

# DEATH PENALTY: MAINTENANCE OR REMOVAL ACCESS FROM SINGAPORE AND PHILIPPINES EXPERIENCE

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**Summary:** The article analyzes the view on the application or not to apply the death penalty according to the experience of two countries, Singapore and the Philippines. The article focuses on the current situation of application, clarifying the factors affecting the decision to maintain or eliminate the death penalty and the trend of implementing the death penalty in these countries in the coming time. The article also focuses on comparing the factors influencing the decision to abolish or maintain the death penalty in Singapore and the Philippines to clarify the context of the factors, the content of the dominant factors, and the consequences of the execution or failure to enforce the death penalty with society, thereby giving some recommendations to Vietnam on applying the death penalty in the country in the future.

**Abstract:** The paper examines the views on the application or not to apply the death penalty according to the experience of two countries, Singapore and the Philippines. The article focuses on the current situation of application, clarifying the factors affecting the decision to maintain or eliminate the death penalty and the trend of implementing the death penalty in these countries in the coming time. The paper also focuses on utilizing the factors influencing the decision to abolish/maintain the death penalty in Singapore and the Philippines to clarify the context of the factors, the content of the factors that govern, and the consequences of the decision to maintain/abolish the death penalty for society, to provide some recommendations for Vietnam on the application of the death penalty in the country in the future.

## **1. Introduction**

"Death penalty" is the most severe criminal sanction applied to human crimes of, particularly serious crimes. This punishment is recognized throughout the history of human development, from bold forms such as mausoleums, four-horse-braided horse, thick elephant ... to modern forms such as injections, electric chair ... According to the development of mankind and the emergence of the rule of law, capital punishment has become an accepted punishment in almost all national legal systems. However, at present, many countries around the world that apply the mechanism of suspending the execution of the death penalty and abolishing the implementation in both practice and law. The trend of abolishing the death penalty is also recognized in the international legal framework of the United Nations through international conventions such as the Convention on Civil and Political Rights (ICCPR), which recognizes the right to life of the person as a supreme right. High and especially the Decree on the Abolition of the Capital of December 1989 directed member states to take the necessary measures to completely abolish the death

penalty both in law and in practice. The number of countries ratifying and participating in the above protocol on the abolition of the death penalty is increasing. However, there are still two lines of opinion in the world about "should the death penalty be abolished or maintained?!". The two streams of opinion are stated as follows: (1) Many countries have moved to abolish the death penalty in the legal system or do not apply the death penalty in practice, (2) Part of the country continue to maintain the death penalty application and adopt more modern and humane practices.

According to many scientific reports, Asia is the region that is recorded as the place where 90% of judicial executions in the world occur, also where many countries still record, including developed countries like Singapore. , Japan, China is still applying the death penalty in the legal system and practice. However, with the vast geographical characteristics, cultural diversity, and political system, in Asia, there are a few countries that have implemented the elimination of the death penalty from the law such as the Philippines, Nepal. . The question arises: "So what are the decisive factors in the maintenance or abolition of the death penalty in Asian countries?". Answering this question will help to clarify the internal problems of each country, from the political perspective, legal awareness, and social realities of the death penalty policy. To focus on clarifying the above question, the article focuses on two countries, Singapore and the Philippines, which represent two existing points of view in the world on the abolition or maintenance of sentences. death. In these countries themselves, there are still conflicting views as Singapore is known as a developed country in Asia that is still maintaining the death penalty in reality and the laws of the countries are on a downward trend. the execution of the death penalty to the lowest level; The Philippines has been a member of the 2007 Abolition Protocol, but in recent statements by the Philippine leaders, it is ready to restore the death penalty to enforce social stability and fight against crime. The study, identification, and review of the case of the two above countries will clarify the factors that influence the decision whether or not to execute the death penalty, thereby assessing the necessity of "maintaining or not. abolish the death penalty ”in each country.

## **2. Theory of the "death penalty"**

### **2.1 Concept:**

The term "Death penalty" (Capital punishment) is derived from the Latin word "*capitalis*", which is derived from the word *caput*, meaning head, with the implication that the head is the part associated with life, head-loss punishment is depriving of an individual's life. "The death penalty" is the most severe criminal sanctions of a state, resulting in deprivation of the right to life, permanently excluding an individual from society.[\[1\]](#).

In Vietnam's criminal law, the death penalty is the most severe and special kind of punishment in the penalty system. According to Article 40, the Vietnam Penal Code 2015 amended and supplemented in 2017 cites the concept of "death penalty" as follows: "The death penalty is a special penalty only applicable to special offenders." serious is one of the crimes of infringing upon national security, human life, drug-related crimes, corruption and some other particularly serious crimes as stipulated by this Code ”. The death penalty deprives the convicted person of the right to life and is decided by the Court.

In short, it can be understood that the death penalty *is the deprivation of a person's life according to a sentence declared by a lawfully established Court, to punish that person for committing a special crime. serious difference*[\[2\]\[3\]](#).

There are many opinions that the death penalty has been applied since ancient times since human society was shaped. This is expressed and recorded in the legends, customs, customs, and ancient human texts and bibliographies. With the emergence of the death penalty, history also records how the execution of the death penalty has been adopted by man. The methods of execution of the death penalty have been recorded in human history such as: stoning to death (Jewish Community); execution and death, poison drinking (Greece); put in sacks and thrown into the river (ancient Rome); burned alive, beheaded, hanged (medieval Europe, feudalism); thrown into the cauldron of oil, mausoleum, thick elephant (China). Notably, some countries in Europe and Asia also organize the public execution of the death penalty. A part of the people expressed interest, calmness or was forced to witness the executions. Forms of execution of the death penalty began to be less "brutal" when the modern state emerged and ideas about civil rights, especially the right to life, were formed and developed. These factors force the pronouncement and execution of the death penalty to be carried out carefully, with a rigorous and accurate process, and to uphold human rights. The scope of criminals where the death penalty can be applied has also changed notably, the strong trend of reducing and eliminating the death penalty in the world has eliminated the death penalty in many ways. crime. The decision on the scope of the execution of the death penalty is no longer limited to the jurisdiction of each country but becomes an international legal issue on human rights, in which there are many documents. International lawsuit closely refers to provisions relating to the reduction and elimination of the death penalty and the enforcement procedures of this penalty.

## **2.2 Characteristics:**

The Death penalty is a special punishment, so it has the common characteristics (signs) of other types of punishment such as: (1) it is a strict coercive measure of the State; (2) is the unity between punishing and reforming and educating offenders; (3) associated with crime; (4) is regulated in criminal law; (5) is applied by the Court according to a strict and fair procedure for the convicted person "(6) is a tool to protect the social relations of life ... there are four distinct characteristics. The difference is as follows:[\[4\]](#)

*First, the* death penalty is the most severe in the penalty system, only applicable to people committing particularly serious offenders and in particularly serious cases;

*Second, the* death penalty is intended to radically prevent crime, namely deprivation of the right to life, the opportunity for reintegration and recovery from the side of the convict;

*Third, the* death penalty is highly effective in general prevention;

*Fourth, the* death penalty is of the same nature, depriving the possibility of overcoming mistakes in judicial activities that are likely to occur in practice;

## **2.3 Views on the maintenance or elimination of the death penalty in the world:**

### **2.3.1. About common views in the world**

The maintenance or elimination of the death penalty has become an ethical and legal controversy around the world. This also leads to the formation of two schools of concept about the death penalty, in which, in terms of support, the argument is invoked on the following elements:[\[5\]](#)

*First*, the death penalty is based on the concept of "taking atonement" that has existed since ancient times to punish offenders. This argument has had a significant impact on thinking about the death penalty, both ethically and legally. Accordingly, the person sentenced to death must pay the price for his serious offenses and the death penalty is considered necessary compensation for the losses incurred by the victim and their families. Here, the deprivation of the right to life of the convicted person is considered to be of equal value with the consequences of the offense.

*Second*, the death penalty is a special deterrent, irreplaceable in the prevention of murder or other serious crimes. From the point of view that each person's behavior is affected by fear, so the death penalty countries argue that fear makes those intending to commit crimes to think of the possible consequences. suffer, including the death penalty.

*Third*, the death penalty is less expensive for society than life imprisonment.

*Fourth*, apply the death penalty to remove the most dangerous criminals from society so that individuals do not have the opportunity to threaten the security and peace of society and the human rights of the subjects. other.

Regarding the idea of abolishing the death penalty, many countries, organizations, and individuals believe that the maintenance of the death penalty is unnecessary, ineffective, and fairly based on the following comments.[\[6\]](#)

*First*, it is not correct to consider the death penalty as an effective method of deterring crime. Resolution No. 2010 of the United Nations on "suspending the use of the death penalty" stated that "there is no clear evidence of the deterrent value of the death penalty", which further affirms the execution of the death penalty is not as effective in preventing crime better than other penalties.

*Second*, the execution of the death penalty in case of injustice will not be remedied, especially in countries with a weak judiciary.

*Third*, according to Amnesty International, the application of life imprisonment for criminals that threaten social security has the effect of highly preventing their recidivism, so the application of the death penalty Figure is not required. Also, this organization believes that the execution of people sentenced to death for the reason they took someone else's life is revenge, not justice.[\[7\]](#). Imposing life imprisonment also allows people convicted of particularly serious offenses to be reinstated if a previous court judgment is dismissed and found guilty (remedial). the wrong cases).

*Fourth*, the death penalty is not always a compensation for losses to the victim and their families. As many studies have shown, not all victims and their families feel compensated when offenders are executed. Many victims and their families choose to forgive offenders because they believe that taking the life of a person should not be used in response to murder or other serious

crimes. After all the death penalty does not relieve them of suffering, but it prolongs the suffering for the family of the convicted.

*Fifth*, the notion that the application of the death penalty is less expensive than life imprisonment is not entirely correct because maintaining the death penalty involves a variety of expensive costs such as prosecution costs, trial, execute judgments, bury the executed person.

*Sixthly*, from the point of view that the State's role is to protect people's lives and property rather than depriving them of their right to life, so the state should not impose the death penalty, even with particularly serious crimes.

### **2.3.2 Regarding international documents governing the application and abolition of the death penalty in the world**

Currently, in the world at the international and regional level, there are many treaties and resolutions of the United Nations on promoting the abolition of the death penalty, of which 2 core international treaties on this issue are (1) Article 6, International Covenant on Civil and Political Rights, 1966 and (2) Optional Second Protocol on the Abolition of the Capital Penalty under the International Covenant on Civil and Political Rights 1989.

The International Covenant on Civil and Political Rights (ICCPR) was the first human rights document calling on states to limit the death penalty. Although there are no specific provisions preventing countries from applying the death penalty, in Article 6, ICCPR has affirmed and acknowledged that the right to life is the supreme right protected by law. Article 6, ICCPR also actively sets strict standards for countries still applying the death penalty, specifically: (1) Only the death penalty can be applied to serious crimes. Most of them, according to General Comment No. 36, the most serious crime must be understood very closely and involve only particularly serious crimes, including intentional murder; (2) Is executed only based on a fair judgment pronounced by the Court of Competence; (3) The death penalty is not imposed on offenders under 18 years of age and pregnant women; (4) The convicted person has the right to apply for parole or change of the penalty; (5) Not applicable when rights under ICCPR are violated. It can be seen that Article 6 of ICCPR affirms that criminals if not directly and intentionally cause death, though their nature is serious, cannot be invoked to apply the death penalty under this Article. That excludes the death penalty from criminal groups such as corruption, drug-related crimes, sex, murder, etc.

The second optional protocol on the abolition of the death penalty is currently the only international treaty on the abolition of the death penalty. The objective of the protocol supports the trend to abolish the death penalty, in which through the network of states that ratify it, it aims to promote the general principle of treating the death penalty as a violation of human rights. From its very first provision, the protocol required participating states to prohibit the application of the death penalty and to take measures to abolish the death penalty within its jurisdiction. The Protocol also does not allow reservations or strict provisions on enforcement procedures and complaints regarding the use of the death penalty.

### **3. Current situation of the execution of the death penalty in Singapore:**

Singapore is a developed country in Asia that is still maintaining the death penalty along with Japan and Taiwan. The death penalty in Singapore dates back to the British colony and the country was called the "execution capital" because of the world's second-highest rate of execution from 1994 to 1998.[\[8\]](#). The death penalty and the execution of the death penalty in Singapore are seen as a symbol that affirms the country's social order and purity and a deterrent and control measure of crime in society. This applies particularly strongly to murder and drug-related crimes as well as certain gun and weapon-related crimes. The legal system of Singapore has 5 laws regulating the types of crimes subject to the death penalty, including the Penal Code, the Law on Drug Abuse, the Law on Homeland Security, and the Law on the Use of military weapons, and the Law on Anti-kidnapping.

Until now, Singapore continues to maintain and enforce the death penalty in practice. This can be derived from the following points of view:

*Firstly*, Singapore's leaders believe that the retention of the death penalty is to protect the legitimate rights and interests of the nation, ensure stability, security, order, and social stability;

*Second*, the death penalty system is the foundation of the criminal institution in Singapore because according to this country, the death penalty has strong control and deterrent ability to crime and citizens' behavior in society. As a result, the criminal institution in Singapore is characterized by its "intolerance", "toughness to crime" and "strong anti-drug". The State argues that it is imperative to execute drug traffickers to promote crime control efforts.

*Third*, Singapore's government system inherits from the colonial model, namely Westminster, a parliamentary democratic state system following the political model of Great Britain. In the process of rebuilding the state, the legal system inherited the death penalty in the Westminster model as a means of ensuring the survival of the new nation under the strong influence of drugs from the region. Golden Triangle.

*Fourth*, Singapore has built and propagated in society an idea of "putting the nation above the community and society above itself". Here, this ideal has led to the legitimization of the sacrifices of individual rights to ensure the stability and security of society and to protect the nation against regional problems, particularly specialties related to drug crimes.

*Fifth*, Singapore argues that the death penalty is used as a measure in the case of protecting citizens from becoming victims in the face of national challenges.

*Sixth*, the majority of Singapore's population believes that the death penalty should be maintained as it keeps them safe and the penalty is only for a small number of crimes.[\[9\]](#). There is virtually no public debate in Singapore about the abolition of the death penalty. It is explained that the people of this country are influenced by the Chinese ideology that harsh punishment helps to maintain social peace and stability.[\[ten\]](#)

From the above points of view, it can be seen that Singapore has tried to find a way to connect and build a close correlation between the effectiveness of the use of the death penalty and its internal issues such as the judicial system, Crime rate, safety in community with death penalty execution. The reason Singapore invoked to continue to maintain the death penalty is that the

country has made that the death penalty has a strong connection with the deterrence and control of crime in society. Even the death penalty is considered an essential foundation of the criminal justice system and a powerful tool to establish the authority of the criminal system, social order, and suppression of crime. The country itself in the early stage of its establishment has identified itself as vulnerable due to its geographical proximity to high drug crime areas, so it is necessary to have a protection mechanism. A further reinforcing reason for the death penalty in Singapore was that the country invoked the ideal of "collective protection and the sacrifice of individual's rights" into the community. This can be explained that the country prioritizes the maintenance and development of community-based values, and this also allows the state to neglect some individual rights, including the right to life. On the government side, Singapore has stated that the death penalty is only used in the most serious crimes and that the death penalty has kept it the safest place to work and live in the world. . In a report as of May 2020<sup>[11]</sup> [The](#) rate of crime related to guns, kidnappings, and drugs has been reduced significantly when the death penalty is used, and the people surveyed said the death penalty was more effective than the imprisonment. life in crime deterrence. Many reports indicating that Singapore did not carry out an actual execution between 2010, 2012, 2014. This could be explained by the fact that factors that maintained the death penalty were effective in deterrence, stabilizing order, reducing the crime rate in Singapore. Despite going against the current trend of the world to abolish the death penalty, Singapore has also demonstrated certain achievements in crime control, creating a safe environment for people, and stabilizing order. , national security through the maintenance of the death penalty.

#### **4. Current situation of the execution of the death penalty in the Philippines:**

Unlike Singapore, the Philippines is also a country in Asia but chooses a different direction. This is one of three ASEAN countries that have abolished the death penalty. Since 1986, the Philippines has ratified and became a member of the ICCPR, and in 2007 became a member of the Protocol to Abolish the Death Penalty.

The process of abolishing the death penalty in the Philippines is relatively complicated. Initially, from the colonial period of Spain and America, until after independence (1946), the Philippines was still a country applying the maintenance of the death penalty. With the development of the legal system, especially under the leadership of President Ferdinand Marcos (1965-1986), the use of the death penalty has been expanded, covering also the illegal trade of narcotics. drug.

However, in 1987, the Philippine Constitution abolished the death penalty, although it still maintains a provision that allows the death penalty to be imposed on extremely cruel crimes. This event marked the Philippines becoming the first country in Asia to abolish the death penalty. By 1999, the death penalty was restored and maintained until 2006, when the President passed Act No. 9346 on the abolition of the death penalty. The Philippine government ratified the Protocol to Abolish the Death Penalty in 2007 and abolished the execution of the death penalty in the country for a long time. However, new President Rodrigo Duterte in 2016 said that the restoration of the death penalty is an effective deterrent to criminals. He cited that restoring the death penalty to preserve social order and safety and fight crime. This was also supported by a majority of Filipinos

when 10 people were asked, 6 people, supported the recovery of death sentences related to drugs.[12]. Then, in February 2017, the Philippine House of Representatives passed a bill on the use of the death penalty for several drug-related crimes. Currently, this bill is waiting for the approval of the Senate. Compared to the House of Representatives, the Philippine Senate has a relatively independent stance and has repeatedly rejected some President initiatives. However, the victory of Duterte's allies in the Senate midterm elections has partly helped the President feel more comfortable in implementing his reform projects. With the support of the new president and most Filipinos (67%)[13], the country will likely restore the death penalty.

There are 3 main bases for wanting to restore the death penalty in the Philippines:

- (1) Socio-political values such as authoritarianism and conservative politics exist strongly in society through a part of the people supporting the establishment of a dictatorial government;
- (2) The criminal populism under President Duterte was well promoted in the campaign against drug crime.[14].
- (3) There is a belief that the death penalty is an effective crime deterrent.

The Philippines is a country with a very high number of drug crimes and drug addicts, but under President Duterte, he had "straightforward" policies to handle this group of people. According to a survey by Social Weather Stations in 2019, 79% of Filipinos expressed satisfaction, believed in this anti-drug campaign, and said that the campaign has contributed to reducing the number of drug crimes. There is also the view that Duterte's treatment policies are a form of unlawful murder and that this straightforward handling is creating the illusion that such killing is legal and effective in eradicating evil. drug abuse as well as reducing the number of users and crimes in the country. There are many views that the maintenance of the death penalty in the Philippines is having serious consequences for society and many issues are not fully considered. First, the indexes of the rule of law of the Philippines have declined since Duterte took power, especially the human rights issue that has received numerous accusations. Many questions raise that "Is there any abuse in the anti-drug campaign to execute people illegally or not?". Second, the death penalty puts great pressure on death row inmates because they are mostly poor and lack legal support. They also do not have adequate access to justice due to insufficient costs to pursue lawsuits. The Philippines judicial system was heavily criticized, its ineffective operations combined with a high rate of errors in judicial adjudication, leading to a very large rate of injustice in death penalty cases, reaching 71.77%. from 1993 to 2004[15]. Third, the increase in crime not only comes from the maintenance or elimination of the death penalty but also from the core causes of crime formation such as poor economic conditions, income inequality. Great entry, lack of a job, not sufficient education. The Philippines' restoration of the death penalty during this period was practically untimely and continues to have alarming consequences for society as justice in this country has not been fully enforced, reducing attracting foreign investment due to human rights abuses, people's distrust of the state apparatus, judicial system overload, and the nation will face international sanctions for violating national laws following the previously approved protocol on the abolition of the death penalty.

## **5. Some recommendations for Vietnam**

Through the two cases of Singapore and the Philippines, it can be seen that there are many factors within the country affecting the decision to maintain/eliminate the death penalty. Now summarizes and gives some views for Vietnam as follows

First, the maintenance or elimination of the death penalty depends on the values, opinions of the leaders, or the opinion of the people in the country. Approaching from Singapore, the national leaders recognized the values that the maintenance of the death penalty can meet the current needs of the country such as ensuring security, social order, and establishing the safest school for the people. In this case, Singapore has set its national goals ahead of the world's trends to see it extremely focused on internal problems and used this as the main platform for choosing solutions. nation. In Vietnam, the death penalty is still maintained with the reason that is to meet the requirements of crime prevention and combat due to the increasing crime in size and nature, the appearance of many gangs, and roads. crime chain is transnational and regional and has caused many negative impacts on socio-economic life. This is both a major national goal as well as a desire for a safe, secure, and secure life of the Vietnamese people.

Second, the maintenance or elimination of the death penalty is intended to solve necessary national problems. It should be recognized that either Singapore or the Philippines have urgent national problems and they choose to use the death penalty as a way to deal with it. Both countries share issues such as ensuring social order and security, dealing with drug-related crimes, but the effectiveness in applying the death penalty varies. It can be said that Singapore has succeeded in using the death penalty as an effective crime deterrent by combining the fierce criminal policy framework with the success in building the idea of "the collective" for the people. The obstacle of the Philippines comes from the widespread use of the death penalty by the country, leading to serious condemnation of human rights, which in turn leads to many negative consequences to the society and effectively applies the death penalty. picture in society is not high. With Vietnam, the maintenance of the death penalty

Third, in the case of maintaining the death penalty, attention should be paid to the social environment maintained and the resulting consequences should be controlled. Singapore has been successful in maintaining a stable social environment, maintaining people's belief in the link between the success of the execution of the death penalty and crime control, ensuring the maintenance of social order. Association and protection for the people. The Philippines has faced many obstacles due to the rampant execution of the death penalty that has led to a social environment raising doubts about the correctness of the use of the death penalty, increasing social injustice, and pressure on the system. Justice. The Philippines' approach to the use of the death penalty has not yet stemmed from the root cause of the crime, not dealing with issues such as income, inequality, and employment of the poor. with the rampant suppression of drug crimes that have resulted in many human rights violations, citizens' skepticism into the state and the criteria of the rule of law have declined. From the perspective of Vietnam, the country has been very careful in combining the application of the death penalty with the stabilization of social issues to avoid creating political instability. However, Vietnam still needs to pay close attention to the

consequences related to investment attraction, keeping the confidence of the people, ensuring a competent, effective judicial system, and fully meeting housing criteria. the rule of law while still applying the death penalty.

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