

## **Global Death Penalty Abolition Trend: A Critical Appraisal of Bangladesh in Context**

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### **Abstract**

The central contention about the death penalty is that it defiles universally recognized human rights, particularly the right to life and dignity. The United Nations asks each of its members to observe international law by minimizing, curtailing, and possibly declaring a moratorium on the use of the death penalty to eliminate it. Furthermore, several international instruments have been adopted to eradicate the death penalty, and numerous countries have signed, ratified, and carried out actions under those treaties. This study investigates the policies and practices of Bangladesh, a retentionist country, concerning the death penalty in contemporary eras where the global trend pushes to eliminate, reduce, and suspend the death penalty to abolish it eventually. According to the research findings, Bangladesh has signed and ratified some anti-death penalty international human rights instruments; consequently, it complies with a portion of international rules regarding the use of the death penalty. Finally, the study makes several recommendations for restricting, reducing, and minimizing death penalty provisions while remaining committed to its abolition and considering global trends and international guidelines.

**Keywords:** Death penalty; Abolition trend; Penal policy; Bangladesh; Criminal justice.

### **Introduction**

Historically, punishments have been regarded as the primary tool for preventing and deterring crime in society. In many nations, the death penalty is the most severe punishment for crime prevention. It has been deemed an effective method of deterring and preventing crime. However, the death penalty has lately been chastised for its ineffectiveness in terms of crime reduction or prevention<sup>i</sup> and human rights violations (Dang & Nguyen, 2023, p.14). It is also claimed that the state authority may use the death penalty arbitrarily and indiscriminately to suppress political opposition (Islam, 2024, p.622). “The right to life” is the sacred, undeniable, and most valuable right of human beings. It is widely recognized and safeguarded human rights by international human rights instruments.<sup>ii</sup> The Sustainable Development Group of the United Nations indicated that protecting

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the right to life is a shared responsibility among states and societies. Hence, abolishing and eliminating capital punishment is critical to promoting and protecting human rights (Dang & Nguyen, 2023, p. 13). The United Nations (UN) General Assembly Resolution 1977 upholds the conception that “the right to life is an inherent, sacred and inalienable right of human beings” (Dang & Nguyen, 2022, p.3, 2023, p.7). The resolution proclaims that the application of the death penalty would gradually decrease the number of offences to eliminate the punishment (UN General Assembly Resolution, 1977, p.28).

As a UN member, Bangladesh has approved numerous global human rights and anti-death penalty treaties, including the UDHR, ICCPR, the United Nations Convention on the Rights of the Child (UNCRC), and the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Bangladesh, on the other hand, has not signed the most pertinent anti-death penalty treaty, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. ICCPR does not explicitly prohibit the death penalty; however, it requires member states to restrict the imposition of the death penalty for the “most serious crimes” (UNHRC, 2019, P.33).

According to the study, Bangladesh's penal laws violate international human rights instruments in three ways. First, the country embraces the death penalty provision for economic, drug-related, and non-serious crimes. Second, it incorporates the attempt and abetment to commission certain crimes punishable by the death penalty. Lastly, since becoming a state party to the ICCPR, Bangladesh has assimilated several new offences carrying a punishment of the death penalty. The research in this study extensively displays the death penalty abolition movement from a historical perspective to a contemporary global trend. In addition, the study has identified Bangladesh's appetite and approach to relaying the death penalty in order to deter crime by tallying new offences liable for the death penalty. The study aims to investigate ongoing global trends regarding eliminating the death penalty and Bangladesh's policy and practices for those interested in this topic and academic researchers for future research endeavors. Finally, the study's goal is to draw policymakers' attention to the research output to develop new policies.

## **Punishments in Bangladesh and the Death Penalty**

### **A. Modes of Punishments in Bangladesh**

In the context of Bangladesh, criminal law encompasses five distinct categories of punishment, namely: “a) Death; b) Imprisonment for life; c) Imprisonment, which is of two descriptions, namely- (1) Rigorous, that is with

hard labour; (2) Simple; d) Forfeiture of property; e) Fine.”<sup>iii</sup> Furthermore, in addition to the penalties above, further sanctions have been established via later legislative measures. By the prescribed legislation, those found guilty of certain offences may be subject to the penalty of ‘whipping.’<sup>iv</sup> Additionally, the ‘detention in reformatories’ punishment has also been designated for juvenile delinquents and teenagers.<sup>v</sup> The criminal laws of traditional legal systems do not include the penalty of ‘transportation’ or ‘transportation for life.’ However, the procedural law, the Army Act, and The Enemy Agents Ordinance 1943 have duly documented this item.<sup>vi</sup> The Penal Code provides an interpretation that the sentence of ‘transportation for life’ should be understood as equivalent to incarceration for life.<sup>vii</sup> The court may award a sentence of ‘solitary confinement’ upon the criminal for specific periods of their incarceration.<sup>viii</sup>

### **B. Punishment of the Death Penalty**

The death penalty denotes the “execution of an offender sentenced to death after conviction by a court of law of a criminal offense” (Hood, 2021). The act of imposing a penalty upon an offender, known as the death sentence, is accompanied by the implementation of that sentence, often referred to as execution. Typically, a prisoner who is awaiting execution is often referred to as being “on death row.” Offences that are subject to the death penalty are sometimes referred to as capital offences, capital crimes, or capital felonies (Hood, 2021).

The specific offences liable to the death penalty vary across jurisdictions. However, commonly recognized categories of crimes that fall within this scope include murder, mass killings, war crimes, genocide, crimes against humanity, aggravated cases of rape, sexual abuse of a minor, abduction, armed robbery, drug distribution, drug trafficking, drug possession, aircraft hijacking, and acts of terrorism. Certain offences, especially those directed against the state, are also subject to capital punishment. Examples of such crimes comprise but are not restricted to engaging in an act of insurrection with the intent to overthrow the government, inciting rebellion or resistance against the established authority, engaging in espionage activities, committing acts of treason against the state, and engaging in acts of piracy. Certain Muslim nations have implemented the death penalty as a legal punishment for certain offences, which are determined by Islamic law. These offences include adultery,<sup>ix</sup> fornication, prostitution, sodomy, apostasy,<sup>x</sup> and blasphemy<sup>xi</sup> (Hood, 2021). Certain states impose the death penalty for definite crimes. For instance, in Bangladesh and China, human trafficking is a matter of the death penalty. Similarly, economic crimes, including corruption, in China and Iran may result in capital punishment. Additionally, political rallies in

Saudi Arabia have been known to be met with the death sentence (Agerholm, 2017).

The implementation of capital punishment is conducted using a range of techniques worldwide, including beheading, firing squad, hanging, electrocution, stoning, lethal injection, and gas chamber execution (Kronenwetter, 2001; Hood, 2021; DPIC, 2021). Bangladesh has adopted the practice of using hanging as a means of executing the death sentence.<sup>xii</sup> Public executions have been carried out in several countries as a means of implementing the death sentence.<sup>xiii</sup> International law forbids some methods of execution due to their inconsistency with human dignity.<sup>xiv</sup> According to the pronouncement of the United Nations Human Rights Committee, it has been determined that practices such as stoning, unproven lethal injection, gas chambers, burial and burning alive, and public executions are deemed to violate international norms and regulations (UNHRC, 2019, P. 40).

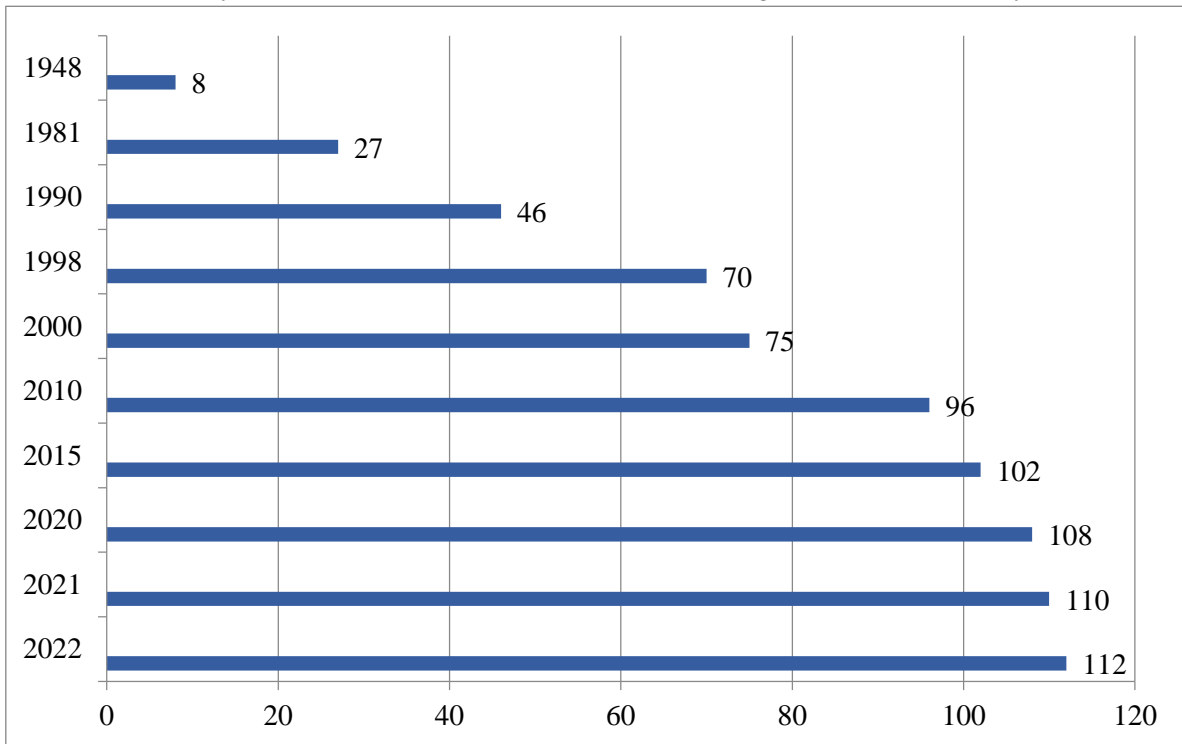
### **Global Death Penalty Abolition Trend and United Nations' Attempt**

#### **A. Most recent death penalty abolition trends**

Currently, most nations across the globe are included in the category of abolitionist states. As per the report published by Amnesty International, a total of 112 countries have implemented a complete elimination of the death penalty for all categories of crimes. Furthermore, 145 nations have either removed the death penalty by legal means or in practice (Amnesty, 2023). According to Amnesty reports, there has been a fluctuation in the rate of execution and implementation of the death penalty since the previous year. During 2020, a total of 483 individuals were executed globally, excluding China. This figure represents a decrease of 26% compared to the previous year, 2019. In contrast, there were 579 notable executions recorded in 2021, with a 20% spike compared to the preceding year. Furthermore, in 2022, there was a substantial rise in the 883 recorded executions, amounting to a 53% increase compared to the previous year. According to said reports, a notable decrease of 36% in the overall global use of the death penalty in 2020 compared to the previous year. However, in 2021, the number of countries that imposed the death sentence increased by 39% to 56 nations. In 2022, the number of countries that imposed the death penalty decreased from the previous year to 52 (Amnesty, 2021; Amnesty, 2022; Amnesty, 2023, p.7).

Despite the varying rates of death penalty imposition and execution, there has been significant improvement in recent times in global opposition towards capital punishment. In 2020, Kazakhstan ratified “the Second Optional Protocol to the International Covenant on Civil and Political Rights, with the objective of eliminating the use of capital punishment.” As a result, in 2021, the legislative

body passed a law to eliminate the death penalty for all categories of crimes, which subsequently came into effect in 2022. Furthermore, it is noteworthy that in 2021, the parliament of Sierra Leone enacted laws to abolish the death penalty for all crimes, which is set to take effect in 2022 (Amnesty, 2021, 2022, 2023, p.8). In 2022, four nations enacted legislation to abolish capital punishment entirely for all categories of offences, while two nations specifically outlawed the death penalty solely for ordinary offences (Amnesty, 2023, p.8). In the year above, Malaysia expressed its resolve to abolish the mandatory death sentence for a total of eleven felonies, encompassing acts such as murder, terrorism, and drug-related offences. In accordance with recent developments, the country has eliminated the mandatory death sentence at the onset of 2023 (Yong, 2023). Additionally, the



country declared legislative revisions pertaining to the use of the death sentence for an additional 22 criminal offences. Nevertheless, Malaysia has implemented a moratorium on the death penalty since 2018 (AL-JAZEERA, 2022; Amnesty, 2022b; Singh, 2022).

**Figure 1: Quantity of nations eliminating the death penalty**

Source: Amnesty International Global Report.

In a nutshell, in 1948, the UDHR declared that eight countries had eliminated the death penalty. In 1998, fifty years later, 70 nations had done so, and

112 countries had abolished it in law by the end of 2022 (Dang & Nguyen, 2023, p.14; Amnesty, 2023). While states' approaches to the death penalty vary, there is a clear trend towards its abolition.

Bangladesh is an Asian country and is an essential member of the South Asian Association for Regional Cooperation (SAARC). Though Bangladesh retains and continues to execute the death penalty, many Asian countries and SAARC member states have eliminated it in law or practice.

**Table 1: SAARC countries abolishing the death penalty**

Year	Country/ Territory	Abolishing mode
1997	Nepal	Abolished in law
2004	Bhutan	
1954	Maldives	Abolished in practice
1976	Sri Lanka	

*Source:* Death Penalty Information Center (DPIC), and Amnesty International Report.

**Table 2: Other Asian countries abolishing the death penalty**

Year	Country/ Territory	Abolishing mode
1989	Cambodia	Abolished in law
1993	Hong Kong	
1998	Azerbaijan	
1999	Turkmenistan	
2002	East Timor	
2006	Philippines	
2007	Kyrgyzstan	

2008	Uzbekistan	
2017	Mongolia	
2021	Kazakhstan	
2023	Malaysia (mandatory death penalty)	
1957	Brunei	
2004	Tajikistan	

Source: Death Penalty Information Center, and Amnesty International Report.

#### **United Nations' attempt to eliminate the death penalty**

The fundamental and essential human right for individuals to possess and exercise all other human rights is the right to life. The significance and relevance of all other rights may be contingent upon the establishment and assurance of the right to life (Islam, 2015). The application of the death penalty is in direct defilement of the fundamental human rights to life and freedom from torture or cruel, barbaric, or degrading treatment or punishment<sup>xv</sup> (Amnesty, 2021; Dang & Nguyen, 2023, p.14).

In order to provide a sufficient guarantee for the safeguard of the right to life, the UN adopted the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty commits the participating nations to refrain from engaging in the practice of capital punishment.<sup>xvi</sup> In 1989, the UN Economic and Social Council (ECOSOC) officially endorsed Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty. The safeguards ensure that those sentenced to death have the right to challenge their conviction and petition for clemency.<sup>xvii</sup> The UNCRC includes a provision that explicitly forbids the death penalty for those who are under the age of 18 when committing a crime.<sup>xviii</sup> As a result, currently, many countries are gradually reducing the death penalty intending to abolish it eventually (Dang & Nguyen, 2022, p.3).

Furthermore, the UN General Assembly has approved a total of nine non-binding resolutions between the years 2007 and 2022. These resolutions pertain to the establishment of a Moratorium on the implementation of the death penalty, with the overarching objective of eventually abolishing capital punishment. In the resolutions above, the UN explicitly addresses the nation-states:

= to gradually confine the impose the death penalty;

= not to enforce the death sentence for offences committed by minors below 18 years old, “on pregnant women, or on persons with mental or intellectual disabilities;”

= to decrease the number of crimes liable for the death sentence;

= to consider removing the mandatory implementation of the death penalty;

= to launch a "moratorium on all executions with a view" to completely eliminate the death penalty.<sup>xix</sup>

A considerable number of nations, namely 123, supported endorsing the UN General Assembly’s 8<sup>th</sup> biennial resolution in 2020. This resolution urges the implementation of a moratorium on executions, with the ultimate objective of eliminating the practice of capital punishment (Amnesty, 2021). The resolutions passed by the General Assembly carry significant political and moral significance for nation-states. The persistent endorsement of the resolution to eliminate the death penalty serves as a prominent statement to the global world, emphasizing the paramount importance of prioritizing human rights.

### **Death Penalty Abolition Trends and Bangladesh in Context**

#### **i. Quantity of death row inmates is increasing.**

Based on the findings of the international report, it was observed that Bangladesh imposed a total of 113 death penalties throughout the year 2020, with two instances involving the sentencing of female individuals. Among the 113 individuals, 21 males and one female were subjected to sentencing in absentia. During the latter half of 2020, it observed that a total of nine countries accounted for 82% of those who had been condemned to death. Among these countries, Bangladesh has been identified as one of them (Amnesty, 2021). In the year 2021, the country imposed 181+ or more death penalties, representing a substantial rise compared to the preceding year. In 2022, there was a significant decrease of 169+ instances in the imposition of the death penalty compared to the preceding year (Amnesty, 2022a, 2023).

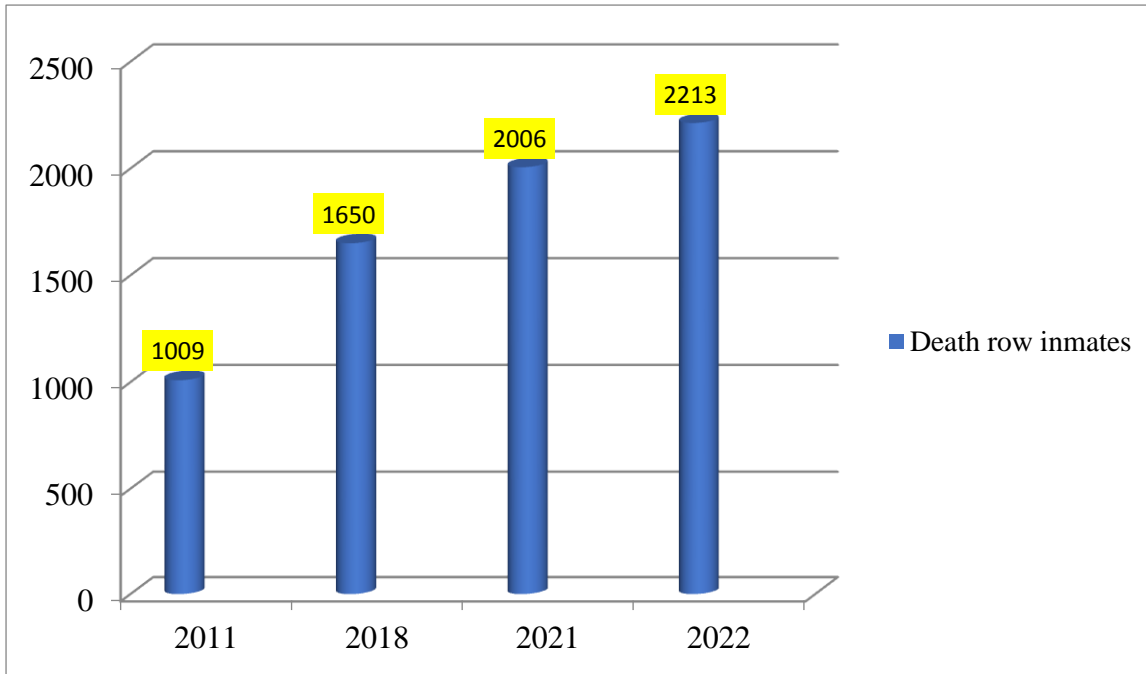
According to the findings of *Odhikar*, an organization focused on human rights, a total of 411 individuals were sentenced to death by subordinate courts during the period spanning from January 2021 to March 2022. Furthermore, it was reported that seven individuals who were on death row had their sentences carried out (Odhikar, 2022, p.2). The number of death row convicts is experiencing a significant increase. In the year 2011, 1009 individuals were convicted and



sentenced to death punishment. This figure experienced an increase to 1650 in 2018 and further escalated to over 2000 in 2021. As of June 2021, the cumulative count of those sentenced to death is 2006 (Rahman, 2020; Moneruzzaman, 2021; Rahman & Wadud, 2022). During the first part of 2022, the number of prisoners on death row increased to 2213 (Hossen, 2022; Odhikar, 2022, p.2). Figure 1 illustrates that the number of death row inmates is steadily increasing.

**Table 3: Imposing Death Sentences in Bangladesh 2010-2022**

<b>Year</b>	<b>Imposing death sentences</b>
<b>2010</b>	32+
<b>2011</b>	49+
<b>2012</b>	45+
<b>2013</b>	220+
<b>2014</b>	142+
<b>2015</b>	197+
<b>2016</b>	245+
<b>2017</b>	273+
<b>2018</b>	229
<b>2019</b>	220
<b>2020</b>	113+
<b>2021</b>	181+
<b>2022</b>	169+



**Figure 2: Quantity of death row inmates**

**ii. Anti-death sentence instruments and Bangladesh**

Human beings' central and primary right is "the right to life." Bangladesh is a party to numerous global human rights instruments that acknowledge the inherent and universal right to life and forbid inhumane treatment. These instruments contain the UDHR, the ICCPR, the UNCRC, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Rafiqul & Solaiman, 2003, p.3). In contrast, it should be noted that Bangladesh has yet to ratify an international treaty that discourages and prohibits the application of the death penalty, such as the Second Optional Protocol to the ICCPR, which ultimately seeks to eliminate the death sentence. It is not in "the process of signing or ratifying" a treaty (Islam, 2006). Moreover, Bangladesh has consistently voted against the United Nations General Assembly resolution about the use of a moratorium on the death penalty. During the 2018 Universal Periodic Review, Bangladesh declined to approve recommendations for abolishing the death penalty, ratifying the Second Optional Protocol to the ICCPR, imposing a moratorium on executions, and limiting the number of offences subject to the death sentence (Rahman & Wadud, 2023, p.118). The country in question has not explicitly pledged to delay, eliminate, or Make an official moratorium to suspend the death sentence (Odhikar, 2022, p.2).

**iii. Children are excluded from the death penalty**

According to the international instrument, a child is defined as an individual who is under the age of 18.<sup>xx</sup> The children are exempted from being subjected to the death sentence.<sup>xxi</sup> Regarding the issue of age-related uncertainty in criminal cases, whereby reliable and definitive evidence is lacking, and the principle of “benefit of the doubt” is extended to favor the child, hence prohibiting the use of the death sentence (UNHRC, 2019, para.48). According to the stipulations outlined in the UNCRC, the application of the death penalty is strictly forbidden in cases involving individuals who are classified as children. The UNCRC provides, “Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.”<sup>xxii</sup>

It's noteworthy that Bangladesh is a member state of the UNCRC. Consequently, the nation has implemented a prohibition on the application of death sentences against those below the age of 18 at the time of committing an offense, in alignment with the principles set forth in the UNCRC. The unique Act for children, enacted in 2013, granted the prevention of the death sentence for child delinquents. According to legal provisions, no minor should be subjected to the application of a death sentence, life imprisonment, or imprisonment.<sup>xxiii</sup>

**iv. Suspension of the death sentence on pregnant women**

International human rights documents prohibit the execution of the death sentence on pregnant women.<sup>xxiv</sup> In a similar vein, the UN resolution pertaining to the moratorium on the implementation of capital punishment urges states to refrain from imposing the death penalty on women who are pregnant. Bangladesh endeavors to adhere to international human rights norms and United Nations resolutions in this context. Accordingly, the criminal procedure law offers that in cases when a female death row inmate is determined to be pregnant, the HCD is mandated to issue an order to delay the implementation of the sentence. Furthermore, it is within the purview of the court above to potentially alter the death penalty to a life imprisonment sentence.<sup>xxv</sup>

**v. Expanding the range of offences liable for the death penalty**

The ICCPR affirms and protects all human beings' right to life.<sup>xxvi</sup> The ICCPR does not explicitly prohibit the death penalty but restricts its use into countries that have not eliminated the death sentence. It also expects countries to abolish crimes other than the "most serious crimes" (UNHRC, 2019, para.33). The Human Rights

Committee remarks on Article 6 of the ICCPR asserting that countries ought to review their criminal laws to abolish the death penalty. They must limit the application of the death penalty to the "most serious crimes" (OHCHR, 1982, para.6). Likewise, the convention strongly desires the eradication of the death penalty (OHCHR, 1982, para.6). Regardless of the global trend toward elimination of the death penalty, Bangladesh has maintained the imposition and execution of the death sentence. Bangladesh accepted and ratified the ICCPR in 2000. Conversely, after becoming a party to the treaty, the country has increased the list of offences that carry the death sentence. The range of offences has grown in two distinct means: through enacting new legislation (Table 4) and amending the existing statutes (Table 5).

From 1972 to 2020, Bangladesh approved 40 crimes punishable by the death penalty (Islam, 2024). Tables 4 and 5 clarify another noteworthy point, which is that 12 out of 40 offences were introduced after the ICCPR ratification in September 2000. In other words, the inclusion of 30% (12 out of 40) of offences after becoming a party to the human rights treaty is cause for concern. Furthermore, tables reveal that only two of the twelve offences introduced after 2000 have a violent feature.<sup>xxvii</sup> Despite the fact, the ICCPR expressly stipulates that nations that have currently not outlawed the death sentence can only apply it to the most severe offences. The state is responsible for decreasing and minimising the volume of offences liable for the death penalty when the situation calls for it. Nonetheless, the country introduces new offences by breaking the obligations of international human rights treaties. In the opinion of the Human Rights Committee, international organizations, and jurists, the inclusion of additional offences to the death penalty is antagonistic to the aims and purposes of the ICCPR and a violation of the true spirit of the convention (UNHRC, 2019, para,50; FIDH, 2010, p.12).

**Table 4: Enactment of new legislation**

SL.	Name of the Act	Sections	Offences
1	The Acid Offence Prevention Act 2002	Sec. 4 Sec. 5(a)	“Causing death by acid” “Causing complete or partial destruction of the eyesight or the hearing, or disfiguration

			and destruction of face, breast, sex organ through acid"
2	The Anti-Terrorism Act 2009	Sec. 6(2)(a)	"Causing death, grievous hurt or confining, abducting any person as a part of terrorist activities"
3	The Bangladesh Border Guard Act 2010	Sec. 28	Mutiny
4	The Human Trafficking Prevention and Suppression Act 2012	Se. 7	"Human trafficking by organized group"
5	The Bangladesh Coast Guard Act 2016	Sec. 29	Mutiny
6	The Narcotics Control Act 2018	Table 7(c), 8(c), 9(c), 10(c), 11(c), 12(c) of Sec. 36(1)	Manufacturing/ cultivation/ processing/ storing/ transporting/ carrying/ auction/ trading/ possession of specific narcotic trees and substances

**Table 5: Alteration of existing statutes**

SL.	Name of the Act	Sections	Offences
1	The Constitution of Bangladesh 1972	Article 7A	Constitutional sedition.
2	The Woman and Child Repression Prevention Act 2000	Section 9(1)	Rape.

3	The Woman and Child Repression Prevention Act 2000	Section 9(4)(a)	Attempted murder or hurt after rape.
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**vi. Economic and drug-related offences liable for the death penalty**

Article 6(1) of the ICCPR specifies that state parties must establish legislative arrangements to ensure the complete protection of the right to life. It also obliges state parties to enact adequate laws and other efforts to protect life from any readily apparent risks (UNHRC, 2019, para.18). The ICCPR tightly restricts the use of the death sentence to the most serious offences. As the UN Human Rights Committee stated, “the most serious crimes” must refer to crimes of great seriousness and intentional killing. Crimes that are not directly related to deliberate death, such as economic crimes and drug offences, can never be used to justify the use of the death sentence under the context of Article 6 of the ICCPR (UNHRC, 2019, para,33, 35). In contrast to the rule of the ICCPR, Bangladesh has the death penalty provisions for economic crimes and drug-related offences. Table 6 demonstrates that among the economic crimes enlisted for the death penalty are hoarding, dealing in the black market, and smuggling. Similarly, the manufacture, transportation, and trading of specific narcotics substances are also punishable by the death penalty.

**Table 6: Economic and drug allied offences liable for the death penalty**

SL.	Name of the Act	Sections	Offences
1	The Special Powers Act 1974	Sec. 25	Hoarding
2		Sec. 25	Dealing in the black-market
3		Sec. 25A	Counterfeiting currency notes
4		Sec. 25B	Smuggling
5		Sec. 25C	Adulteration of food, drink and drugs
6		Sec. 25C	Sale of adulterated food, drink and drugs
7	The Narcotics Control Act	Table	manufacturing/cultivation/

2018	7(c), 8(c), 9(c), 10(c), 11(c), 12(c) of Sec. 36(1)	processing/storing/ transporting/carrying/auction/ trading/possession of specific narcotic trees and substances
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#### vii. Abatement and attempted crime into the death penalty

The ICCPR does not outright forbid the death penalty; instead, it encourages states parties of the treaty to minimize and reduce the range of death penalty offences. It desires the elimination of the death penalty in order to elevate human dignity and advance human rights progress (UNHRC, 2019, para.50). Accordingly, the ICCPR emphasizes that the death sentence should be used sparingly and only for “the most serious crimes” (UNHRC, 2019, para.33). In compliance with the ICCPR rules, there is an emerging Commonwealth consensus that the death penalty will be retained for “the most serious crimes.” However, Bangladesh’s death penalty regime violates international standards and norms (Novak, 2016, p.278). Although attempting to murder is a serious crime in nature, it can never be used to justify the application of the death penalty under the framework of Article 6 of the ICCPR. In the same vein, even a fractional degree of engagement or collaboration in the committing of the most serious offences, such as supplying the physical tools for murder, cannot support the imposition of the death penalty (UNHRC, 2019, para.35).

However, the Bangladesh penal code and other laws on the death penalty have accumulated abetment and attempted to specific offences punishable with the death penalty. In Bangladesh, abetment is integral to the criminal law and penal system.<sup>xxviii</sup> In the penal law, a person is defined as an abettor if he instigates anybody to do something, engages with others in any conspiracy for doing something, and intentionally aids and assists in doing something by any action or unlawful omission.<sup>xxix</sup> The abettor will be penalized with the punishment imposed for the offence committed due to abetment.<sup>xxx</sup> Tables 7 and 8 show that the death sentence has been imposed on specific abetments and attempts to commit offenses.

#### ***Table 7: Attempted offences punishable by death***

SL.	Name of the Act	Sections	Offences
1	The Penal Code 1860	Sec. 121	attempting to wage war
2		Sec. 307	“Attempt to murder by a life convicts”
3	International Crimes (Tribunals) Act 1973	Sec. 3(2)(g)	“attempt or conspiracy to commit war crimes”
4	The Special Powers Act 1974	Sec. 25D	attempts and conspires to commit any offence liable for the death penalty under this Act
5	The Aviation Security Anti-Crime Prevention Act 1997	Sec. 11(2)(3)	attempts to aircraft hijacking
6		Sec. 13(2)	attempts to commit “violence endangering safety of aircraft”
7		Sec. 14(2)	attempts to “destruction of air traffic infrastructure”
8	Woman and Child Repression Prevention Act 2000	Sec. 4(1)	“attempts to cause death with flammable substances”
9		Sec.9(4)(a)	attempt to murder or hurt after rape

**Table 8: Abetment to offences punishable with death**

SL.	Name of the Act	Sections	Offences
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<b>1</b>	The Penal Code 1860	Sec. 121	“abetting waging of war”
<b>2</b>		Sec. 132	“Abetment of mutiny” in the military forces
<b>3</b>		Sec. 305	“Abetment of suicide of child, insane or intoxicated person”
<b>4</b>	The Explosive Substances Act 1908	Sec. 6 with/ and 3	Aids and abets to “unlawfully or maliciously causing explosion likely to endanger life, person or property”
<b>5</b>	International Crimes (Tribunals) Act 1973	Sec. 3(2)(h)	“complicity in or failure to prevent commission” of war crimes
<b>6</b>	The Special Powers Act 1974	Sec. 25D	abets to commit any offences punishable with death under this Act
<b>7</b>	The Aviation Security Anti-Crime Prevention Act 1997	Sec. 11(2)(3)	aids to commit aircraft hijacking
<b>8</b>		Sec. 13(2)	aids or assists to commit “violence endangering safety of aircraft”
<b>9</b>		Sec. 14(2)	aids or assists in the “destruction of air traffic infrastructure”
<b>10</b>	Woman and Child Repression Prevention Act 2000	Se. 30	abets, aids or assists in committing offences punishable with death under this Act
<b>11</b>	The Acid Offense Prevention	Se. 7	aids or assists in “causing

	Act 2002	with/and 4	death by acid"
<b>12</b>		Se. 7 with/and 5(a)	aids or assists in causing the destruction of human organs by acid
<b>13</b>	The Army Act 1952	Se. 58	abet to commit any offense punishable with death under the Act
<b>14</b>	The Air Force Act 1953	Se. 68	abet to commission of offences punishable with death under the Act and the act is committed as result of the abetment
<b>15</b>	The Navy Ordinance 1961	Se. 77	abet to commission of any offences punishable with death itemized in this Ordinance
<b>16</b>	The Bangladesh Border Guard Act 2010	Se. 52 and 28	abet or incites another person to commit mutiny
<b>17</b>	The Bangladesh Coast Guard Act 2016	Se. 53 and 29	abet or incites another person to commit mutiny

### Conclusion

Bangladesh's penal system encompasses death penalty provisions for an extensive range of offences, and the imposition of the death penalty and execution are routinely carried out. The criminal justice system failed to protect against subjective death sentences. As a result, the death punishment is exceedingly discriminatory, disproportionately affecting the economically underprivileged and members of tribal, racial, and religious subgroups, and is frequently used to silence political opposition (Hoyle & Lehrfreund, 2020, p.159). ICCPR ensures the protection of life since the right to life is the utmost right of human beings. The protection indicates that state parties must create a framework of law to guarantee that an individual can fully exercise his or her right to life. It requires the state to take constructive steps to secure the right to life, which stems from a general obligation to uphold the rights acknowledged in the Covenant (UNHRC, 2019, para.18, 21). Therefore, the ethical norms in compliance with the

convention and the adopting legal framework to protect life indicate that the state should not adopt new offences for the death penalty. Similarly, taking positive measures directs the state to minimize or reduce the volume of death penalty offences and perhaps apply a moratorium on the use of the death sentence with aiming the ultimate elimination.

In conclusion, the study discovers that Bangladesh incorporates a wide range of offences liable for the death penalty. The global trend appears to be to minimize and decrease the category of crimes being punishable by the death penalty; however, Bangladesh appears to be increasing the number of offences punishable by the death sentence. As a result, the number of death row inmates is steadily increasing, and they are subjected to inhumane treatment in condemned cells due to the prison's inefficient layout. It is worthy of note that Bangladesh has adopted and ratified several international treaties contrasting the death sentence and the inhuman treatment of individuals. Bangladesh, on the other hand, has declined and voted contrary to the UN resolution calling for a moratorium on the death sentence.

### **Recommendations for reducing the death penalty in Bangladesh**

The study recommended the following measures based on a critical analysis of Bangladesh's position regarding the death penalty policy. The event may proceed to reduce the death penalty following the international instruments on human rights and the UN's guidelines for eliminating it with the ultimate goal of abolition.

- Adopt and ratify all international anti-death penalty instruments with the Second Optional Protocol to the International Covenant on Civil and Political Rights.
- Restrain the categories of death penalty crimes entirely to “the most serious crimes” as per the guidelines of the ICCPR.
- Exclude the death penalty for an economic, drug, and non-fatal nature of offences.
- Eliminate the provisions of the mandatory death penalty for certain crimes.
- Alter the punishment regarding attempt and abetment to crime from the death penalty.
- Refrain from spreading the new offences into the death penalty.
- Remove the death penalty clause from the Constitution.
- Revise the provision of the Special Powers Act and The Narcotics Control Act.

- Ensure fair and impartial trial in criminal court.
- In accordance with the UN resolution, declare “a moratorium on the use of the death penalty.”

#### NOTES:

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<sup>i</sup> According to the research, the United Nations identified no scientific evidence to support the use of the death penalty as an effective crime prevention measure than imprisonment. In Canada, since the death penalty was abolished, the crime ratio for murder has lowered from "3.09 cases per 100,000 residents in 1975 to 2.41 cases per 100,000 residents in 1980." The murder rate steadily decreased, reaching 1.73 cases per 100,000 people in 2003. Similarly, in the United States, rates of murder are higher in 36 states that continue to execute the death penalty compared to states that have abolished or rarely applied it (Dang & Nguyen, 2023, p.14).

<sup>ii</sup> Universal Declaration of Human Rights (UDHR) 1948, art. 3; International Covenant on Civil and Political Rights (ICCPR) 1966, art. 6(1).

<sup>iii</sup> The Penal Code 1860, sec. 53.

<sup>iv</sup> Section 32(1), 390, 391, 392, 393, 394, 395 of The Code of Criminal Procedure 1898, Section 46, 53 of The Prisons Act 1894, Section 2 of The Whipping Act 1909. However, the aforementioned Act was enacted during the period of British colonial authority. Bangladesh, after independence, refrained from using whipping as punishment.

<sup>v</sup> The Child Act 2013, sec. 34(1); The Code of Criminal Procedure 1898, sec. 399.

<sup>vi</sup> The Code of Criminal Procedure 1898, sec. 31, 368(2), 382, 402; The Army Act 1952, sec. 60(b); the Enemy Agents Ordinance 1943, sec. 9.

<sup>vii</sup> The Penal Code 1860, sec. 53A. So, the punishment for ‘transportation for life’ does not exist in the penal laws in Bangladesh.

<sup>viii</sup> The Code of Criminal Procedure 1898, sec. 32(1); The Prisons Act 1894, sec. 29. The solitary confinement punishment only applies to rigorous imprisonment “not exceeding three months in the whole,” The Penal Code 1860, sec. 73, 74.

<sup>ix</sup> The offender occasionally faces death through stoning for adultery in Iran and Sudan.

<sup>x</sup> The death penalty is liable for apostasy in Saudi Arabia, Iran, and Afghanistan.

<sup>xi</sup> The death penalty is liable for blasphemy in Pakistan, Saudi Arabia, Iran, and certain states in Nigeria.

<sup>xii</sup> The Code of Criminal Procedure 1898, sec. 368(1).

<sup>xiii</sup> The public implementation of capital punishment has been seen in several nations, such as Saudi Arabia, Iran, and Nigeria (Hood, 2021). According to the Amnesty International Report of 2012, “public executions were known to have been carried out in Iran, North Korea, Saudi Arabia, and Somalia” (Amnesty, 2013, p.10).

<sup>xiv</sup> International Covenant on Civil and Political Rights (ICCPR) 1966, art. 7.

<sup>xv</sup> The Universal Declaration of Human Rights (UDHR) 1948, art. 3, 5.

<sup>xvi</sup> Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty 1989, UN General Assembly resolution 44/128, entry into force on July 11, 1991, at <https://www.ohchr.org/en/instruments-mechanisms/instruments/second-optional-protocol-international-covenant-civil-and>

<sup>xvii</sup> Economic and Social Council resolution 1984/50 was adopted on 25 May 1984.

<sup>xviii</sup> The UN Convention on the Rights of the Child 1989, art. 37(a).

<sup>xix</sup> The United Nations General Assembly resolution concerning the Moratorium on using the death penalty in 2022, Seventy-seventh session, A/RES/77/222. This resolution is followed by the various UN resolutions of 2007, 2008, 2010, 2012, 2014, 2016, 2018 and 2020.

<sup>xx</sup> The UN Convention on the Rights of the Child 1989, art. 1.

<sup>xxi</sup> International Covenant on Civil and Political Rights (ICCPR) 1966, art. 6(5).

<sup>xxii</sup> The UN Convention on the Rights of the Child 1989, art. 37(a).

<sup>xxiii</sup> The Children Act 2013, sec. 33(1).

<sup>xxiv</sup> International Covenant on Civil and Political Rights (ICCPR) 1966, art. 6(5).

<sup>xxv</sup> The Code of Criminal Procedure 1898, sec. 382.

<sup>xxvi</sup> International Covenant on Civil and Political Rights (ICCPR) 1966, art. 6(1).

<sup>xxvii</sup> The Acid Offense Prevention Act 2002, sec. 4; The Anti-Terrorism Act 2009, sec. 6(2)(a).

<sup>xxviii</sup> The provisions regarding abetment and the punishment of abettor have been discussed in sections 107-120 under chapter V of the Penal Code 1860.

<sup>xxix</sup> The Penal Code 1860, sec. 107-108.

<sup>xxx</sup> *Ibid.* sec. 109-117.

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