



Death Penalty for Drug Offenders in Southeast Asia: Weakening of Resistance to Change?

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Abstract

Although the global movement towards abolition of the death penalty has been supported by an increasing number of countries in the world, the number of persons executed for drug offences actually increased in the last few years. Known executions for drug offences now account for more than 40 per cent of all global executions. Most such executions take place in Asia. Of the 34 countries in the world that still retain the death penalty for drug offenders, all nine of those identified as “high application states” (China, Indonesia, Iran, Kuwait, Malaysia, North Korea, Saudi Arabia, Singapore and Vietnam) are found in Asia. However, resistance to change is not as strong as before and there are hopeful shifts in drug policies in the region. This article provides an overview of the state of play regarding the death penalty for drug offenders in Southeast Asia.

Keywords: Death penalty; Southeast Asia; abolition; drug offences.

Introduction

Despite an increasing number of countries having chosen to abolish the death penalty over the years, the reverse trend is observed in countries utilizing the death penalty for drug offences. These increased by 55 per cent from 22 countries in 1985 to 34 countries in 2023 (Lines, 2007; Girelli et al., 2024). This is a particularly pressing concern since the death penalty is used predominately for drug offences, as can be clearly seen in the proportion of drug offenders on death row in various countries: Indonesia (52 per cent), Malaysia (55 per cent), Thailand (62 per cent) and Singapore (95 per cent) (Girelli et al., 2024). The number of executions has also increased: there were at least 467 drug-related executions in 2023, a 44 per cent increase from the previous year (Girelli et al., 2024).

Of the 34 countries that use the death penalty for drug offences, four of the nine “high application states”¹ are found in “death penalty-friendly”² Southeast Asia, the ASEAN member states of Indonesia, Malaysia, Singapore and Vietnam.³ Moreover, four of the 12 countries where the death penalty is mandatory for certain drug offences are also ASEAN member states: Brunei, Lao PDR, Myanmar and Singapore (Larasati & Jofré, 2024).⁴

About 15 years ago, David Johnson expressed the view that the “continued fall of capital punishment in Asia is probably irresistible ... especially if one posits a future that brings more economic development and political change to the world’s most dynamic region” (Johnson, 2010, pp. 345–346). Similarly, William Schabas expressed confidence “that more countries in South-East Asia will take significant steps towards the abolition of the death penalty in the coming years” (United Nations Office of the High Commissioner for Human Rights 2015, p. 3). On the other hand, the International Federation for Human Rights (FIDH) titled its report on the death penalty in Southeast Asia, published around the same time, *Going Backwards* (FIDH 2016). What has happened since? The aim of this article is to provide an overview of the current state of play on the use of the death penalty for drug offenders and shifts in drug policies in Southeast Asia.⁵



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Drug Policies in Southeast Asia

All countries in Southeast Asia are parties to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which obliges states to use criminal measures to counter all aspects of the illicit drug trade.⁶ But the group's commitment to deal firmly with illicit drug use and trafficking began more than five decades ago in the 1970s (Parameswaran, 2000).⁷ Successive meetings and declarations over the decades have emphasized the importance and urgency of combating this growing scourge in the region. In 1997, ASEAN leaders adopted the ASEAN Vision of a "drug-free" Southeast Asia by 2015 (ASEAN, 1998, 2000).⁸

The ASEAN posture translated to a punitive approach, characterized by compulsory treatment regimes and harsh punishments to curb the number of drug users and to decrease drug trafficking. However, the penal response led to unsustainable prison overcrowding with little impact on drug use or the availability of drugs.⁹ The majority of the offenders caught are vulnerable, low-level traffickers, while the high-level kingpins are untouched by the law (Shanmugam, 2022). In Thailand (2003), the Philippines (2016) and Indonesia (2017), the uncompromising "war on drugs" led to extra-judicial killings of suspected drug offenders, including innocent victims caught in the crossfire (Human Rights Watch, 2008, 2017; Mcrae, 2017).

The punitive approach continues to this day, including the threat of the death penalty, in almost all of the ASEAN member states. This is despite a report by drug policy experts in 2011 that the global war on illicit drugs has failed (Global Commission on Drug Policy, 2011), that drug offences do not meet the threshold of the "most serious crimes" under international law for use of the death penalty (Human Rights Committee, 2019), the questionable effectiveness of the death penalty as a deterrent (Fagan, 2015) and calls by doctors (Csete et al., 2016; Edwards et al., 2009) and the United Nations (Human Rights Council, 2023; United Nations, 2023) to end the use of the death penalty for drug offences. The Executive Director of the United Nations Office on Drugs and Crime, the agency charged with the control of illegal drugs, has stated that none of the international drug control conventions supports the use of the death penalty (United Nations Office on Drugs and Crime, 2016).¹⁰

Fifty years later, ASEAN's drug-free vision has been described as an "unfortunate mantra" and "unachievable" (International Drug Policy Consortium, 2019, pp. i, 48). Despite harsh drug control policies, illicit drug use and drug trafficking are expanding (United Nations Office on Drugs and Crime, 2023a; Zaihan & Wee, 2024),¹¹ use of amphetamine-type stimulants is rising exponentially in the region (United Nations Office on Drugs and Crime, 2023b), the quantities of illicit drugs seized are constantly increasing (e.g. see Chongcharoen, 2023; Saksornchai, 2023), and prisons are severely overpopulated (United Nations Office on Drugs and Crime 2020; Sasipornkarn, 2021; Trisadikoon & Suttiaprapa, 2024). Criminalization of drug use has been acknowledged as creating an illegal drug market, increasing deaths from unsafe drugs and hampering treatment of drug users (Queensland Productivity Commission, 2019; United Nations Office on Drugs and Crime, 2008). Calls have been made by international bodies to rethink the use of the death penalty and overly punitive drug control policies (Csete et al., 2016; Edwards et al., 2009; Human Rights Council, 2023; United Nations, 2023).

Regional Ambivalence

Although most ASEAN members are state parties to the International Covenant on Civil and Political Rights (ICCPR), only two (Philippines and Timor-Leste) have ratified or acceded to its Second Optional, which commits members to abolish the death penalty within their territories.¹² However, the position within ASEAN is not as consistent or uniform as one might expect. Table 1 shows the members' stance on the death penalty and its use for drug offences.¹³

Table 1*Stance on the Death Penalty*

State	Party to International Covenant on Civil and Political Rights (ICCPR)	Party to Second Optional Protocol to the ICCPR	Date of last execution ¹⁴	Use of death penalty			Sentence for drug offences	
				Abolitionist for all crimes	De facto abolitionist	Retentionist	Mandatory death sentence	Discretionary death sentence
Brunei			1957		•		•	
Cambodia	•		1989	•				
Indonesia	•		2016			•		•
Lao PDR	•		1989		•		•	
Malaysia			2017			•		•
Myanmar			2022			•	•	
Philippines	•	•	2006	•				
Singapore			2024			•	•	
Thailand	•		2018			•		•
Timor-Leste	•	•	1999	•				
Vietnam	•		Unknown			•		•

As can be seen from Table 1, the picture is mixed:

- Brunei¹⁵ and Lao PDR¹⁶ both have a mandatory death sentence for certain types of drug offences, but they are de facto abolitionist.¹⁷
- Indonesia, Malaysia and Thailand are retentionist states, but each is more than halfway to being de facto abolitionist. The last execution took place in 2016 for Indonesia, in 2017 for Malaysia and in 2018 for Thailand.
- The Philippines is abolitionist but there have been repeated attempts to reintroduce the death penalty (Calleja, 2022).¹⁸

The picture becomes even more complicated when we consider the voting patterns of the ASEAN member states on the UN General Assembly resolutions calling for a moratorium on the use of the death penalty over the years. The patterns are summarized in Table 2 (Amnesty International, 2019, 2021, 2023; United Nations Office of the High Commissioner for Human Rights, 2019).¹⁹

Table 2*Voting Patterns on UN General Assembly Resolutions on Death Penalty Moratoriums*

State	2007	2008	2010	2012	2014	2016	2018	2020	2022
Brunei	–	–	–	–	–	–	–	–	–
Cambodia	+	+	+	+	+	+	+	+	+
Indonesia	–	–	–	Abs	Abs	Abs	Abs	Abs	Abs
Lao PDR	Abs	Abs	Abs	Abs	Abs	Abs	Abs	Abs	Abs
Malaysia	–	–	–	–	–	–	+	+	+
Myanmar	–	–	–	–	Abs	Abs	Abs	Abs	+
Philippines	+	+	+	+	+	Abs	Abs	+	+
Singapore	–	–	–	–	–	–	–	–	–
Thailand	–	–	Abs	Abs	Abs	Abs	Abs	Abs	Abs
Timor-Leste	+	+	+	+	+	+	+	+	+
Vietnam	Abs	Abs	Abs	Abs	Abs	Abs	Abs	Abs	Abs

Although such votes may not accurately reflect present or future policies towards the death penalty and may be result of external persuasion or incentives (Pascoe & Bae, 2021), they nevertheless serve as a marker that is open to international scrutiny. In the case of Malaysia, its vote did foreshadow moves by the new government (Edwards, 2018) to restrict the death penalty – it changed its vote so it was in favour in 2018 despite being a retentionist country at the time and having voted against the resolution in all previous occasions. Its repeated votes in favour of the resolution in 2020 and 2022 signalled its desire to completely abolish the death penalty in future.²⁰

Cambodia and Timor-Leste (both abolitionist states) have consistently voted in favour of the moratoriums, but there is a mixed picture for the other states:

- The Philippines, which abolished the death penalty in 2006 and had voted in favour of the moratorium in the past, abstained in 2016 and 2018 but resumed in subsequent votes to vote in favour.
- Brunei and Singapore have consistently voted against the moratoriums. Singapore is retentionist but Brunei is a de facto abolitionist state.
- Lao PDR and Vietnam have abstained on all resolutions, but the former is de facto abolitionist while the latter is retentionist.
- The retentionist states of Indonesia, Myanmar and Thailand have changed their previous position against the earlier resolutions. Indonesia and Thailand have changed to abstaining, while Myanmar has changed to abstaining and then in favour of the moratorium even though it has resumed the use of the death penalty.²¹

Recent Developments

Of the six retentionist ASEAN states,²² three (Indonesia, Malaysia and Thailand) are more than halfway towards achieving de facto abolitionist status by not carrying out executions in recent years. Even the most steadfast supporters of the death penalty, Singapore, Malaysia and Vietnam, have seen shifts in their policies. Following a drastic drop in executions since the mid-1990s, Singapore amended its mandatory death sentence in 2012 for those who traffic above a minimum quantity of specific drugs to give judges the discretion to impose life imprisonment instead on drug couriers who satisfy certain narrow conditions (Chan, 2016). It was revealed that in the nine years since the new law came into effect on 1 January 2013, this discretion was used for 90 out of 104 drug offenders who would have received the mandatory death penalty otherwise (Chan, 2023).²³ In other words, 87 per cent of this group of drug offenders escaped the death penalty.²⁴

Since 2019, Singapore has also shifted significantly towards rehabilitation of drug users. A distinction is made between “pure” drug users who only consume drugs and those who also commit other criminal offences such as drug trafficking, and property or violent offences. The latter will continue to be charged for drug consumption offences as well as for the other offences committed. However, if they admit to their drug use, “pure” drug users will be channelled to an enhanced rehabilitation regime instead of being charged in court for drug consumption. It was estimated that up to one out of every two persons who are arrested would go through this new rehabilitation route (Shanmugam, 2019).²⁵

Across the border, Malaysia’s last hanging of a death row prisoner was in 2017 and it has imposed a moratorium on executions since 2018 (Muhammad, 2023). In a political compromise, Malaysia retained the death penalty but abolished its mandatory use for 12 offences in 2023, including for drug trafficking. The new law also allows those who have been sentenced to death earlier to apply to the court for resentencing (Chew, 2023). Although this fell short of the Malaysian Government’s original aim to abolish the death penalty in its entirety and it is still retained as an option for drug traffickers, this is still a significant development for a country that had been a staunch supporter of the death penalty for drug offences (Chew, 2023). Furthermore, Malaysia is presently considering the decriminalization of small quantities of drug use and possession (*Malay Mail*, 2024; Yuen, 2024).²⁶

Owing to state secrecy, little verifiable information is known about use of the death penalty in Vietnam, which still appears to be occurring at high levels (Amnesty International, 2024). Despite amendments to the Criminal Code of Vietnam over the years, narrowing the number of offences where the death penalty is applicable, many drug offences are still punishable by death (Lindsey & Nicholson, 2016; Luong, 2021).

However, one positive sign has emerged from Vietnam’s response to the fourth cycle of the Universal Periodic Review, which stated:

Viet Nam has implemented numerous reforms aimed at limiting the application of [the death] penalty, reserving it only for a very few cases of particularly serious crimes ... it is Viet Nam's firm commitment that the application of this punishment in reality always strictly conforms with ICCPR ... (Human Rights Council, 2024, para. 13)

Although this does not reflect a commitment to abolish the death penalty, it does indicate that Vietnam is at least willing to initiate a conversation on the topic based on international human rights norms. Almost all Western prisoners (and some from Asia as well) sentenced to death have also been granted clemency by Vietnam's President (Lindsey & Nicholson, 2016; Pascoe, 2014).

Indonesia has an informal moratorium in place, despite still issuing death sentences for drug offenders. Its last execution was in 2016. More recently, under the new Criminal Code that comes into effect in January 2026, there is a 10-year probationary period for death sentences. Under this new regime, for those who show good behaviour, the President of Indonesia may commute the death sentence to life imprisonment (Akbari, 2022; Pascoe, 2023). In addition, former President Widodo granted clemency in 2023 to a drug trafficker, Ms Merri Utami, after she spent 20 years on death row (AFP, 2023). This was a surprising development, considering that he had previously vowed to show no mercy to drug traffickers on death row (*BBC News*, 2015). Indonesia's new President Prabowo appears to be sympathetic to those sentenced to death (Gartrell & Topsfield, 2015; *The Jakarta Globe*, 2024).

As for Thailand, the most recent execution was in 2018 for aggravated murder, after a gap of nine years since the last execution in 2009 (Amnesty International, 2018; Muntarbhorn, 2021). Through an active and long-standing practice of clemency being granted by the Thai King, executions seldom take place and pardons are an expected outcome for those sentenced to death (Pascoe, 2019). The most radical change came in 2021 when Thailand repealed previous laws and enacted a new Narcotics Code, which adopted a public health, instead of a purely punitive, approach to drug control (Dickinson, 2023).

Previously, the death penalty could be applied in Thailand to anyone involved in production, importation, exportation and possession of narcotic drugs such as heroin, morphine and cocaine (sections 65 and 66 of the Narcotics Act B.E. 2522 (1979)). However, the criteria have since been tightened with the passing of the new Narcotics Code in 2021: the death penalty can only be imposed on such persons who are also leaders, persons in command or persons managing criminal networks, or where the offence poses a threat to the stability of the state or public policy (section 145 of the Narcotics Code).

By legalizing the recreational use of cannabis substances extracted from domestically grown plants that contain less than 0.2 per cent tetrahydrocannabinol in 2022 (Westover & Vorawanichar, 2022),²⁷ Thailand was the first country in the Southeast Asian grouping to drop the commitment to a drug-free ASEAN.²⁸ More significant is the change in the Narcotics Code on the use of presumptions and use of mandatory sentences. Previously, possession of 15 tablets of methamphetamine indicated an intent to traffic it; however, under the new law, possession of five tablets or less is presumed to be for personal use.²⁹ This means that to successfully convict a person of drug trafficking, there must be evidence of the intention to traffic drugs instead of merely relying on a presumption to traffic based on the quantity of drugs found. The use of mandatory sentences for those who produce, import or export, or traffic in narcotic drugs was also eliminated.³⁰

In cases of "non-serious offences"³¹ involving drug consumption or possession for personal use, the court's approach is to prioritize rehabilitation rather than punishment (section 165 of the new Narcotics Code). A range of factors may be considered by the court, including the offender's background, such as their age, past conduct, education, family obligations and reason for drug use, as well as their physical and mental health, exploitation by drug dealers and other extenuating circumstances (section 165 of the new Narcotics Code). Where the offender has no prior history of imprisonment, the court may opt for alternatives to incarceration (section 166 of the new Narcotics Code). In addition, various pathways are created for offenders addicted to drugs to seek treatment; on successful completion of such a program, they are treated as if they had not committed the drug offence.³²

This leaves Myanmar, which reversed its long-standing policy of de facto abolition when the military junta abruptly took power on 1 February 2021 (Al Jazeera, 2024; Ratcliffe & Moe, 2022). Its resumption of executions against political opponents in 2022 is in direct contrast to the wider trends developing in Southeast Asia and supports the thesis that authoritarian states find it harder to abolish the death penalty (Ankar, 2014; Bae, 2009; Greenberg & West, 2008; Johnson & Zimring, 2009; Neumayer, 2008). Even the "rebel army" that gained control of the Shan state in the north from the junta has executed persons for murder, kidnapping, abuse of power and theft of weapons (*The Irrawaddy*, 2024; Radio Free Asia, 2024). It is not possible to tell whether the use of the death penalty will continue or eventually spread to drug offences as well. Ultimately, whether Myanmar will return to its abolitionist stance may depend on whether the pro-democracy forces regain power in the country (Liljeblad, 2023).

Conclusion

Countries from around the world have increasingly given more weight to a harm-reduction³³ approach rather than deterrence as a means to control illicit drugs, particularly in relation to cannabis. Thailand is a recent Southeast Asian example of what this change entails.

In 2018, the United Nations Chief Executives Board for Coordination called on all countries “[t]o promote alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use, and to promote the principle of proportionality” (United Nations Chief Executives Board for Coordination 2019, p. 14; see also United Nations Information Service 2014). This serves to separate, for lenient treatment, those who purchase, use or possess illicit drugs from those who traffic in them.

As for the fears that any change from a punitive approach will lead to an increase in drug use and other crimes, the literature is mixed on the extent of the harmful effects following liberalization of the use of recreational drugs such as cannabis (Anderson et al., 2019; Hughes et al., 2016; MacCoun, 2010; Stevens, 2019; but see Kalayasiri and Boonthae, 2023). It was reported that after the decriminalization of drug users in Vietnam, there was a decline in “crime-related offences” as well as a decrease in new HIV/AIDS cases and death from HIV/AIDS (Luong et al., 2021). However, it must be noted that for reforms to the prevailing punitive drug policies to work, the reforms must be designed carefully, with adequate awareness and support from the public, police and prosecutors, and investment in treatment and social services (Stevens et al., 2022). The experience of Vietnam shows how important it is to retrain the police and provide adequate resources for community-based treatment programs so the new policy has the best chance of success (Luong et al., 2021).

Regional cooperation to combat drug activities requires a coordinated, if not common, drug policy. With cheap and easy travel between neighbouring countries, law enforcement on domestic as well as overseas drug possession and consumption will become highly impractical if different laws are adopted. A case example is the easy availability of “happy drinks” containing cannabis in Laos, which are smuggled across from Thailand where they are legal (RFA Lao, 2024).

Perhaps the ASEAN member states are, at best, “reductionist” rather than abolitionist with respect to the death penalty (Nicholson, 2015). However, even in this extreme fringe of the international community, there are hopeful “baby steps” towards fundamental change occurring in Indonesia, Malaysia and Thailand.³⁴ Should abolition of the death penalty happen in these countries one day, it may well be the tipping point for the remaining retentionist states in ASEAN to reconsider their positions on the death penalty and its use for drug offenders. In some ways, the change has already begun. In December 2022, Lao PDR issued a decree approving the cultivation and distribution of cannabis products for medical purposes provided certain regulations are adhered to (Decree on the Control of Medicinal Plants and Commodities (No. 3789/SorThor, 28 December 2022)). The Philippines is close to doing the same (Andrade, 2024). Even in Singapore, the region’s (if not the world’s) staunchest supporter of a zero-tolerance approach to illicit drugs, 65 per cent of the people surveyed in 2022 wanted the government to consider legalizing cannabis either for medical and recreational use or medical use only (Iau & Lim, 2022).³⁵

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¹ “High application states” are those that have carried out executions of drug offenders and/or imposed death sentences for drug offences on at least ten persons in the past five years. The other five states are China, Iran, Kuwait, North Korea and Saudi Arabia (Girelli et al., 2024).

² This expression was used by Bae (2009, p. 425) to describe Asia.

³ The terms “Southeast Asia” and “ASEAN” (Association of Southeast Asian Nations) member states are used interchangeably in this article. For the purposes of this article, Timor-Leste has been included as an ASEAN member. Timor-Leste was granted in-principle approval for admission at the 40th and 41st ASEAN Summits in Cambodia in 2022: see <https://asean.org/wp-content/uploads/2022/11/05-ASEAN-Leaders-Statement-on-the-Application-of-Timor-Leste-for-ASEAN-Membership.pdf>

⁴ The other countries are Jordan, Kuwait, Iran, United Arab Emirates, Sudan, Yemen, Oman and Syria. The death penalty is classified as “mandatory” if it is the only punishment without regard for the particular circumstances of the offence or the offender.

⁵ By no means is it suggested that there are no harmful consequences to drug use, including soft drugs (Landau, 2024). The issue is whether use of repressive and overly punitive measures, including the death penalty, is the best response.

⁶ Except for Timor Leste, the other Southeast Asian countries are parties to two earlier international drug control conventions as well: the 1961 Single Convention on Narcotic Drugs (as amended by the 1972 Protocol) and the 1971 Convention on Psychotropic Substances. These two conventions also contain requirements for penal sanctions to be used in appropriate cases.

⁷ The timing shows the influence of the “war on drugs” initiated by the United States around the same time rather than being a response to the international drug control conventions (Lines et al., 2015).

⁸ Although the original vision was not accomplished by 2015, the aim remains a “drug-free ASEAN” (ASEAN, 2017).

⁹ For data on the drug situation in individual ASEAN countries, see Kanato et al. (2023).

¹⁰ See also United Nations Information Service (2014).

¹¹ Stringent drug policies do not automatically translate to lower levels of drug use compared with countries that have liberal policies (Degenhardt et al., 2008). It has been observed that the most effective interventions are those that focus on rehabilitation and skills-building rather than punitive approaches (Barnet & Howard, 2018; Lipsey, 2009; MacKenzie & Farrington, 2015).

¹² More than 90 countries are parties to the Second Optional Protocol to the ICCPR: See

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4

¹³ The table is based on United Nations Office of the High Commissioner for Human Rights (2019, p. 24). Myanmar has been updated to a retentionist state in view of its four executions in 2022 (Amnesty International, 2023) and “discretionary” in its use of the death penalty for drug offences based on section 20 of the Narcotic Drugs and Psychotropic Substances Law 1993. Malaysia has also been re-classified as having a “discretionary” death penalty with its changes in law, see section on *Recent Developments*.

¹⁴ This includes persons executed for drug offences as well as other offences.

¹⁵ Second Schedule of the Misuse of Drugs (Chapter 27, 2001 rev ed).

¹⁶ Arts 314–316 of the Penal Code (2017).

¹⁷ De facto abolitionist states are retentionist states that have not executed persons for an ordinary crime for at least 10 years. For discussion, see Hood (2021).

¹⁸ Perhaps of greater concern is that, even after Ferdinand Marcos Jr replaced Rodrigo Duterte as President, there are no signs of a change in extra-judicial killings of suspected drug offenders (Robertson, 2022).

¹⁹ In the latest voting in 2022, there were 125 votes in favour, 37 against and 22 abstentions. In the table, ‘+’ means the state voted in favour of the resolution, ‘–’ means the state voted against, and ‘abs’ means the state abstained.

²⁰ Unfortunately, its aim to abolish the death penalty was not successfully carried out. See discussion under *Recent Developments*.

²¹ Myanmar executed four persons in 2022, terminating its de facto abolitionist status. Before that, its last execution was more than 30 years ago in 1988 (Ratcliffe & Moe, 2022).

²² Indonesia, Malaysia, Myanmar, Singapore, Thailand and Vietnam.

²³ But, contrary to the Singapore experience, the limited discretion given to judges in Malaysia in 2017 on almost the same lines was seldom used (Kowal et al., 2021).

²⁴ But it should be noted that we do not have figures for those who were prosecuted for capital drug offences but were not found to be drug couriers: Chan (2023). See also the recent spirited defence of a hardline approach to drug control by Singapore’s Minister for Home Affairs and Minister for Law (Shanmugam, 2024).

²⁵ The new policy applies to “pure” drug users, irrespective of the number of times they have been caught. Drug users who commit minor consumption-related offences such as possession of drug-taking utensils or small quantities of drugs may also be channeled to the rehabilitation regime if the prosecution agrees.

²⁶ There is a difference between decriminalization and legalization. In the former, persons caught using or possessing drugs will not be charged with a crime, but they could still be sent to rehabilitation centres for treatment.

²⁷ At the time of writing, a Bill has been unveiled to prohibit recreational use of cannabis. However, it does not classify the plant as a narcotic and continues to allow its use in herbal, food and cosmetic products (Strangio, 2024).

²⁸ The present ASEAN workplan (ASEAN, 2017) no longer mentions the aim to increase law enforcement to eradicate illicit cannabis cultivation found in the earlier workplan (ASEAN, 2009).

²⁹ Compare section 20 of the repealed Narcotics Act B.E. 2522 (1979) with section 107 of the new Narcotics Code. There are plans to lower the threshold to one methamphetamine tablet (Wipatayotin, 2024).

³⁰ Compare the repealed section 65 of the Narcotics Act B.E. 2522 (1979) with the section 145 of the new Narcotics Code.

³¹ A non-serious drug offence is one where possession of the illicit drug is for personal use: section 1 of the new Narcotics Code.

³² Sections 113 and 114 of the new Narcotics Code.

³³ “Harm reduction refers to policies, programmes and practices that aim to minimize the negative health, social and legal impacts associated with drug use, drug policies and drug laws ... It focuses on positive change and on working with people without judgement, coercion, discrimination, or requiring that people stop using drugs as a precondition of support”: Harm Reduction International, *What is Harm Reduction?*, available online at <https://www.hri.global/what-is-harm-reduction>

³⁴ But see Dudai (2024), who argues that even though the worldwide trends show that the death penalty may eventually be abolished for ordinary crimes, it may be retained for threats against national security.

³⁵ Some 53 per cent said Singapore should consider legalizing cannabis for medical purposes, while 12 per cent said it should be legalized for both medical and recreational purposes. Support for legalization was highest among those aged 16 to 34 years than those in older age groups.

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