

Death Penalty Regime in Singapore

The purpose of this document is to provide clear and updated information on the death penalty regime in Singapore.

The International Commission of Jurists (ICJ) opposes capital punishment in all cases without exception. The death penalty constitutes a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment.

The ICJ reiterates its call to the Government of Singapore to impose an immediate moratorium on the use of the death penalty, as well as to promptly review the laws and policies with a view to the total abolition of the death penalty.

Summary

In Singapore, about 26 offences carry the death penalty. It is most commonly used for murder (under s.300 of the Penal Code) and drug-trafficking/importation and exportation offences (under ss.5 and 7 of the Misuse of Drugs Act). These laws were amended in 2012 and the amendments came into effect on 1 January 2013.

For murder, the mandatory death penalty no longer applies to homicide committed without an intention to kill. For drug trafficking/importation and exportation offences, the mandatory death penalty continues to be applicable unless two conditions are fulfilled. Accused persons, who were convicted and sentenced for the above offences before 1 January 2013, were given an opportunity to apply to the Court to be resentenced.

Penal Code

1. Before the amendments, the Courts had no discretion in sentencing someone found guilty of murder, as the death penalty was the mandatory sentence that had to be imposed for this crime.¹
2. Under the new Penal Code (Amendment) Act,² the death penalty is only mandatory for homicide committed with an intention to kill (s.300a of the Penal Code), meaning that the offender acted with the intention of causing death.
3. The Court has the discretion to sentence an offender to either the death penalty or to life imprisonment with corporal punishment in cases where the offender:

¹ Section 302 of the Penal Code (Chapter 224): "Whoever commits murder shall be punished with death".

² Penal Code (Amendment) Act, No. 32 of 2012.

- (a) Caused bodily injury, knowing that the injury will or is likely to cause the death of the victim (s.300b of the Penal Code);
 - (b) Caused a bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death (s.300c of the Penal Code); and/or
 - (c) Committed the act knowing that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death (s.300(d) of the Penal Code).
4. In Singapore, life imprisonment refers to imprisonment for the duration of a person's natural life. Under s.151B of the Prison Regulations, there is a Life Imprisonment Review Board, which may review the life sentence of the offender.³
5. Section 302 of the Penal Code, which prescribes the punishment for murder, now reads as follows:

"Punishment for murder

"302—(1) Whoever commits murder within the meaning of section 300(a) shall be punished with death.

"(2) Whoever commits murder within the meaning of section 300(b), (c) or (d) shall be punished with death or imprisonment for life and shall, if he is not punished with death, also be liable to caning".⁴

Misuse of Drugs Act

6. Singapore not only considers trafficking in a controlled drug an offence, but also to offer to traffic, to do or offer to do any act preparatory to or for the purpose of trafficking in a controlled drug, as well as importing into or exporting from Singapore a controlled drug.⁵ The manufacturing of a controlled drug is also an offence under s.6 of the Act.⁶

³ Prison Regulation (Rev Ed. 2002).

⁴ **Murder**

300. Except in the cases hereinafter excepted culpable homicide is murder —

(a) If the act by which the death is caused is done with the intention of causing death;

(b) If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused;

(c) If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death;

or (d) if the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death, or such injury as aforesaid.

*It is important to mention that under Singapore's Penal Code, culpable homicide is not considered murder.

⁵ Section 5(1) and Section 7 of the Misuse of Drugs Act (Chapter 185).

⁶ Section 6 of the Misuse of Drugs Act (Chapter 185).

7. Before amendment of the Act, trafficking, importing/exporting and manufacturing above certain stipulated amounts of Class A drugs attracted the mandatory imposition of the death penalty.⁷
8. The Misuse of Drugs (Amendment) Act gave the courts the discretion to impose a life sentence, with caning in given circumstances, instead of a death sentence, in cases where:
 - a) The offender proves that his or her role was limited to that of a courier (Condition 1); and
 - b) The Public Prosecutor has certified that the offender substantively assisted the drug enforcement agency in disrupting trafficking activities (Condition 2A); or
 - c) The offender proved that he she was suffering from such abnormality of mind as substantially impaired his mental responsibility for committing the offence (Condition 2B).⁸
9. It is also important to note that the judge's discretion is not triggered automatically, as in the case of homicide offences. Instead, it is only triggered when the two conditions are fulfilled.
10. Under s.33B(4) of the Misuse of Drugs Act, the determination of whether or not any person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities shall be at the sole discretion of the Public Prosecutor and no action or proceeding shall lie against the Public Prosecutor in relation to any such determination unless it is proved to the court that the determination was done in bad faith or with malice.
11. Where Condition 1 and Condition 2A are fulfilled, the court has the discretion to impose either the death penalty or life imprisonment with not less than 15 stroke of the cane.⁹ Where Condition 1 and Condition 2B are fulfilled, the court shall only impose life imprisonment.¹⁰
12. Where the two conditions are not fulfilled, the mandatory death penalty continues to apply.
13. Drugs involved in the offences which punishment could be changed from death sentence to life imprisonment include the following:¹¹
 - Opium where the quantity is more than 1,200 gr. and containing more than 30 gr. of morphine;
 - Controlled drug (except opium) containing more than 30 gr. of morphine;
 - Controlled drug containing more than 15 gr. of diamorphine or more than 30 gr. of cocaine;
 - Cannabis where the quantity is more than 500 gr.;

⁷ The quantity and type of drugs that attracts the death penalty is provided in the Second Schedule of the Misuse of Drugs Act.

⁸ Misuse of Drugs (Amendment) Act, No. 30 of 2012.

⁹ Section 33B of the Misuse of Drugs Act (Chapter 185).

¹⁰ Section 33B(1)(b) of the Misuse of Drugs Act (Chapter 185).

¹¹ Second Schedule of the Misuse of Drugs Act (Chapter 185).

- Cannabis mixture where the quantity is more than 1,000 gr.;
- Cannabis resin where the quantity is more than 200 gr.; and
- Controlled drug containing more than more than 250 gr. of methamphetamine.

14. The death penalty continues to be the mandatory punishment for the manufacturing of certain controlled drugs which include:¹²

- Unauthorized manufacture of morphine, or any salt of morphine, ester of morphine or salt of ester of morphine;
- Unauthorized manufacture of diamorphine or any salt of diamorphine;
- Unauthorized manufacture of cocaine or any salt of cocaine; and
- Unauthorized manufacture of methamphetamine or any salt of methamphetamine.

Criminal Procedural Code

15. The amendment to the Criminal Procedural Code¹³ created a new procedure for reviewing death sentences. According to these new provisions, all capital sentences require confirmation by the Court of Appeal, either requested by the offender or by a petition for confirmation by the public prosecutor if the offender did not appeal.¹⁴ Additionally, the Court is required to examine the record of the proceedings and confirm the correctness, legality and propriety of guilt and sentence.¹⁵

¹² *Ibid.*

¹³ Criminal Procedure Code (Amendment) Act, No. 33 of 2012.

¹⁴ **Stay of execution pending appeal**

383.— (3) In the case of a conviction involving a sentence of death, the execution of the sentence of death must not be carried out until after the sentence is confirmed by the Court of Appeal pursuant to an appeal by the accused or a petition for confirmation by the Public Prosecutor.”

Public Prosecutor to file petition for confirmation

394A.—(1) Where the High Court passes a sentence of death on an accused and no appeal is filed by the accused within the time allowed under this Code for an appeal, the Public Prosecutor shall, on the expiry of 90 days after the time allowed under this Code for appeal, lodge a petition for confirmation with the Registrar of the Supreme Court and serve the petition on the accused.

¹⁵ **Court of Appeal to review sentence of death**

394B. The Court of Appeal shall examine the record of proceedings and the grounds of decision and shall satisfy itself as to the correctness, legality and propriety of —

(a) the conviction of the accused for the offence for which the sentence of death is imposed; and
 (b) the imposition of the sentence of death for the offence, where the sentence of death is not mandatory by law.