

## Background

The UN General Assembly has repeatedly adopted resolutions calling for States that still maintain the death penalty to establish a moratorium on executions with a view to abolishing it. The most recent iteration was passed in December 2020, and urged States to ensure that the “death penalty is not applied on the basis of discriminatory laws or as a result of discriminatory or arbitrary application of the law”.

The UN Human Rights Council, UN Treaty bodies and special procedures have affirmed that the death penalty must never be imposed as a sanction for consensual same-sex relations. The Human Rights Committee, the body of experts tasked with monitoring the implementation of the International Covenant on Civil and Political Rights, has [stated](#) that the imposition of the death penalty for offences which should not be criminalized, such as same-sex relations, is incompatible with article 6 of the Covenant.

The Human Rights Committee in its General Comment 36 has explained, among other things, that “the term **“the most serious crimes”** must be read restrictively and appertain only to crimes of extreme gravity involving intentional killing. Crimes not resulting directly and intentionally in death, such as attempted murder, corruption and other economic and political crimes, armed robbery, piracy, abduction, drug and sexual offences, although serious in nature, can never serve as the basis, within the framework of article 6, for the imposition of the death penalty.”

Around the world, 70 countries have retained criminal sanctions for consensual same-sex sexual conduct, including 22 Asian countries. Several countries in Asia have reportedly continued to arrest, detain, charge and convict LGBTQI individuals pursuant to these legal provisions, including in [Bangladesh](#), [Indonesia](#), [Malaysia](#), and [Sri Lanka](#). Several other countries have also employed discriminatory and arbitrary laws, such as vague laws on **“incitement to immorality”** and **“publishing immoral acts on social media”** to target LGBTQI individuals in Asia, including in [Kuwait](#), [Lebanon](#), [Myanmar](#), and [Oman](#). The capital punishment has also been imposed on same-sex sexual relations in Asia, including in [Iran](#) and [Saudi Arabia](#). Medi reports suggest that Iran [executed](#) 2 men, earlier this year, on charges of ‘sodomy’ after they spent several years on the death row.

**Signatories :**

ILGA Asia

International Commission of Jurists

Transformative Justice Collective

Capital Punishment Justice Project

The Anti-Death Penalty Asia Network (ADPAN)

ASEAN SOGIE Caucus