

29 April 2025

## **LAWASIA STATEMENT OF CONCERN REGARDING THE RISE OF DEATH PENALTY SENTENCES IN THE ESCAP REGION**

LAWASIA notes with deep concern a rise in the imposition of death sentences across the ESCAP Region, which is part of a worrying global trend. Amnesty International notes that 2023 saw the highest number death penalties imposed since 2019 across the world.<sup>i</sup>

LAWASIA aims to promote the administration of justice, protection of human rights and the maintenance of the rule of law.<sup>ii</sup> LAWASIA has reiterated its stand on the death penalty over the years. Notably, in 2018, LAWASIA called on the governments in the ESCAP region to review their respective policies on capital punishment,<sup>iii</sup> and has since published statements expressing its concerns regarding capital punishment in the region.

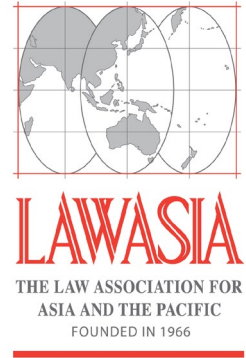
LAWASIA takes note of certain recent, worrying developments in the ESCAP Region. As of December 31, 2023, a total of 948 new death sentences were imposed in the region, compared to 861 in 2022, reflecting a 10% increase.<sup>iv</sup> Amnesty International notes that this number may be much higher, as data regarding death penalties and executions is treated as a state secret by certain governments in the region.

LAWASIA observes with concern that in 2023, India had the highest number of prisoners on death row that it has seen in nearly two decades.<sup>v</sup>

LAWASIA also notes that the recent developments across the ESCAP region have expanded the scope and method of death penalties.

LAWASIA takes notice of the State of Alabama's execution of three individuals by nitrogen hypoxia.<sup>vi</sup> The employment of this untested method on an experimental basis amounts to cruel, inhuman or degrading treatment and violates the International Covenant on Civil and Political Rights 1966, and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984, both of which the United States of America is party to.<sup>vii</sup> <sup>viii</sup> LAWASIA concurs with the condemnation of the execution expressed by numerous United Nations Special Rapporteurs. LAWASIA echoes the statement made by Volker Türk, the UN High Commissioner for Human Rights,<sup>ix</sup> and urges all States to implement a moratorium on the use of death penalties as a step towards universal abolition.

LAWASIA recognizes decades of international jurisprudence regarding capital punishment, beginning, particularly, with Article 6(2) of the International Covenant on Civil and Political Rights<sup>x</sup> which states that a person may only be sentenced to death for the "most serious crimes". The United Nations Human Rights Council and United Nations Economic and Social Council have, through numerous resolutions and reports, restrictively interpreted it to mean "crimes of extreme gravity involving intentional killing."<sup>xi</sup> In this context, LAWASIA notes with concern the imposition of the death sentence on Truong My Lan for her role in economic crimes in Vietnam.<sup>xii</sup> The appeal<sup>xiii</sup> against the decision has been rejected, subject to the condition that if she pays back 75% of the amount she took, her death sentence would be commuted to life imprisonment.<sup>xiv</sup> This verdict is concerning for the rare imposition of the death sentence for non-lethal crimes. Also in this context, LAWASIA notes with concern the implementation of death penalties by Singapore on four individuals for drug-related crimes.<sup>xv</sup> It is noted that Singapore has proceeded with these executions, especially of one Rosman bin Abdullah, despite calls from UN experts to halt the execution in light of concerns around his record of psychosocial disabilities.<sup>xvi</sup> LAWASIA also notes with concern the case of Pannir Selvam Pranthaman, who was scheduled to be executed on 20 February 2025 also for drug trafficking, and whose execution has subsequently been stayed by the Court of Appeal of Singapore to allow the filing of an appeal.<sup>xvii</sup>



LAWASIA is pleased to note that, in 2023, Malaysia has taken a significant step towards full abolition of the death penalty by removing mandatory death penalty and introducing sentencing discretion.

LAWASIA is also pleased to note that the Taiwan Constitutional Court delivered its decision on the constitutional validity of death penalty in September 2024. While the decision held that the death penalty conforms with the country's Constitution, it has also held that the scope of its application should be limited to exceptional circumstances. LAWASIA applauds the Taiwan Constitutional Court in confirming that a mandatory death penalty is unconstitutional, that defendants with mental health conditions cannot be sentenced to death or executed, and that the courts cannot sentence a defendant to death unless the decision is unanimous.<sup>xviii</sup>

Noting the above, LAWASIA:

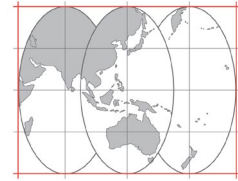
- i. Reiterates its call on those governments in the ESCAP region which currently retain the death penalty to review their respective policies on capital punishment, taking into account Article 6 of the ICCPR and the standards laid down by the UNHRC and ECOSOC.
- ii. Urges Member States to publish, in accordance with the United Nations General Assembly Resolution 73/175,<sup>xix</sup> the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted, and any other pertinent information, disaggregated by sex, age, nationality and race, as applicable, and other relevant criteria.
- iii. Calls upon Member States which have already abolished death penalty to ensure that no one is exposed to the death penalty in another State through extradition or information sharing or any such diplomatic action.
- iv. Until such time as the death penalty is abolished:
  - a. calls upon all governments in the ESCAP region which currently retain capital punishment to impose a moratorium on the awarding of death sentences for non-lethal offences; and
  - b. urges all governments in the ESCAP region to strictly adhere to the International Covenant on Civil and Political Rights, and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the execution of death penalty sentences in their respective jurisdictions.

A handwritten signature in blue ink, which appears to read 'Shyam Divan', is located in the bottom left area of the page.

**Shyam Divan**

President

LAWASIA, The Law Association for Asia and The Pacific



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<sup>i</sup>Amnesty International, *Amnesty International Global Report: Death Sentences and Executions 2023* (2024), <https://www.amnesty.org/en/documents/act50/7952/2024/en/#:~:text=Amnesty%20International's%20monitoring%20of%20the,2022%20to%2016%20in%202023.>

<sup>ii</sup>LAWASIA, Constitution (1966), <https://lawasia.asn.au/sites/default/files/2022-10/LAWASIA%20Constitution%202020.pdf>

<sup>iii</sup>LAWASIA, Resolution on Death Penalty (2018), [https://lawasia.asn.au/sites/default/files/2021-11/LAWASIA%20Resolution%20on%20Death%20Penalty%20C%202%20November%202018\\_1.pdf](https://lawasia.asn.au/sites/default/files/2021-11/LAWASIA%20Resolution%20on%20Death%20Penalty%20C%202%20November%202018_1.pdf)

<sup>iv</sup>LAWASIA, *supra* note i, also, Amnesty International, *Global: Executions soar to highest number in almost a decade*, AMNESTY INTERNATIONAL (September 27, 2024, at 1:27pm IST) <https://www.amnesty.org/en/latest/news/2024/05/global-executions-soar-highest-number-in-decade/#:~:text=Global%20figures&text=Amnesty%20International%20recorded%201153%20executions,when%201%20C634%20executions%20were%20recorded.>

<sup>v</sup>Project 39 A, *Death Penalty in India Annual Statistics Report 2023* (2023), <https://static1.squarespace.com/static/5a843a9a9f07f5ccd61685f3/t/65c4dc6e358e487887b16487/1707400313275/Annual+Statistics+2023+-+Digital+Copy.pdf>

<sup>vi</sup>Kim Chandler, *Alabama executes a man with nitrogen gas, the first time the new method has been used*, AP NEWS (September 27, 2024, at 1:27pm IST), <https://apnews.com/article/nitrogen-execution-death-penalty-alabama-699896815486f019f804a8afb7032900.> **Alabama executes inmate with nitrogen gas for the first time**, NPR (Nov. 22, 2024), <https://www.npr.org/2024/11/22/nx-s1-5201699/alabama-nitrogen-gas-execution.>

<sup>vii</sup>Office of the High Commissioner for Human Rights, *United States: UN experts horrified by Kenneth Smith's execution by nitrogen in Alabama*, OHCHR (September 27, 2024, at 1:27pm IST), <https://www.ohchr.org/en/press-releases/2024/01/united-states-un-experts-horrified-kenneth-smiths-execution-nitrogen-alabama>

<sup>viii</sup>Ed Pilkington, *Alarm as Alabama man to be executed via gas method rejected by veterinarians*, THE GUARDIAN (September 27, 2024, at 1:27pm IST), <https://www.theguardian.com/us-news/2024/jan/18/alabama-nitrogen-gas-execution>, also, Jeff Hood, *I witnessed Alabama execute a man using nitrogen gas. It was horrific and cruel*, USA TODAY (September 27, 2024, at 1:27pm IST), <https://www.usatoday.com/story/opinion/2024/02/19/alabama-execution-nitrogen-gas-witness-cruel-torture/72616304007/>

<sup>ix</sup>UN High Commissioner for Human Rights Volker Türk, *Statement on Alabama Execution*, OHCHR (September 27, 2024, at 1:27pm IST), <https://www.ohchr.org/en/statements/2024/01/alabama-execution>, also, *supra* note vii.

<sup>x</sup>International Covenant on Civil and Political Rights, Article 6(2), 999 U.N.T.S. 171 (1966), <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

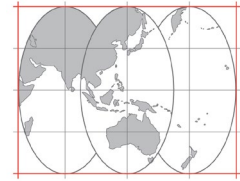
<sup>xi</sup>Economic and Social Council Resolution. 1984/50 (1984), <https://www.ohchr.org/en/instruments-mechanisms/instruments/safeguards-guaranteeing-protection-rights-those-facing-death>, also, Philip Alston, *Report of Special Rapporteur on extrajudicial, summary or arbitrary executions* (2007), U.N. Doc. A/HRC/4/20, <https://www.right-docs.org/doc/a-hrc-4-20/> -, also, Reports to the Human Rights Council, OHCHR (September 27, 2024, at 1:27pm IST), <https://www.ohchr.org/en/death-penalty/reports-human-rights-council>.

<sup>xii</sup>Khanh Vu, *Vietnam tycoon sentenced to death in \$12.5 billion fraud case*, REUTERS (September 27, 2024, at 1:27pm IST), <https://www.reuters.com/world/asia-pacific/vietnam-tycoon-sentenced-death-12-billion-fraud-case-state-media-reports-2024-04-11/>

<sup>xiii</sup>The Economic Times, *Vietnam tycoon appeals against \$27 billion fraud death sentence*, THE ECONOMIC TIMES (September 27, 2024, at 1:27pm IST), [https://economictimes.indiatimes.com/news/international/world-news/vietnam-tycoon-appeals-against-27-billion-fraud-death-sentence/articleshow/109631462.cms?from=mdr#:~:text=A%20top%20Vietnamese%20property%20tycoon,\(S%20CB\)%20over%20a%20decade.](https://economictimes.indiatimes.com/news/international/world-news/vietnam-tycoon-appeals-against-27-billion-fraud-death-sentence/articleshow/109631462.cms?from=mdr#:~:text=A%20top%20Vietnamese%20property%20tycoon,(S%20CB)%20over%20a%20decade.)

<sup>xiv</sup>Jonathan Head and Thu Bui, *Vietnamese tycoon loses death row appeal over world's biggest bank fraud*, BBC (February 25, 2025 at 8:20pm IST), <https://www.bbc.com/news/articles/cd753r47815o>

<sup>xv</sup>**Singapore hangs third drug trafficker in a week**, Al Jazeera (Nov. 22, 2024), <https://www.aljazeera.com/news/2024/11/22/singapore-hangs-third-drug-trafficker-in-a-week>.



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<sup>xvi</sup> **Singapore must urgently halt execution of drug offender – UN experts**, OHCHR (Nov. 22, 2024), <https://www.ohchr.org/en/press-releases/2024/11/singapore-must-urgently-halt-execution-drug-offender-un-experts>.

<sup>xvii</sup> Associated Press, *Alleged Malaysian drugs trafficker gets last-minute stay of execution in Singapore*, ASSOCIATED PRESS (February 25, 2025 at 8:29pm IST), <https://apnews.com/article/singapore-malaysia-death-penalty-drug-trafficking-pannir-10474a8f9dee2a5781be7dfebc38cb33>

<sup>xviii</sup> Constitutional Court R.O.C. (Taiwan), *Case News on TCC Judgement 113 Hsien -Pan-8 (2024)*, CONSTITUTIONAL COURT R.O.C. (TAIWAN) (September 27, 2024, at 1:27pm IST), <https://cons.judicial.gov.tw/en/docdata.aspx?fid=5506&id=353656>

<sup>xix</sup> U.N. General Assembly, Resolution 73/175, 73<sup>rd</sup> Session: “Moratorium on the use of the death penalty” (2018), <https://documents.un.org/doc/undoc/gen/n18/449/69/pdf/n1844969.pdf?token=SafST4Klglr3iEhbCp&fe=true>