted an offence punishable with death or imprisonment, such Court may order payment to him out of the Consolidated Fund of any sum not exceeding one hundred ringgit.

THE INTERNAL SECURITY ACT, 1960

Article 57 (1) Any person who without lawful excuse, the onus of proving which shall be on that person, in any security area carries or has in his possession or under his control—

(a) any firearm without lawful authority therefor; or

(b) any ammunition or explosive without lawful authority therefor, shall be guilty of an offence and shall, on conviction, be punished with death.

Article 58 (1) Any person who in any security area consorts with or is found in the company of another person who is carrying or has in his possession or under his control any firearm, ammunition or explosive in contravention of section 57, in circumstances which raise a reasonable presumption that he intends, or is about, to act, or has recently acted, with that other person in a manner prejudicial to public security or the maintenance of public order shall be guilty of an offence and shall, on conviction, be punished with death or with imprisonment for life.

Article 59

(1) Any person who whether within or outside a security area demands, collects or receives any supplies from any other person in circumstances which raise a reasonable presumption that he intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that the supplies so demanded, collected or received are intended for the use of any person who intends or is about, so to act, or has recently so acted, or for the use of any terrorist, shall be guilty of an offence and shall, on conviction, be punished with death in cases where the supplies in respect of which he is convicted consist of firearms, ammunition or explosives, or with imprisonment for life in other cases.

(2) Any person who whether within or outside a security area is found in possession of any supplies for which he cannot satisfactorily account in circumstances which raise a reasonable presumption that the supplies are intended for the use of any person who intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that the supplies are intended for the use of any terrorist, shall be guilty of an offence and shall, on conviction, be punished with death in cases where the supplies in respect of which he is convicted consist of firearms, ammunition or explosives, or with imprisonment for life in other cases.

(3) Any person who whether within or outside a security area provides, whether directly, or indirectly, any supplies to any other person in circumstances which raise a reasonable presumption that that other person intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that the supplies so provided are intended for the use of any person who intends or is about, so to act, or has recently so acted, or that the supplies are intended for the use of any terrorist, shall be guilty of an offence and shall, on conviction, be punished with death in cases where the supplies in respect of which he is convicted consist of firearms, ammunition or explosives, or with imprisonment for life in other cases:

Provided that no person shall be convicted of any offence against this subsection if he proves that prior to being arrested by a police officer or a person in authority he voluntarily gave full information of the offence to a police officer

Article 69

Section 94 of the Penal Code (which relates to an act to which a person is compelled by threats) shall have effect as if offences punishable with death under this Part were offences included in Chapter VI of the Penal Code punishable with death.

Article 79

Without prejudice to the jurisdiction of the High Court, a Sessions Court shall have jurisdiction to try any offence against this Act, other than an offence punishable with death, and to pass any sentence prescribed therefor not exceeding a fine of five thousand ringgit or five years' imprisonment or both.

THE ARMED FORCES ACT, 1972

Article 38

(1) Every person subject to service law under this Act who with intent to assist the enemy— (a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend; (b) surrenders any ship or aircraft to the enemy when it is capable of being successfully defended or destroyed; (c) surrenders any base, airfield or other defence establishment or installation to the enemy when it is capable of being successfully defended or when it is his duty to cause it to be destroyed; (d) does any act calculated to imperil the success of operations of His Majesty's armed forces, of any forces co-operating therewith or of any part of any of those forces; (e) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever not authorized by international usage; (f) furnishes the enemy with arms or ammunition or with supplies of any description or with any other thing likely to assist him; (g) harbours or protects an enemy not being a prisoner of war; (h) gives any false air signal or alters or interferes with any air signal or any apparatus for giving an air signal; (i) when ordered by his superior officer, or otherwise under orders, to carry out any warlike operations in the air fails to use his utmost exertion to carry such orders into effect; or (j) causes the capture or destruction by the enemy of any of His Majesty's ships or aircraft or the ships or aircraft of any force co-operating with His Majesty's armed forces, shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Act.

Article 41

(1) Every person subject to service law under this Act who with intent to assist the enemy communicates with or gives intelligence to the enemy shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Act.

Article 47

(1) Every person subject to service law under this Act who— (a) takes part in a mutiny involving the use of violence or the threat of the use of violence; (b) takes part in a mutiny having as its object or one of its objects the refusal or avoidance of any duty or service against, or in connection with operations against, the enemy, or the impeding of the performance of any such duty or service; or (c) incites any other person subject to service law under this Act to take part in such a mutiny, whether actual or intended, shall, on conviction by court-martial, be liable to suffer death or any less punishment provided by this Act.

Article 88

(1) Every person subject to service law under this Act who commits a civil offence whether in Malaysia or elsewhere shall be guilty of an offence against this section. (2) In this Act the expression "civil offence" means any act or omission punishable by the law of the Federation or which, if committed in Malaysia, would be punishable by that law; and in this Act the expression "the corresponding civil offence" means the civil offence the commission of which constitutes an offence against this section. (3) A person convicted by court-martial of an offence against this section shall—(a) if the corresponding civil

offence is treason be liable to suffer death or any other punishment provided by this Act; (b) if the corresponding civil offence is murder be liable to suffer death or any other punishment provided by this Act; [...; chapeau du bas] Provided that where a civil court could not so award imprisonment, a person so convicted shall be liable to suffer such punishment, less than dismissal with disgrace from His Majesty's service in the case of an officer or detention in the case of a serviceman, as is so provided. (4) A person shall not be tried by court-martial for an offence of treason, murder, manslaughter or rape unless such person at the time he committed the offence was on active service or serving outside Malaysia.

THE DANGEROUS DRUG ACT, 1952 [AMENDED IN 2023]

Article 39-B (1) No person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Malaysia— (a) traffic in a dangerous drug; (b) offer to traffic in a dangerous drug; or (c) do or offer to do an act preparatory to or for the purpose of trafficking in a dangerous drug. (2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence against this Act and shall be punished on conviction with death or imprisonment for life and shall, if he is not sentenced to death, be punished with whipping of not less than fifteen strokes be punished with whipping of not less than twelve strokes. [...]

THE WATER SERVICES INDUSTRY ACT, 2006

Article 121 (1) A person who contaminates or causes to be contaminated any watercourse or the water supply system or any part of the watercourse or water supply system with any substance— (a) with the intention to cause death; (b) with the knowledge that he is likely to cause death; or (c) which would likely endanger the life of any person, commits an offence. (2) A person found guilty of an offence under subsection (1), on conviction— (a) where death is the result of the act, shall be punished with death or imprisonment for a term which may extend to twenty years, and where the punishment is not death, he shall also be liable to whipping; [...]

THE STRATEGIC TRADE ACT, 2010 [AMENDED IN 2023]

Article 9 (1) No person shall export, tranship or bring in transit strategic items unless he obtains a permit issued under this Act. (2) No person shall export, tranship or bring in transit strategic items or unlisted items to a restricted end-user specified in subsection 8(1) unless he obtains a special permit issued under this Act. (3) No person shall export, tranship or bring in transit strategic items or unlisted items to a prohibited end-user specified in subsection 8(2). (4) A person who contravenes subsection (1) commits an offence and shall, on conviction— (a) in relation to strategic items which are arms or related mate-

rial— (i) where the act is done with the intent to unlawfully export, tranship or bring in transit such strategic items without a permit or with knowledge that the export, transshipment or bringing in transit of such strategic items without a permit is unlawful— (A) where death is the result of the act, be punished with death or imprisonment for a term of not less than thirty years but not exceeding forty years, and in the case of a body corporate, be punished with a minimum fine of thirty million ringgit; or [...] (5) A person who contravenes subsection (2) commits an offence and shall, on conviction— (a) in relation to strategic items or unlisted items which are arms or related material— (i) where the act is done with the intent to unlawfully export, tranship or bring in transit such items without a special permit or with knowledge that the export, transshipment or bringing in transit of such items without a special permit is unlawful— (A) where death is the result of the act, be punished with death or imprisonment for a term of not less than thirty years but not exceeding forty years, and in the case of a body corporate, be punished with a minimum fine of thirty million ringgit; [...] (6) A person who contravenes subsection (3) commits an offence and shall, on conviction— (a) in relation to strategic items or unlisted items which are arms or related material— (i) where the act is done with the intent to unlawfully export, tranship or bring in transit such items or with knowledge that the export, transshipment or bringing in transit of such items is unlawful— (A) where death is the result of the act, be punished with death or imprisonment for a term of not less than thirty years but not exceeding forty years, and in the case of a body corporate, be punished with a minimum fine of thirty million ringgit; [...]

Article 10 (1) No person shall provide any technical assistance within or outside Malaysia if such technical assistance is intended for use in connection with a restricted activity. (2) A person who contravenes subsection (1) commits an offence and shall, on conviction— (a) where death is the result of the act, be punished with death or imprisonment for a term of not less than thirty years but not exceeding forty years, and in the case of a body corporate, be punished with a minimum fine of thirty million ringgit; [...]

Article 11 (1) No person shall carry out an act of brokering of any strategic items unless he is registered under section 19, and where required under the related laws, holds a valid permit for the brokering of such strategic items from the relevant Authority under the related laws where— (a) he has been notified by the relevant Authority or an authorized officer that such strategic items may be intended or are likely to be used, wholly or in part, for or in connection with a restricted activity; (b) he knows that such strategic items are intended to be used, wholly or in part, for or in connection with a restricted activity; or (c) he has reasonable grounds to suspect that such strategic items are intended or are likely to be used, wholly or in part, for or in connection with a restricted activity. (2) A person who contravenes subsection (1) commits an offence and shall, on conviction— (a) in relation to strategic items which are arms or related material— (i) where death is the result of the act, be punished with death or imprisonment for natural life, and in the case of a body corporate, be punished with a minimum fine of thirty million ringgit; [...]

Article 12

(1) If a person is informed by the relevant Authority or otherwise knows or has reason to believe that any unlisted item will or may be used for a restricted activity, then the person shall notify the relevant Authority of his intention to export, tranship or bring in transit that unlisted item at least thirty days before that export, transhipment or bringing in transit is to be carried out. [...] (4) A person who contravenes subsection (1) commits an offence and shall, on conviction— (a) in relation to unlisted items which are arms or related material— (i) where the act is done with the intent to unlawfully export, tranship or bring in transit such unlisted items without a permit or with knowledge that the export, transhipment or bringing in transit of such unlisted items without a permit is unlawful— (A) where death is the result of the act, be punished with death or imprisonment for a term of not less than thirty years but not exceeding forty years, and in the case of a body corporate, be punished with a minimum fine of thirty million ringgit; [...]

INTERNATIONAL LEGAL FRAMEWORK

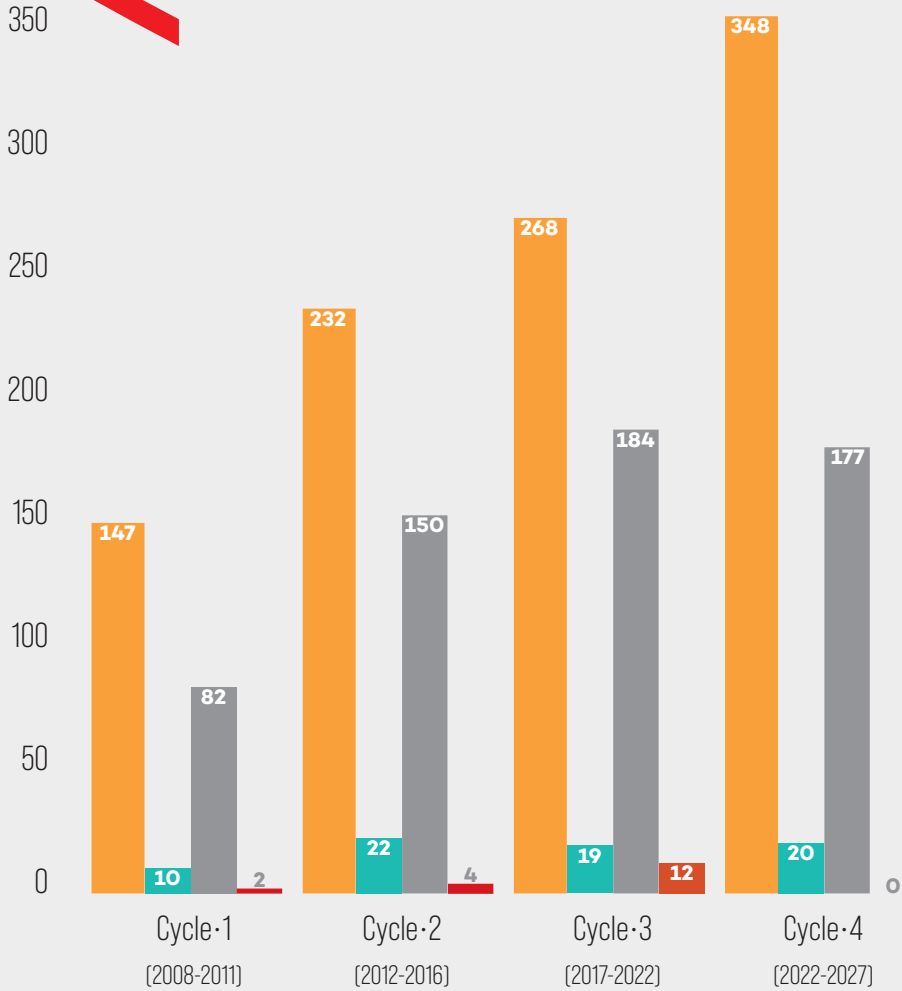
MAIN INTERNATIONAL TEXTS ON THE ABOLITION OF THE DEATH PENALTY

TEXT	DATE OF RATIFICATION OR ACCESSION
International Covenant on Civil and Political Rights, 1966	X
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 1989	X
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	X
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2002	X
Convention on the Rights of the Child, 1989	17 February 1995 (accession)

VOTE ON THE UNITED NATIONS GENERAL ASSEMBLY RESOLUTION CALLING FOR A UNIVERSAL MORATORIUM ON THE USE OF THE DEATH PENALTY



UNIVERSAL PERIODIC REVIEWS



- Total number of recommendations
- Number of recommendations on the death penalty
- Total number of supported recommendations
- Number of supported recommendations on the death penalty

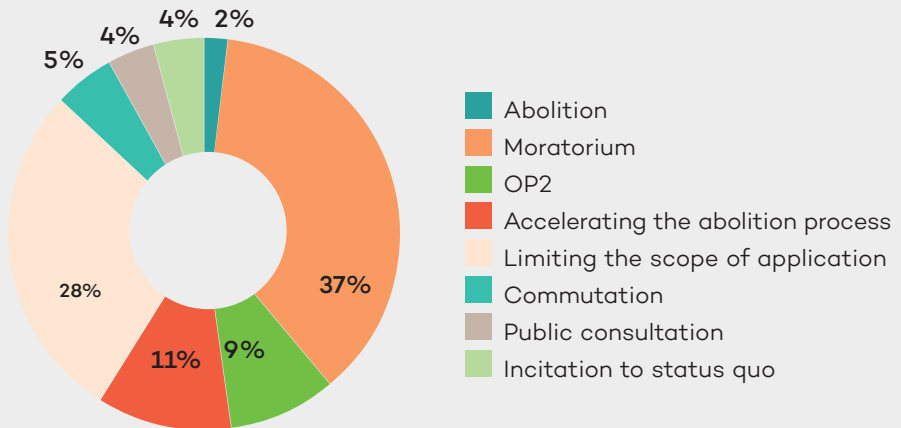
RECOMMENDATIONS ON THE DEATH PENALTY MADE TO MALAYSIA IN 2023

No.	RECOMMENDATION	Number	Supported	Noted
55.14	Ratify the International Covenant on Civil and Political Rights and the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty (Albania); Ratify the International Covenant on Civil and Political Rights and the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty (Croatia);	2		2
55.18	Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Estonia) (Madagascar);	2		2
55.19	Consider the ratification of the International Covenant on Civil and Political Rights and the Second Optional Protocol to the Covenant, as a further step towards the complete abolition of the death penalty (Lithuania);	1		1
55.72	Abolish the death penalty for all crimes (Costa Rica) (Cyprus); Abolish the death penalty (Canada);	3		3
55.73	Abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Iceland);	1		1
55.74	Abolish the death penalty for crimes not meeting the threshold of most serious crimes, as a step towards the abolition of the death penalty for all crimes (Belgium);	1		1
55.75	Swiftly pass legislation to fully abolish the death penalty (Germany);	1		1
55.76	Take further steps towards the abolition of the death penalty for all crimes (Ukraine); Take further steps to fully abolish the death penalty for all crimes (Italy); Take further steps towards the total abolishment of the death penalty (Slovakia); Continue efforts aimed at the full abolition of the death penalty (Spain);	4		4
55.77	Take steps to completely abolish the death penalty and to end caning within the Malaysian legal system (both civil and sharia) (New Zealand);	1		1
55.78	Continue discussions with a view to reducing the use of the death penalty, moving towards a prompt moratorium and possible abolition (Chile);	1		1
55.79	Maintain the moratorium on executions and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (France);	1		1
55.80	Place a moratorium on the application of the death penalty with a view to its complete abolition (Poland);	1		1
55.81	Extend the official moratorium on executions until the death penalty is fully abolished and all existing death sentences are reviewed and commuted (Norway);	1		1
TOTAL		20	0	20

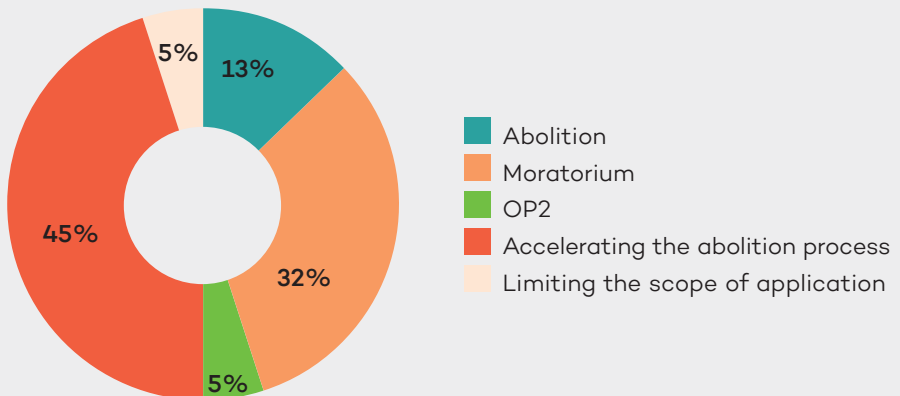
During its latest Universal Periodic Review (UPR) cycle in 2023, Malaysia accepted none of the 20 recommendations related to the death penalty out of a total of 348 recommendations received. This marks a significant regression compared to the third cycle in 2018, where Malaysia accepted 12 out of the 19 recommendations relating to the death penalty issued to the state. Despite being a retentionist country, Malaysia's recent decisions contrast sharply with its previous stance, especially considering the country voted in favor of the United Nations resolution calling for a universal moratorium on the application of the death penalty in 2020 and 2022.

EVOLUTION OF TOPICS OF THE RECOMMENDATIONS RELATING TO THE DEATH PENALTY ISSUED TO MALAYSIA BETWEEN 2013 AND 2018

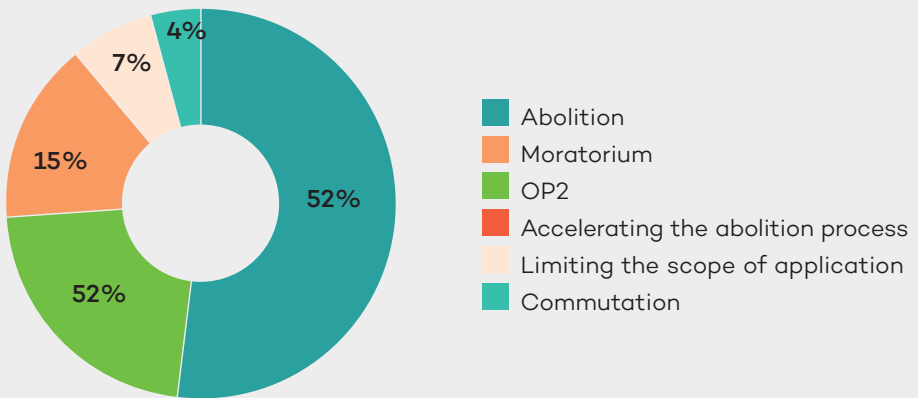
UPR 2013



UPR 2018



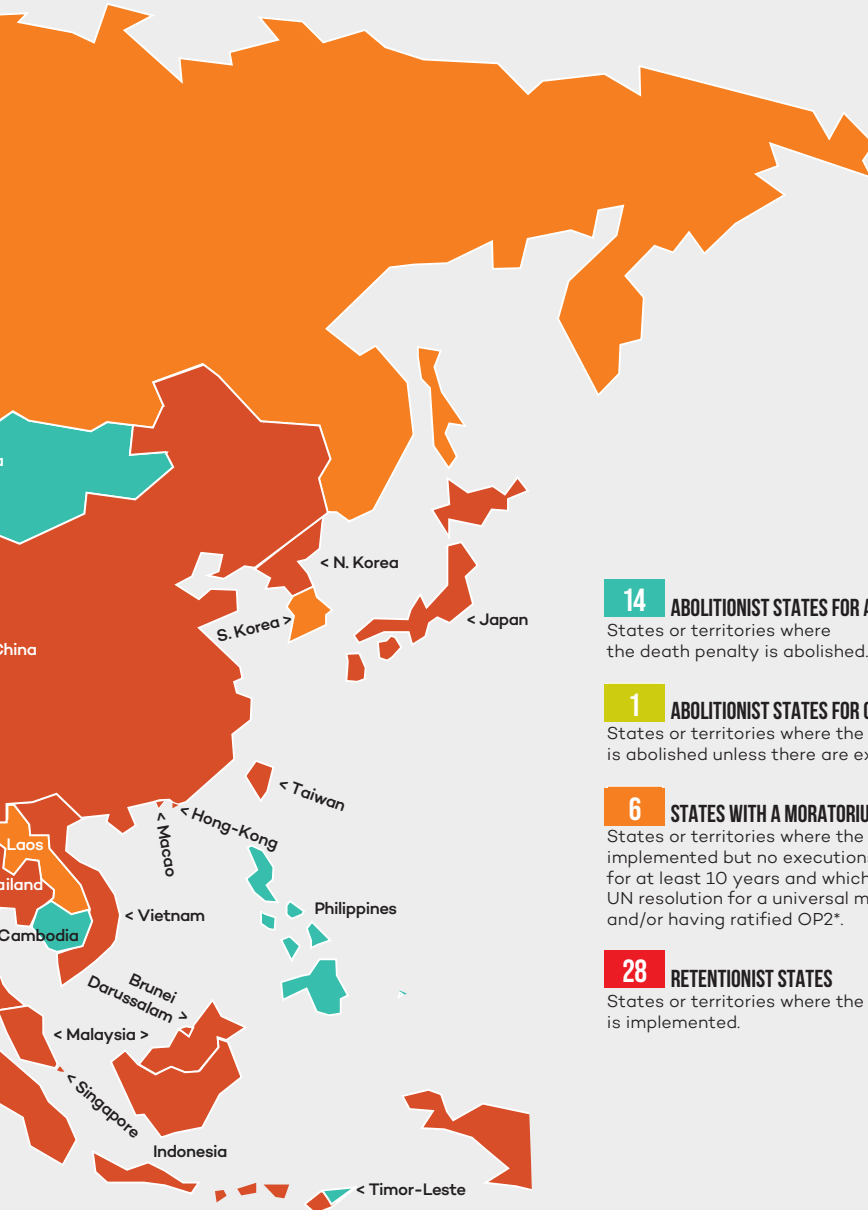
UPR 2024



Comparing the themes in death penalty recommendations made to Malaysia between the 2018 and 2024 UPR cycles reveals a substantial increase in recommendations for abolition, rising from 13% to 52%. Recommendations for a moratorium decreased from 32% to 15%. The emphasis on limiting the scope of application remained stable from 5% to 7%, reflecting continued concern about the breadth of death penalty use. Notably, recommendations for OP2 ratification increased from 5% to 22%, highlighting increased pressure for Malaysia to commit to international abolition standards. The emergence of commutation recommendations (4%) in 2024 suggests a new focus on immediate relief for people on death row.

THE DEATH PENALTY IN ASIA - 2024





14 ABOLITIONIST STATES FOR ALL CRIMES

States or territories where the death penalty is abolished.

1 ABOLITIONIST STATES FOR ORDINARY CRIMES

States or territories where the death penalty is abolished unless there are exceptional circumstances.

6 STATES WITH A MORATORIUM ON EXECUTIONS

States or territories where the death penalty is implemented but no executions have been carried out for at least 10 years and which did not oppose the latest UN resolution for a universal moratorium on executions and/or having ratified OP2*.

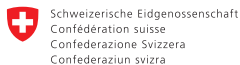
28 RETENTIONIST STATES

States or territories where the death penalty is implemented.

ABOLITION NOW

 ecpm@ecpm.org

 www.ecpm.org



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