

SUBMISSION FOR THE SPECIAL RAPPOREUR ON EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS

Submission from:



On behalf of **Taiwan Alliance to End the Death Penalty**

28 April 2022

A. ON IMPACT OF THE DEATH PENALTY

i) Individuals sentenced to death

1. The Taiwanese government does not have a policy towards a moratorium regarding the death penalty.
2. As of 31 December, 2021, Taiwan has 38 death row inmates (37 males, 1 female).
3. Out of 38 death row inmates, 34 have applied for the presidential pardon, but have not received any positive response from the president. These 34 death row inmates are looking for legal remedies.
4. There were no death penalty verdicts handed down nor executions carried out between 16 December 2020 to 20 April 2022, however, no death sentences were overturned or commuted either.
5. As of 31 December 2021, there are 7 death penalty cases on appeal, all concerning males.
6. There is no prohibition on the execution of people with known mental or intellectual disabilities. This is despite Taiwan having enacted domestic legislation giving effect to the ICCPR and CRPD.¹

ii) Procedures and conditions of detention

7. The *Citizen Judges Act* will come into effect in January 2023, and will require that three professional judges and six citizen judges will rule a case together. A unanimous decision is not necessary to reach a verdict; between the judges and the citizen judges, only a two-thirds majority is required.

¹In 2009, the Taiwanese legislature passed laws which effectively ratified the ICCPR and ICESCR; Article 19 of Taiwan's Criminal Code provides for reduced culpability where the accused is 'suffering from a mental disorder or defect'; Disabilities Rights Resource Network, 'Domestic Legislation' *Centre for Comparative and Public Law, University of Hong Kong* (Web Page) <<https://www.disabilityrights.law.hku.hk/taiwan>>; Wen-Chen Chang, 'Case dismissed: Distancing Taiwan from the international human rights community' (2011) *My Country Kills: Constitutional Challenges to the Death Penalty in Taiwan* 47, 57.

8. This new legislation may apply to criminal cases which attract a high risk of the death penalty, including manslaughter. Whether the new legislation will increase the number of death sentences is hugely concerning.
9. The space for death row inmates is a 4.5 metre square room for two people. The stated outdoor exercise time is 1 hour but in reality, it is always less than 30 minutes.
10. We have also found that in the past two years due to COVID-19 measures, the quality and frequency of meetings with lawyers and family members have been affected. There have been cases where the court did not allow an accused facing the death penalty to be tried in person for reasons of COVID-19.
11. There is concern over whether defendants have access to a fair trial and effective defence.

iii) Family members

12. Little research has been conducted on the effect of the death penalty on children of death row inmates. From what we have seen, the stigmatisation of death row inmates' families makes them reluctant to ask for help or to discuss their incarcerated family member, and they are less likely to access any resources or assistance.
13. Regardless, there is no government assistance for the family of death row inmates.

iv) Other individuals

14. There is little research on the mental health impact of those involved in executions. There is a lack of support for executioners and prison officers to be able to manage stress and pressures, which in turn affects how they treat death row inmates and worsens 'death row syndrome'.²

B: ON EXECUTION

i) Lead-up to execution

15. The method of execution is governed by the 'Regulations for Executing the Death Penalty' ('Regulations') in Taiwan. There are no documented rules requiring family members and lawyers of death row inmates to be informed prior to execution.

² This has been used to describe prisoners who develop mental destabilisation as a result of the uncertainty of awaiting execution. See Owen Bowcott, 'A fight to the death: stopping the death penalty in Taiwan' *The Guardian* (4 October 2016) <<https://www.theguardian.com/world/2016/oct/03/death-penalty-capital-punishment-taiwan>>.

ii) Methods of execution

16. The Regulations outline that the forensic medical examiner administers anaesthetics to the defendant by injection. The execution is then carried out by one executioner shooting the defendant.

iii) Treatment of bodies of the executed

17. The government returns the body to the family of the defendant. If there is no family to collect the body, the government buries it in the public cemetery.