

Executive Summary

The punitiveness of the international drug control system has been largely responsible for the growth of the world's female prison population in the last three decades. In countries that punish drug offenses with death—a violation of international law—a large majority of the women on death row were convicted of drug-related offenses. This report examines the circumstances that lead women to commit or be charged with drug offenses and the impact of gender bias on the criminal process they experience.

Drug convictions account for a minority of the world's death sentences but a majority of capital convictions in a small number of so-called 'retentionist' death penalty states. Capital drug laws are most entrenched in states that resist the global trend towards abolition, concentrated in Asia and the Middle East. Many of these states do not publish information on their use of capital punishment. Moreover, gender-disaggregated and gender-specific data frequently does not exist. Nevertheless, this study examines the available information, notably for countries such as Indonesia, Malaysia, China, and Thailand. Our analysis reveals the following trends relating to women facing death for drug offenses:

FOREIGN NATIONALS ARE OVER-

REPRESENTED among women on death row for drug offenses. These disparities are more pronounced among the female death row population than among death-sentenced men. Many of these foreign nationals are migrant workers. For example, in Malaysia, 95% of the 129 women on death row for drug offenses in 2019 were foreign nationals.

ECONOMIC INSECURITY

The gendered financial burden of caring for family members, especially among women with little education and without the aid of strong social support systems or access to stable work, is one of the key factors that pushes women into trafficking drugs. Courts often fail to take into account women's economic instability and caregiving responsibilities before imposing death sentences. One woman in China, a single mother, spent the proceeds of a drug sale to care for her son, who had a disability. The court held that this fact was irrelevant. Although economic need often propels women into drug trafficking, women typically

执行摘要

国际药物管制系统主张的惩戒在很大程度上导致了过去 30 年间世界女囚人数的增加。在毒品犯罪仍旧可被判死刑（这种做法违反国际法）的国家，死囚名单上的妇女绝大多数是因毒品相关罪行被定罪。本报告审查了导致妇女犯罪或被指控毒品犯罪的情形，以及性别偏见对其刑事诉讼程序的影响。

在全球死刑判决中，毒品犯罪占少数，但在几个“保留死刑”的国家，毒品犯罪占到死刑定罪的大多数。对毒品犯罪适用死刑的法律在抵制全球废除死刑之趋势的国家最为根深蒂固，主要集中在亚洲和中东。这些国家大多不公布适用死刑使用的相关信息，也没有关于性别分布和特定性别的数据。尽管如此，本研究还是审查了可用信息，特别是印度尼西亚、马来西亚、中国和泰国。我们的分析揭示了因毒品犯罪而面临死刑的妇女相关的如下趋势：

外国人比例过大

在因毒品犯罪而被关在死囚区的妇女中，外国人比例过大。这一差异在女性死囚群体中比男性死囚更为明显。这些外国人中有许多是移民工人。例如，马来西亚 2019 年因毒品犯罪被判死刑的 129 名女性中有 95% 是外国人。

经济不安全

因性别承担的照顾家庭成员的经济负担是导致妇女贩运毒品的关键因素之一，尤其是受教育程度不高，没有良好社会支持，没有稳定工作的妇女。法院在判死刑前往往没有考虑到妇女不稳定的经济条件和肩负的照顾责任。一个中国单身妈妈用贩卖毒品的收入来照顾她的残疾儿子，法院却认为这一事实无关紧要。尽管妇女常常出于经济需要而从事

make little money from trafficking (they are often unaware of what exactly they are carrying). Drug trafficking is, like most women's jobs pre-arrest, just another precarious job—albeit one that exposes them to the risk of capital punishment.

MANIPULATIVE OR COERCIVE RELATIONSHIPS WITH MALE CO-DEFENDANTS.

In many of the cases we reviewed, women transported drugs under the influence or pressure of a male partner, who typically suffered fewer or no criminal consequences. In part, this reflects the gender-stratified and male-dominated structure of the drug economy. In one case, the only apparent evidence against the spouse of a drug trader who was well-known to the police was an informal ledger that included the word “wife.” She was sentenced to death; her husband disappeared before serving any jail time.

Women are also disproportionately likely, compared to men, to fall victim to online romance scams that may ultimately lead them to unwittingly traffic drugs. Men who fake relationships to trick women into transporting drugs rely on a common set of tactics, but female defendants struggle to convince judges that they were not aware of the drugs they were carrying. Courts also often neglect to consider the role of an abusive relationship on a woman's decision to transport drugs.

REFUSAL TO CONSIDER GENDER- SPECIFIC MITIGATION

Fair trial principles dictate that courts should consider all relevant mitigating circumstances before imposing a sentence. In practice, however, many courts neglect gender- specific mitigation, and in states that impose a mandatory death penalty, courts may not consider any mitigating circumstances at all. Our research suggests that past trauma from abusive relationships affects the trajectories of many women who traffic drugs. Available data also suggests that women in prison for drug offenses are more likely than men to have endured adverse childhood experiences. Nevertheless, courts routinely fail to take into account the impact of trauma and gender-based violence in determining the appropriate sentence for women.

贩毒活动，但她们从中赚到的钱通常很少（她们往往不知道自己携带的到底是什么）。对大多数女性而言，贩毒与其被捕前的工作一样，只是另一份不稳定的工作而已——即便这是一个会使她们面临死刑风险的工作。

陷入被男性共同被告操纵或胁迫的关系中

在我们审查的许多案例中，女性都是在男性伴侣的影响或施压下运输毒品，但男性却通常承担较少罪责或没有犯罪后果。这部分反映出毒品经济的性别分层和男性主导特征。在一个案例中，毒贩为警方熟知，而针对毒贩妻子的唯一明显证据是一份含“妻子”一词的非正式分类账。妻子被判处死刑；丈夫还未服刑就失踪了。

与男性相比，女性也更有可能成为网恋骗局的受害者，最终导致她们不知情地贩运毒品。伪造关系以欺骗女性运输毒品的男性有着一套常用套路，但女性被告很难让法官相信她们不知道自己携带了毒品。法院还常忽视虐待关系如何影响了妇女作出运输毒品的决定。

拒绝考虑特定性别的减刑因素

根据公正审判原则，法院在量刑前应考虑所有相关的可减轻处罚的情节。但在实践中，很多法院忽视针对特定性别的减刑因素。在强制死刑的国家，法院可能根本不考虑任何减刑情节。我们的研究表明，虐待关系造成的创伤改变了许多贩毒女性的人生轨迹。现有数据还表明，因毒品犯罪入狱的女性比男性更有可能经历了糟糕的童年。然而，法院在对妇女量刑时通常不考虑创伤和基于性别的暴力的影响。

RELIANCE ON STEREOTYPICAL GENDER NARRATIVES

In the course of this study, we uncovered many cases where courts relied on gender stereotypes to interpret women's circumstances and motivations before sentencing them to death. They offer troubling indications that gender bias affects outcomes in capital drug cases. Notably, courts are reluctant to accept that a female defendant was tricked or pressured into transporting drugs unless she matches the profile of a helpless female victim: poor, uneducated, and—in cases involving a male co-conspirator—inexperienced with men. Courts tend not to believe that women from less disadvantaged backgrounds or who have experienced prior romantic relationships are vulnerable to coercion or manipulation. In one case from Malaysia, the court concluded that “it is very unlikely that the respondent, who is a diploma holder... could have placed herself in a situation where she could be exploited to commit a crime.” In the case of another woman, who claimed her partner manipulated her into transporting drugs, the court described the defendant's defense posture as “a damsel in her maiden love,” a perspective it rejected given that “she herself gave evidence that she was in the process of divorcing her husband and, on top of that, they have a child. Thus, it would not be too remote in finding that she fully knew the effect, danger and pitfall of anyone madly and blindly in love.”

RELIANCE ON LEGAL SHORTCUTS TO CONVICTION AND SENTENCE

In some countries with punitive drug laws, courts are precluded from examining the circumstances of the offense or the offender before deciding on the appropriate sentence. In Malaysia, a death sentence is mandatory for defendants who are convicted of drug trafficking, no matter what mitigating factors exist. In many jurisdictions, moreover, the law provides courts with two major shortcuts to conviction: a defendant in possession of a drug is presumed to know what she is carrying; and if the quantity of drugs is above a statutory minimum, she is presumed to intend to traffic drugs. These legal rules dramatically increase the number of women who are sentenced to death while ignoring women's position in the drug trade's gender-stratified and predominantly masculine system. Women are disproportionately likely to be low-level drug couriers—and therefore ignorant of the type, quantity, and value of the drugs they are carrying.

依赖性别刻板印象的叙述

研究中我们发现了许多案例，法院判死刑前，用对女性的性别刻板印象来解读她们的处境和动机。这种迹象令人担忧，说明性别偏见会影响毒品死刑案件的结果。值得注意的是，即便女性被告是被诱骗或强迫才运输毒品的，法院不太容易接受这个事实，除非女性被告符合无助的女性受害者的特征：穷困、没受过教育、（如果是涉及男性同谋的案件）缺乏与男性交往的经验。法院往往不相信经济条件还不错，或有过恋爱经历的女性也容易受到胁迫或操纵。在马来西亚的一个案例中，法院得出结论认为，“被告是念过书，有文凭的……不太可能将自己置于会被利用来犯罪的境地。”在另一个案件中，被告妇女称是她的伴侣操纵她运输毒品的，法院不接受被告的辩护，说“热恋中的少女”这种辩解不成立，因为“她自己提供了证据表明她在与丈夫离婚过程中，而且还有一个孩子。因此，可以认定她完全了解疯狂且盲目恋爱的后果、危险和陷阱。”

依赖法律捷径来定罪和量刑

在用法律惩戒毒品犯罪的一些国家，法院不能在量刑前审查犯罪情形或犯罪人的境况。在马来西亚，定贩毒罪的被告必须判处死刑，无论存在什么减轻因素。此外，在许多司法管辖区，法律为法院提供了两条主要的定罪捷径：被告持有毒品，则推定她知道自己携带的是什么；如果毒品数量超过法定最低数量，则推定她打算贩卖毒品。这些法律规定极大地增加了被判处死刑女性的人数，忽视了女性在性别分层、男性为主的毒品交易系统中的地位。女性更有可能是低级别的运毒者，因此更有可能并不知道她们携带的毒品的类型、数量和价值。

LACK OF ACCESS TO ADEQUATE INTERPRETERS AND LAWYERS

Women in many migrant source countries tend to have less access to education than men, which makes them less likely to speak a foreign language. Because of disparities in socioeconomic status and educational attainment, women struggle more than men to access an interpreter or retain skilled legal counsel. In one case we reviewed, the woman's boyfriend and potential co-defendant told the police, in a language she did not understand, that she did not need an interpreter, before pinning the blame on her and walking away—while she was condemned to death.

This report relies on primary and secondary data sources and is the first effort to aggregate global data surrounding drug offenses and the death penalty as these phenomena relate to gender. Based on our findings, we have issued a series of urgent recommendations to governments, lawmakers, the judiciary, prison authorities, and civil society. We hope that this report spurs further research and attention to the plight of women facing death sentences for drug-related offenses.

Introduction

In our previous research report about women on death row globally, *Judged for More Than Her Crime*, we highlighted gender discrimination in capital trials and the uniquely precarious detention conditions for women facing capital sentences. Here, we use a gender lens to focus on women facing the death penalty for drug offenses.

Scholars and commentators have observed that the “number of women arrested for participating in the illicit drug trade is on the rise worldwide, in particular among women who lack education or economic opportunity or who have been victims of abuse.”² Criminologists attribute this rise to harsher sentencing for low-level drug offenses, rather than increased criminal activity by women.³ As a whole, the use of the death penalty is on the decline, but a small minority of nations have passed legislation expanding the application of the death penalty for drug offenses.⁴ Other countries are attempting to bring back the death penalty for use in drug cases.⁵ The use of the death penalty for drug crimes is of special concern because it violates international law, which requires that the death penalty be used only for the “most serious

缺乏使用口译员和获得律师协助的机会

在许多移民输出国，女性受教育的机会少于男性，致使她们不太可能会讲外语。由于社会经济地位和教育程度的差异，女性比男性更难获准使用口译员或聘请能力强的律师。在我们审查过的一个案例中，被告女子的男朋友（也是可能的共同被告）用她不懂的语言跟警方说她不需要翻译，然后将责任推到她身上，自己走了——她被判了死刑。

本报告使用一手和二手数据，首次尝试汇总有关毒品犯罪和死刑的全球数据，因为这些现象与性别有关。我们根据调查结果向政府、立法者、司法机构、监狱当局和民间社会发出了一系列紧急建议。我们希望本报告能促发更多研究，关注因毒品犯罪而面临死刑的妇女的困境。

引言

在我们之前关于全球死囚女性的研究报告《不仅因她的罪行受审》（*Judged for More Than Her Crime*）中，我们突出暴露了死刑审判中的性别歧视，以及面临死刑的女性特有的不确定的羁押条件。本报告中，我们使用性别视角来关注因毒品犯罪而面临死刑的女性。

学者和评论员观察到，“全球因参与非法毒品交易而被捕的妇女人数正在上升，尤其是缺乏教育或经济机会，或遭受虐待的妇女。”¹ 犯罪学家认为被捕人数上升主要因为提高了对低级别毒品犯罪的惩罚，而非妇女犯罪活动有所增加。² 死刑的使用总体在下降，但少数国家通过了立法，扩大了死刑在毒品犯罪上的适用范围。³ 还有国家在尝试对毒品犯罪重新启用死刑。⁴ 对毒品犯罪适用死刑特别令人担忧，因为这违反国际法，国际法要求死刑只能用于“最严

crimes,⁶ a threshold that human rights bodies have repeatedly found that drug offenses do not meet.⁷

In this report, we dove deep into the pernicious ways in which women experience the disparate impact of capital drug laws. Most notably, we found that the economic insecurity that women experience, their disproportionate share of caretaking responsibilities, and manipulation or coercion by intimate partners result in women committing drug offenses or being charged with drug offenses in countries where they face the death penalty. The drug trade is a gender-stratified and predominantly masculine system,⁸ and men commit most drug crimes.⁹

Some women make a conscious decision to traffic drugs in context of their gendered positionality. Within the gender-stratified drug trade, many other women are tricked into carrying drugs unwittingly, and many of those women are targeted by men who became their trusted, intimate partners under false pretenses before asking women to transport items that contain drugs.¹⁰ Available data suggests that the top of the drug trade hierarchy is male-dominated, and that relative to their overall role in the drug trade, women are disproportionately likely to be low-level drug couriers.¹¹ A number of countries mandatorily impose the death penalty for certain drug offenses, unless defendants are able to provide valuable information that allows law enforcement to disrupt the drug trade.¹² This means that low-level couriers, and therefore women, are disproportionately unlikely to have this information, and therefore more likely to receive the mandatory death penalty without the opportunity to present compelling mitigation.¹³

Researcher Samantha Jeffries has concluded that women incarcerated for drug offenses in Thailand have experienced “trauma, disordered family lives, other adverse life experiences, deviant friendships, addiction (and other mental health problems), male influence and control, limited education, poverty, and familial caretaking responsibilities.”¹⁴ Our research suggests that many women on death row for drug offenses around the world share these characteristics. These challenges are heightened in the lives of women who are noncitizens, who are disproportionately sentenced to death in at least three of the countries profiled in this report. Many of them are migrant workers who face “compounded vulnerabilities.”¹⁵

重的罪行”，⁵人权机构一再认定毒品犯罪并不能达到这个标准。⁶

毒品判死罪的法律对女性产生迥然不同的影响，我们在本报告中深入探讨了影响女性的恶性方式。最值得注意的是，女性经历经济不稳定、承担比例过重的照顾责任、受亲密伴侣的操纵或胁迫，我们发现这些都导致女性犯下毒品罪或被指控犯有毒品罪，面临死刑。毒品交易系统存在性别分层且受男性主导，⁷大部分毒品犯罪是男性所犯。⁸

一些女性出于性别地位自主地决定贩卖毒品。在存在性别分层的毒品交易中，还有其他很多女性不知不觉地被诱骗携带毒品。她们被男性锁定为目标，虚情假意地欺骗，骗成信赖的亲密伙伴后要求她们运送藏有毒品的物品。⁹现有数据表明，男性主导着毒品交易等级的顶层，而女性因其在毒品交易中的整体作用，大多成为低层级毒品运送者。¹⁰一些国家对特定毒品犯罪规定除非被告能够提供有价值的信息，让执法部门得以阻止毒品交易，否则强制判处死刑。¹¹这意味着不太可能知道这些信息的低级别运毒者——大多数为女性——更有可能被强制判死刑，没有机会提出有力的减刑理由。¹²

研究员萨曼莎·杰弗里斯 (Samantha Jeffries) 得出结论：泰国因毒品犯罪而入狱的女性经历过“创伤、家庭生活混乱、其他不利的生活经历、不正常的友谊、成瘾（及其他心理健康问题）、男性影响和控制、有限的教育、贫困和家庭照顾责任”。¹³我们的研究表明，世界各地因毒品犯罪而成为死囚的许多女性都具有这些特征。如果是非本国公民的妇女，这些问题更加突出，本报告研究对象中至少在三个国家，贩毒女性被判处死刑的比例远远超出正常的人口比例。她们中的许多人具有“多种脆弱”因素的移民工人。¹⁴

Our research has also uncovered examples of gender bias in the criminal legal system, such as courts that, in capital drug trials, focus on a female defendant’s history of sex work, and police who impute guilt to a woman based solely on her male co-defendant’s accusations.¹⁶ Courts routinely fail to take into account the impact of trauma and gender-based violence in determining the appropriate sentence for a woman’s case.

As in our previous work, we highlight both the serious risk that innocent women are sentenced to death for drug offenses, and the sympathetic stories of women who are guilty of their offenses—but whose guilt is mitigated by compelling circumstances. Feminist academics emphasize the importance of acknowledging that women often have agency in choosing to traffic drugs and that some women participate at all levels of the drug trade,¹⁷ and we aim to reflect the complex, gendered realities within which some women make their decisions. As a result of media bias towards narratives of innocence and our desire to profile women only when attention on their case would not harm them, our report includes multiple stories of women who have compelling arguments that they are innocent. We wish to emphasize, however, that both innocent and guilty women sentenced to death for drug offenses deserve fair trials and sentencing proceedings in which the realities of their lives receive full consideration.

我们的研究还发现了刑事司法系统中性别偏见的例子，例如法院在毒品死刑审判中强调女性被告之前从事性工作，警察仅根据与女性同居的男性的控词就将罪责归咎于她。¹⁵法院在对妇女量刑时常不考虑创伤和基于性别的暴力的影响。

与我们之前的工作一样，我们既强调无辜妇女被指控毒品犯罪，判处死刑的严重风险，也强调犯下罪行的妇女令人同情的经历——她们的罪责因情势所迫而减轻。女权主义学者强调，应认可女性在选择贩运毒品方面是有自主权的，并且有些能参与到毒品交易的各个层面，¹⁶我们也希望反映复杂的、有性别差异的现实，女性是在这种现实中作出的抉择。由于媒体偏向于报道无辜被告的故事，我们也希望仅在关注案件不会导致伤害她们的情况下才介绍她们的案例，因此报告中有多名女性的经历，有确凿证据证明她们的无辜。但我们要强调，因毒品犯罪被判处死刑的女性无论无辜还是有罪，都应通过公正的审理和判刑程序，她们的生活境况应该在程序中得到充分考虑。

CHINA

China executes more women for drug offenses than any other country in the world.⁶⁷⁵ Precise data on China’s application of the death penalty is notoriously elusive.⁶⁷⁶ The available information, however, indicates that although capital sentences are likely decreasing overall, the proportion of death sentences handed out for drug offenses seems to be increasing.⁶⁷⁷ In addition, the proportion of women (versus men) among those who are incarcerated and executed for drug-related crimes might be growing.⁶⁷⁸ China’s legislative framework for capital drug offenses is punitive and opaque. Moreover, courts fail to thoroughly assess mitigating circumstances in the context of drug-related offenses—including gender-specific mitigation.

中国

中国因毒品犯罪而处决的女性人数超过世界上任何其他国家。¹⁷中国死刑适用情况的准确数据是出了名的保密。¹⁸现有信息表明，尽管死刑判决数量可能整体下降，但因毒品犯罪被判死刑的人数似在增加。¹⁹而且因毒品犯罪被监禁和执行死刑的女性（相对于男性）的比例可能在增加。²⁰中国对可判死刑的毒品犯罪的立法重惩戒、不透明。法院也没有充分评估毒品犯罪的减轻处罚情节——包括针对特定性别的减刑情节。

State secrecy around death penalty data

China classifies information on the death penalty as a state secret.⁶⁷⁹ In fact, the state deems national-level data on the approval and execution of death sentences to be top secret, the highest possible level of secrecy.⁶⁸⁰ State secrecy laws that govern the judiciary are vague and overbroad,⁶⁸¹ and unlawfully disclosing information about the death penalty may itself be a death-punishable offense.⁶⁸² As a result, it is impossible to gather comprehensive statistical data on the application of the death penalty in China.



Guards “say a final farewell” to a woman who is about to be executed for drug trafficking. This photograph, which was taken in 2003, is one of few publicly available photographs from Chinese death row.

In 2013, in response to international calls for increased transparency, the Supreme People’s Court (SPC) set up China Judgments Online, a national database for criminal case documents from all court levels.⁶⁸³ According to SPC guidelines, all criminal case documents should be accessible on this database,⁶⁸⁴ but in reality courts only upload a small fraction of capital court proceedings.⁶⁸⁵ For instance, in 2016, Amnesty International found that of 305 executions reported in the media, only 26 could be located in the database.⁶⁸⁶ Amnesty further found that “[d]rug cases seem to be missing on an even larger scale than other types of crimes from the database” and that the cases of foreign nationals executed for drug offenses were rarely, if ever, published.⁶⁸⁷ Moreover, in recent months, there have been reports that the SPC is in fact *removing* many of the judgments that were previously publicly available (especially those pertaining to death penalty cases).⁶⁸⁸ In addition, as the SPC selects which of its judgments appear online, the published proceedings tell us more about the types of cases it wishes to highlight than they allow us to draw conclusions.⁶⁸⁹

死刑数据的国家机密

中国将死刑信息列为国家机密。²¹事实上，中国将批准和执行死刑的全国数据视为绝密信息，是最高级别的机密。²²司法部门受国家秘密法管辖，但这些法律模糊不清且笼统宽泛²³，再加上非法披露死刑信息本身就可能被判死罪²⁴，所以不可能收集到中国死刑适用情况的全面统计数据。



警卫向一名即将因贩毒被处决的妇女“作最后的告别”。这张照片拍摄于 2003 年，是中国死囚区为数不多的公开照片之一。

2013 年，最高人民法院（SPC）回应提高透明度的国际呼吁，设立了中国裁判文书网，这是一个汇集各级法院刑事案件文书的国家数据库。²⁵根据 SPC 的指南，在这个数据库中应该可以访问所有刑事案件的文书²⁶，但实际上法院只上传了死刑案件法庭诉讼的一小部分。²⁷例如，国际特赦组织 2016 年发现媒体报道的 305 起处决案件中，只有 26 起可以在数据库中找到。²⁸国际特赦组织进一步发现“[毒]品案件似乎比其他类型的犯罪在数据库中缺漏的更厉害”，而且外国国民因毒品犯罪而被处决的案件要么没有，要么很少。²⁹最近几个月以来，还有报道称 SPC 在删除许多之前公开的判决（尤其是死刑案件相关判决）。³⁰此外，SPC 可以有选择地在网上公布案件，从它发布的案件可以更多地看出想要强调的案件类型，及不想让我们得出的结论。³¹

在本章中，我们分析了大量因毒品犯

For this chapter, we analyzed a large sample of the publicly available judgments of women sentenced to death for drug offenses. Where possible, we interviewed current and former capital defense attorneys, spoke with scholars, and consulted relevant media sources. Nevertheless, some of our conclusions remain tentative, given that we are drawing from an incomplete dataset.

Demographic trends among women sentenced to death for drug-related offenses

China executes more people than any other nation.⁶⁹⁰ By all estimates, thousands of people are sentenced to death and executed in China each year.⁶⁹¹ In 2018, the Dui Hua Foundation estimated that China had executed two thousand people,⁶⁹² while Dr. Teng Biao asserts that the annual number of executions is likely closer to six thousand.⁶⁹³ Though 46 crimes are currently punishable by death in China,⁶⁹⁴ “[a]vailable evidence suggests that most death sentences are now handed down for two categories of offense: drugs and murder.”⁶⁹⁵ In both 2018 and 2019, Chinese media reported between 160 and 200 drug-related executions on June 26, which marks ‘International Day Against Drug Abuse and Illicit Trafficking.’⁶⁹⁶ The total annual number of drug-related executions is likely to be significantly higher. Of those executed for drug-related offenses, women constitute a small—but possibly growing—minority.⁶⁹⁷ While it is impossible to track national death penalty trends, research across certain provinces indicates that in noncapital cases the proportion of women (versus men) among defendants in drug cases is increasing.⁶⁹⁸ One lawyer said that in his defense practice, he is seeing “more and more women” facing capital drug charges.⁶⁹⁹



An incarcerated woman carries water to women who are about to be executed for drug trafficking so that they can wash their faces. This photograph, which was taken in 2003, is one of few publicly available photographs from Chinese

罪判死刑的妇女的公开判决。在可能的情况下，我们采访了正在代理死刑案件和曾经代理过案件的辩护律师、学者，并咨询了相关媒体。尽管如此，鉴于我们是从不完整的数据中得出的结论，其中一些结论仍然是初步的。

因毒品相关罪行被判死刑的妇女人口趋势

中国处决的人数超过其他任何国家。³² 据估计，中国每年判处和执行死刑数千。³³ 2018年，对话基金会估计中国处决了2000人³⁴，滕彪博士则认为每年处决人数可能接近6000人³⁵。尽管中国目前有46种罪行可判死刑³⁶，“[现]有证据表明多数死刑判决都集中在两类罪行：毒品和谋杀。”³⁷ 2018年和2019年，中国媒体都报道了在6月26日这天进行了160至200起毒品死刑执行，这一天是“禁止药物滥用和非法贩运国际日”。³⁸ 毒品相关处决全年总数很可能还要高得多。在因毒品犯罪被处决的人中，女性占一小部分——但可能在增加。³⁹ 虽然无法追踪全国死刑趋势，但对部分省份的研究表明，在非死刑案件中，毒品案件女性（相对于男性）被告的比例越来越大。⁴⁰ 一位律师说，在他的辩护实践中，他看到“越来越多的女性”面临毒品死罪指控。⁴¹



一名女囚为即将因贩毒而处决的妇女端水，让她们能洗洗脸。这张照片拍摄于2003年，是中国死囚区为数不多的公开照片之一。

death row.

In the China Judgments Online database, a keyword search for the terms “drug offense,” “death sentence,” and “female” returned over 600 cases. Almost all of these cases had been adjudicated since 2013, and the sample included those who had received suspended death sentences. (After two years, a suspended death sentence is reduced to an indeterminate life sentence⁷⁰⁰ or a term of years if the person does not commit another offense while in prison.⁷⁰¹ Exceedingly few suspended death sentences are converted into death sentences with immediate effect.)⁷⁰² In partnership with the China University of Political Science and Law, we randomly selected and analyzed 300 of these cases. As commentators believe that the SPC publishes cases “selectively,” this is most likely not a representative sample.⁷⁰³ Nevertheless, we have identified some broad themes that emerge from the cases.

According to the database sample, almost all women who received a death sentence for a drug offense had trafficked or transported methamphetamine or heroin. The overwhelming majority of women were convicted on trafficking and transporting charges alone; even if there were other additional charges, such as manufacturing, *all* cases involved trafficking and transporting circumstances.⁷⁰⁴ Most often, the drug involved was methamphetamine or, somewhat less frequently, heroin.⁷⁰⁵ The overwhelming majority of the cases in the sample resulted in suspended death sentences, which rarely result in execution.⁷⁰⁶ All of the women who received a sentence of death with immediate effect had prior convictions.⁷⁰⁷



A woman sentenced to death for drug trafficking folds the clothes she plans to wear during her execution. She requested red clothes to symbolize luck.

Of the women who received a death sentence—either suspended or immediate—most were young and poorly educated. **Almost all of**

在中国裁判文书网数据库中，用“毒品犯罪”、“死刑判决”和“女性”等关键词搜索，可以查到 600 多起案件。这些绝大多数都是 2013 年以后的判决，包括被判死刑缓期执行（死缓）的人。（如果在监狱中没有再犯罪，死缓会在两年后减为无期徒刑⁴²或有期徒刑。⁴³极少有死缓转为死刑立即执行⁴⁴。）我们与中国政法大学合作，随机选择分析了其中 300 个案例。评论员认为因为 SPC“有选择地”公布案例，样本可能不具备全面代表性。⁴⁵尽管如此，我们还是通过这些案例发现了一些总体趋势。

根据数据库样本，几乎所有因毒品犯罪被判死刑的妇女都贩卖或运输过甲基苯丙胺或海洛因。绝大多数妇女因贩卖和运输罪的指控被定罪，即使有制造毒品等其他额外指控，*所有*案件都涉及了贩运和运输。⁴⁶大多数情况下所涉毒品是甲基苯丙胺，接下来常见的是海洛因。⁴⁷绝大多数案件判了死缓，判死缓的很少会被处决。⁴⁸所有被判死刑立即执行的妇女都有前科。⁴⁹



一名因贩毒被判死刑的妇女在叠她准备在行刑时穿的衣服。她要求穿象征幸运的红色衣服。

被判死刑的女性中——无论是缓刑还

the women had left school before the end of junior high school.⁷⁰⁸

About half of the women were between 26–35 years old at the time of sentencing.⁷⁰⁹ The vast majority were from rural areas and were farmers or unemployed.⁷¹⁰ The judgments did not consistently mention whether defendants had minor children or other care-taking responsibilities. A significant proportion of the women were charged with a male co-defendant.⁷¹¹ One defense lawyer told us that, in his experience, when a woman has a male co-defendant, he is most often an intimate partner or a family member.⁷¹²

Ethnic minorities appear to be overrepresented among women on death row for drug offenses.⁷¹³ One contributing factor for this trend may be that a significant proportion of China's ethnic minorities reside in Yunnan, which has the highest number of drug prosecutions in the country.⁷¹⁴ Other research, however, has shown that ethnic minorities suffer from discrimination in criminal sentencing and that “this bias is largest for groups heavily involved in the drug trade.”⁷¹⁵

Historical trends in the use of capital punishment

In the 1980s, China adopted a law enforcement campaign that was governed by the mantra “Strike Hard.”⁷¹⁶ The Strike Hard campaign embraced the use of capital punishment. Party-state officials used to quote an adage that, if judges have the choice of whether “to kill or not to kill, they should choose to kill.”⁷¹⁷ The Dui Hua Foundation estimates that 12,000 people were executed in China in 2002.⁷¹⁸ Beginning in 2005, however, the Chinese Communist Party adopted a policy of “kill fewer, kill cautiously” as part of its “harmonious society” agenda.⁷¹⁹ Thereafter, in 2007, the SPC assumed exclusive authority for the final review and approval of all death sentences.⁷²⁰ The overall use of the death penalty since that time is widely believed to have fallen significantly. A number of sources estimate that the annual number of executions fell by around ten thousand,⁷²¹ though others believe that the reduction was more modest.⁷²²

Meanwhile, however, China's anti-drug policies have grown increasingly punitive. Around the same time that the “harmonious society” agenda reduced the overall use of the death penalty, **the Party launched another national campaign called the “People's War on Drugs.”**⁷²³ The War on Drugs triggered increasingly harsh punishments for drug-related offenses, a trend that continues today. One lawyer told us that “the general trend in the last two years for major drug crimes is that sentences are getting heavier and heavier.”⁷²⁴ Moreover, recent empirical research by Tobias Smith concluded that “the proportion of death sentences handed out for

是立即执行——大多数都很年轻，没受过什么教育。她们几乎所有人都是**初中毕业前就已辍学。**⁵⁰大约一半的女性在宣判时年龄在 26-35 岁之间。⁵¹绝大多数来自农村地区，务农或无业。⁵²判决书并未一致提及被告是否有未成年子女或负有其他照顾责任。大量案件中还有男性共同被告。⁵³一位辩护律师告诉我们，根据他的经验，男性共同被告一般都是女性被告的亲密伴侣或家庭成员。⁵⁴

毒品犯罪死囚女性中，少数民族的比例过高。⁵⁵这个趋势的原因之一可能是中国少数民族中有很多住在云南，而云南是毒品起诉数量最大的省份。⁵⁶但其他研究也表明，少数民族在刑事判决中受歧视，“这种偏见对于大量参与毒品交易的群体最为严重。”⁵⁷

死刑使用的历史趋势

20 世纪 80 年代，中国开展了以“严打”为口号的执法运动。⁵⁸严打运动大力支持使用死刑。政党官员曾常引用一句格言，“如果可杀可不杀，法官应该选择杀。”⁵⁹对话基金会估计，2002 年中国有 12000 人被处决。⁶⁰但从 2005 年开始，中国共产党采取了“少杀、慎杀”的政策，作为“和谐社会”议程的一部分。⁶¹此后，2007 年，SPC 收回了对所有死刑判决的最终审查和批准权。⁶²普遍认为死刑的总体使用率自此大幅下降。一些信息来源估计每年的处决人数减少了大约一万，⁶³也有其他人认为减少幅度没有这么大。⁶⁴

然而，与此同时，中国的禁毒政策愈发严苛。在“和谐社会”议程降低了死刑总体使用的同时，**共产党发起了另一场名为“禁毒人民战争”的全国运动。**⁶⁵禁毒战促使毒品犯罪惩罚愈发严厉，这一趋势延续至今。一位律师告诉我们，“重大毒品犯罪近两年的总趋势是判得越来越重。”⁶⁶托比亚斯·史密斯

drug crimes seems to be increasing, and, indeed, some people believe that the total number of executions for drug crimes may be on the uptick as well.”⁷²⁵ Susan Trevaskes asserts that drug crime is “seen by politicians and Chinese society at large as exceptionally destructive of social and economic order.”⁷²⁶ Public condemnation plays a part in the (potentially) growing number of death sentences, since one of the sentencing factors that determines whether a capital sentence is warranted is whether the crime caused “extremely serious... harm... to society.”⁷²⁷ Trevaskes argues that “[j]udicial perceptions have their basis in Communist Party policy and attitudes to drugs.”⁷²⁸ As a result, judges have the discretion to sentence drug offenders to death and regularly do so.

Worldwide, drug use and production has increased in recent decades⁷²⁹ and China plays a key role in global trafficking routes.⁷³⁰ This is especially true in Southwestern provinces—such as Yunnan and Guangdong—which are near the ‘Golden Triangle’ of Laos, Myanmar, and Thailand that produces much of the world’s heroin.⁷³¹ Yunnan province is China’s drug capital. Its politicians are firmly anti-narcotics, and are also deeply involved in developing penal policies nationally.⁷³² The number of drug-related death sentences in Yunnan is higher than the national average.⁷³³ When the central government has implemented reforms in favor of leniency, Yunnan courts have tried to minimize their impact, with politicians insisting that “we need to understand the necessity of the death penalty in protecting social stability.”⁷³⁴ In sum, China’s application of the death penalty for drug-related offenses varies in different parts of the country but, overall, China’s reduced application of the death penalty in recent decades does not appear to extend to drug-related offenses.

Legislative framework

Chinese criminal law does little to disaggregate disparate drug offenses and indiscriminately groups all drug-related sentencing options together. Article 347 of the 1997 Criminal Law broadly stipulates that smuggling, trafficking, transporting, or manufacturing narcotic drugs are punishable by 15 years’ fixed-term imprisonment, an indeterminate life sentence, or death. This vague, unstructured framework lends judges a high degree of discretion in sentencing. Meanwhile, however, Article 347 provides little judicial discretion in terms of assessing criminal culpability.⁷³⁵ The only objective criterion it provides for establishing criminal culpability is the weight of the illicit substances involved. Article 347 specifies that the smuggling, trafficking, transport or production of over one thousand

(Tobias Smith) 最近的实证研究也得出结论：“毒品犯罪判死刑的比例似乎在增加，有些人认为毒品犯罪处决的总人数可能也在上升。”⁶⁷苏珊·特丽华斯基 (Susan Trevaskes) 表示，毒品犯罪“被政治家和整个中国社会视作严重破坏社会和经济秩序的行为”。⁶⁸公众对毒品犯罪的谴责是造成死刑判决 (可能) 越来越多的一个原因，因为决定判不判死刑的量刑因素之一是犯罪是否造成了“极其严重的...社会...伤害”。⁶⁹特丽华斯基认为，“[司]法观念的基础是共产党的政策和对毒品的态度”。⁷⁰因此，法官有权也经常判毒品罪犯死刑。

全球毒品使用和生产近几十年来有所增加⁷¹，中国是全球贩运路线的关键部分⁷²。云南和广东等西南省份尤其如此，这些省份靠近老挝、缅甸和泰国这个生产全球大部分海洛因的“金三角”。⁷³云南省是中国的毒品之都。云南的政治家们坚决禁毒，也深入参与全国刑罚政策的制定。⁷⁴云南涉毒死刑案件数量高于全国平均水平。⁷⁵中央政府实施宽大方向的改革后，云南法院努力将政策变化的影响降到最低，政治家们坚持认为“我们需要了解死刑对维护社会稳定的必要性。”⁷⁶总之，中国不同地区的毒品犯罪死刑适用情况各不相同。但总体而言，中国近几十年来死刑适用的降低似乎并未扩大到毒品相关犯罪。

立法框架

中国刑法对性质迥异的毒品犯罪不作分类，将所有毒品相关量刑选择都不加区分地放在一起。1997年《刑法》第347条宽泛地规定，走私、贩卖、运输、制造麻醉药品的，处十五年有期徒刑、无期徒刑或者死刑。这种模糊、无结构的框架赋予法官量刑高度的自由裁量权。但与此同时，第347条在评

grams of opium and 50 grams of heroin or methamphetamine is a death-eligible offense. In the publicly available cases, the judgments focus on the weight of the illicit substance in the possession of the defendants, apportion different amounts to the various defendants and assess culpability in that manner.⁷³⁶ Using the quantity of drugs involved as the primary determinant of liability unduly burdens defendants who are low-ranking in drug syndicates, because high-ranking members purposefully avoid directly handling large quantities.

Pregnant and breastfeeding women are statutorily barred from being sentenced to death.⁷³⁷ The SPC claims that drug syndicates target pregnant women to engage in transporting and trafficking, in the belief that they are at a decreased risk of suffering harsh punishments in the criminal legal system.⁷³⁸ The SPC has concluded that it will “crack down on” those who “hire pregnant women.”⁷³⁹

As a general rule, courts that handle drug cases rarely consider the personal circumstances of the defendant.⁷⁴⁰ Courts do not, for instance, generally consider having children or other dependents to be a mitigating factor at sentencing, even when the need to financially support them provided the primary impetus for the drug offense.⁷⁴¹ In one case, the defendant was a mother who had used the proceeds of drug trafficking to support her disabled child. The court explicitly stated that this was irrelevant to its assessment, and the woman received a suspended death sentence.⁷⁴² Female defendants are more likely to be the primary caregivers of minor children,⁷⁴³ so they are disproportionately harmed by courts’ failure to consider this mitigating factor. As female capital drug defendants in China tend to be poor and undereducated, they would benefit from courts considering the mitigating effect of all aspects of their background.

In transportation cases—where, unlike in trafficking cases, the drugs do not leave the national territory—the SPC has recognized that **it is problematic for judges to use drug quantity as a proxy for moral blameworthiness.**⁷⁴⁴ Poor, rural farmers most often engage in drug transportation and the SPC has recognized their limited culpability.⁷⁴⁵ In 2008, the SPC promulgated sentencing guidelines in the ‘Dalian Minutes,’ encouraging judges to consider the personal circumstances of the defendant and situate the crime in its socioeconomic context.⁷⁴⁶ Judges therefore engage in more mitigation analysis in drug transportation cases than in other drug-related cases. This may disproportionately aid female defendants

估刑事责任方面几乎没有提供任何司法自由裁量空间。⁷⁷第 347 条规定的确定刑事责任的唯一客观标准是涉案非法物质的重量：走私、贩运、运输或生产超过 1000 克鸦片，50 克海洛因或甲基苯丙胺是可判死刑的罪行。在公开的案件中，判决侧重被告持有的非法物质的重量，对不同的被告确定不同的重量，以这种方式定罪量刑。⁷⁸使用涉案毒品数量作为确定罪责的首要因素，这种方式主要惩罚了贩毒集团中低级别的被告，而高级别成员会刻意避免直接经手大量毒品。

法律禁止对孕妇和哺乳期妇女判处死刑。⁷⁹SPC 认为，贩毒集团故意找孕妇参与运输和贩卖，认为她们在刑事法律系统中受到严厉惩罚的风险较低。⁸⁰SPC 的结论是要“打击”那些“雇用孕妇”的人。⁸¹

处理毒品案件的法院一般很少考虑被告的个人情形。⁸²例如，法院通常不认为有孩子或其他抚养人是量刑时要考虑的减轻处罚因素，即使抚养孩子的经济需求是导致毒品犯罪的首要动因。⁸³在一个案件中，被告是一位母亲，她用贩毒所得抚养残疾孩子。法院明确表示这与量刑评估无关，该妇女被判死缓。⁸⁴女性被告更有可能是未成年子女的主要照顾人⁸⁵，因此如果法院不认为这是减刑因素，那么会更大比例地伤害到女性。由于中国毒品死刑案件中，女性被告往往贫困潦倒且受教育程度低，如果法院能考虑她们身世的方方面面，这些减刑因素会有利于妇女。

在运输案件中——与贩运案件不同，运输案中毒品不出国——SPC 已经认识到，**法官以毒品数量替代评估道德责任的做法是有问题的。**⁸⁶贫困的农民最常参与毒品运输，SPC 认识到他们的罪责有限。⁸⁷SPC2008 年在《大连纪

who, as earlier mentioned, are predominantly sentenced to death in transportation and trafficking cases. Nonetheless, women may be disadvantaged under aspects of the broader mitigation framework used by the courts to determine sentences. For example, one of the primary opportunities for defendants to reduce their sentence is to provide information to law enforcement about drug organizations, which is considered to be “meritorious service.”⁷⁴⁷ Guidelines advanced by the SPC in 2010 advise that the standard for meritorious service be different for principal offenders and accomplice offenders, to account for the disparity of knowledge between low- and high-ranking members of drug-trafficking organizations.⁷⁴⁸ Based on our analysis of publicly available cases, however, courts do not appear to consistently apply this guideline.⁷⁴⁹ If it is inconsistently applied, this would disadvantage low-ranking members of drug syndicates, which in turn disadvantages women. In sum, China’s legislative framework does not afford for an in-depth mitigation analysis in every case, and, in some respects, this unduly burdens women.

Fair trial violations

Significant fair trial violations permeate the criminal legal system in China. China is not transparent about the use of torture, for example, and **it is thus probable that confessions in some death penalty cases have been extorted through torture.**⁷⁵⁰ The most common fair trial violations in capital drug cases include an inability to access effective legal representation and arbitrary convictions and sentences.

All capital defendants have the right to legal representation at trial, and the state provides indigent defendants with state-funded counsel.⁷⁵¹ Research indicates that, by a number of metrics, state-funded lawyers may be less effective than private counsel.⁷⁵² In drug cases, however, retaining private counsel can be particularly expensive.⁷⁵³ Capital defense lawyers report that “capital defendants are not *equally* poor” and “[d]rug crime defendants sometimes put away rainy day money to pay for counsel.”⁷⁵⁴ Capital defenders therefore often charge more for drug-related cases.⁷⁵⁵ This practice disproportionately harms low-ranking members of drug syndicates who have fewer financial resources.

Moreover, there is a dearth of capital defense lawyers, since “[d]efense work in China is low status, low pay, high stress and high risk.”⁷⁵⁶ Legal aid lawyers with less than three years’ experience

要》中制定了量刑指南，鼓励法官考虑被告的个人情况，在社会经济背景下考虑犯罪情形。⁸⁸相比其他涉毒案件，法官在毒品运输案件中更多地考虑了减刑因素。这也许能更大程度上帮助女性被告，因为如前所述，她们主要在运输和贩运类案件中被判死刑。但在法院量刑时所用更广泛的减刑框架的其他方面，妇女处于不利地位。例如，被告减刑的一个主要机会是给执法部门提供有关贩毒组织的信息，这被视作“立功”。⁸⁹SPC2010年提出的指南建议，区分主犯和从犯的立功标准，以反映低级和高级成员所掌握贩毒组织信息的差异。⁹⁰但根据我们对公开案件的分析，法院似乎并没有始终如一地遵循这一指南。⁹¹如果做法不一，会不利于贩毒集团的低级成员，也就使妇女处于不利地位。总而言之，中国的立法框架没有要求每个案件都进行深入的减刑因素分析，这在有些方面对女性的影响过大。

违反公正审判

严重违反公正审判原则的行为贯穿中国刑事法律体系。例如，中国对酷刑的使用并不透明，**因此一些死刑案件中很可能存在酷刑逼供。**⁹²毒品死刑案件中最常见违背公正审判原则的情况是没有有效的法律代理，任意定罪和判刑。

所有死刑被告都有权在审判中获得法律代理，国家应为贫困被告提供公费律师。⁹³研究表明，从多个指标来看，公费律师辩护质量可能都不如私人律师。⁹⁴然而，在毒品案件中，聘请私人律师尤其昂贵。⁹⁵死刑辩护律师报告道，“死刑被告并不都很穷”，“[毒]品犯罪被告有时会未雨绸缪，提前存好律师费。”⁹⁶因此死刑案件辩护人通常对毒品案件收费更高。⁹⁷这种做法更大比例上伤害了贩毒集团里钱财来源较少

have reportedly defended death penalty cases.⁷⁵⁷ In the database sample of women sentenced to death for drug offenses, we found that state-funded lawyers more frequently raised defenses of innocence, even where that was a tenuous claim.⁷⁵⁸ In addition, capital defendants currently have no right to a publicly-funded lawyer during their final review before the SPC review stage, though defendants may hire private counsel, if they can afford it.⁷⁵⁹ This means that only a small minority of defendants receive legal assistance at the highest level of appellate review.⁷⁶⁰ Nonetheless, China's National People's Congress is considering a new Legal Aid Law which, if enacted, would guarantee death-sentenced prisoners a right to counsel at the SPC review stage.⁷⁶¹

A further hurdle that defendants face in relation to legal representation is that lawyers are not always granted access to information relevant to the case. The Rights Practice has found that “[t]he police, procuratorate [Chinese prosecutor] and the courts all operate ‘within the system’ and share privileged information among themselves... [which] leaves lawyers unable to access information vital to provide an adequate defence for their client.”⁷⁶² Like other jurisdictions, while all defendants are irreparably harmed by a lack of counsel, or ineffective counsel, women may disproportionately suffer due to their generally low-ranking positions in drug syndicates and, more broadly, their economic position in society.⁷⁶³

Finally, death penalty jurisprudence for drug-related offenses is inconsistent from one region to another,⁷⁶⁴ which violates the prohibition against arbitrary capital sentencing under international law.⁷⁶⁵ Amnesty International reports that “the police, prosecuting authorities and courts in different provinces and regions have different understandings of and standards for how to apply the death penalty in drug-related offenses.”⁷⁶⁶ Prevailing attitudes towards drugs in the province where the trial takes place strongly influence whether a death sentence is handed down or not.⁷⁶⁷ Arbitrariness pervades the criminal legal system in other ways, too. For example, China promotes its drug policies each year on June 26—International Day Against Drug Abuse and Illicit Trafficking—and each year around that time the number of drug-related executions increases.⁷⁶⁸ One lawyer stated that he always hopes that none of his clients receive a verdict on June 26, since courts in China typically issue harsh verdicts in drug-related cases on that day.⁷⁶⁹ Finally, arbitrariness is introduced into the system via the courts' unreasonable reliance on weight as a determinative factor in sentencing. The purity of the drugs is not taken into account, leading

的低级成员。

此外，死刑辩护律师短缺，因为“[辩]护工作在中国地位低、工资低、压力大、风险大。”⁹⁸据了解，工作经验还不满三年的法律援助律师也代理过死刑案件。⁹⁹在因毒品犯罪判死刑的妇女数据库样本中，我们发现公费律师提出无罪辩护的频率更高，即使这种辩护站不住脚。¹⁰⁰此外，SPC 死刑复核阶段，被告无权使用公费律师，但如果负担得起，可以请私人律师。¹⁰¹这意味着在最高级别的上诉审查阶段，只有少量的被告获得了法律协助。¹⁰²全国人大正在考虑通过一项新的《法律援助法》，一旦通过，能保障死刑囚犯在 SPC 复核阶段获得律师辩护的权利。

103

被告在法律代理方面的又一障碍是律师并不总能获得案件相关信息。瑞慈 (The Rights Practice) 发现“[警]察、检察院[中国检察官]和法院都在‘系统内’运作，彼此分享特权信息……[这]使律师无法获得为当事人有效辩护所需的至关重要的信息。”¹⁰⁴与其他司法管辖区一样，所有被告都因律师短缺或辩护质量低而受到无法弥补的伤害，但妇女可能受的影响更大，因为她们在贩毒集团中普遍地位较低，在整个社会中的经济地位也更低。¹⁰⁵

最后，毒品犯罪死刑判例因地区不同而存在差异，¹⁰⁶这违反了国际法禁止任意判处死刑的规定。¹⁰⁷国际特赦组织报告说，“不同省份和地区的警察、检察机关和法院对毒品犯罪适用死刑的理解和标准都不一样。”¹⁰⁸审判所在省份对毒品的普遍态度会强烈影响死刑适用。¹⁰⁹任意性也以其他方式普遍存在于刑事法律系统中。例如，中国在每年 6 月 26 日 (禁止药物滥用和非法贩运国际日) 宣传其毒品政策，每年这一时间前后，毒品案死刑处决数量都

to death sentences for some individuals who were carrying less illicit substance than others who were sentenced to an indeterminate life sentence.⁷⁷⁰

Conclusion

In China, as in other jurisdictions, women are primarily disadvantaged via their low-ranking positions within drug syndicates. This disadvantage operates in a number of ways. First, they are less often able to disclose information about illicit markets and thus less likely to benefit from reduced sentences.⁷⁷¹ Second, they are less likely to be able to afford capital defenders' increased fees for drug defendants.⁷⁷² Third, courts use drug weight as a proxy for criminal culpability, and this leads to low-ranking members being apportioned more blameworthiness, since the lowest-ranking individuals often carry the most drugs, and the most risk.⁷⁷³ The overwhelming majority of women on death row for drug offenses are poor, uneducated, and from rural backgrounds, and are more likely than men to bear major responsibility for childcare. As a result, they suffer disproportionately from courts rejecting caregiver status as a mitigating factor.⁷⁷⁴ Our analysis of the available, truncated set of case documents suggests that many young women from rural areas engage in drug crime to support their young children.⁷⁷⁵

PROFILE: SITI ASLINDA BINTE JUNAIDI (CHINA)

Siti Aslinda Binte Junaidi is a Singaporean woman incarcerated on death row in China for drug trafficking. At trial, Aslinda was represented by a legal aid lawyer.⁷⁷⁶ Aslinda was sentenced to death in July 2020 by the Shenzhen Intermediate Court and, if her appeals fail, she will be at risk of imminent execution.⁷⁷⁷

会增加。¹¹⁰一位律师说，他总是希望当事人千万不要在6月26日收到判决，因为中国法院在这一天对毒品案件的判决一般都很严厉。¹¹¹最后，法院不合理地将重量作为量刑决定因素，这也给刑事司法系统带来了任意性。不考虑毒品纯度，导致携带毒品纯度低，但量大，会被判死刑，而携带纯度高，但量少，反倒只判无期徒刑。¹¹²

结论

在中国，与其它地区一样，女性在贩毒集团中级别低，导致她们处于不利地位，这体现在几个方面。首先，她们不太可能掌握有关毒品市场的信息，因此很少通过立功获得减刑。¹¹³其次，死刑辩护人对毒品案件收费上涨，她们不太能负担得起。¹¹⁴再次，法院使用毒品重量确定罪责，导致低级别成员担负更大罪责，因为级别最低的人通常携带毒品最多，风险也最大。¹¹⁵绝大多数毒品犯罪死囚妇女都很贫困、没受过教育、来自农村，和男性相比，她们更有可能承担着育儿的主要责任。所以法院不考虑照料责任，不将其视为减刑因素的做法对她们有着不成比例的影响。¹¹⁶我们对现有的、删减后的案件库中文件的分析表明，许多来自农村地区的年轻女性从事毒品犯罪是为了养活她们的年幼子女。¹¹⁷

案例介绍：阿思琳达（SITI ASLINDA BINTE JUNAIDI）（中国）

阿思琳达（Siti Aslinda Binte Junaidi）是一名新加坡妇女，因贩毒被关押在中国的死囚区。审判期间，阿思琳达的案件是由一名法律援助律师代理的。

¹¹⁸阿思琳达于2020年7月被深圳市中级人民法院判处死刑，如果上诉失败，她会



Aslinda in February 2014 (before her incarceration), taken at her mother's house. Photo courtesy of KK Cheng Law LLC.

In late 2014, **Aslinda was a single mother struggling to support her 12-year-old daughter**, Ismiraldha.⁷⁷⁸ Searching for job opportunities online, Aslinda met Chibuzor Onwuka, a businessman who offered her a generous sum to transport suitcases of goods from China to Cambodia by plane.⁷⁷⁹ Aslinda was excited by this opportunity and soon began transporting Mr. Onwuka's goods between Guangzhou, China and Phnom Penh, Cambodia once or twice a month.⁷⁸⁰ The goods usually included women's lingerie, handbags and toner cartridges.⁷⁸¹ After Aslinda met a man named Mohd Yusri, they began to transport goods for Mr. Onwuka together.⁷⁸² Mr. M Ravi, a Singaporean lawyer who has been assisting Aslinda, believes that Aslinda was deeply in love with Yusri and would have done almost anything for him.⁷⁸³ Mr. Onwuka paid them USD \$2,000–\$3,000 each per trip and also covered their airfare and hotel bills.⁷⁸⁴ Aslinda wondered how Mr. Onwuka's business was so profitable, but when she asked him, he explained that the goods he transported were handpicked to be sold to prominent Cambodians.⁷⁸⁵ This satisfied her curiosity.

In October 2015, during Aslinda and Yusri's third joint trip, customs officers in Shenzhen, China, stopped them at the airport.⁷⁸⁶ A luggage search revealed over 11 kilograms of methamphetamine (with a street value of about USD \$220,000) in the lining of 28 women's handbags.⁷⁸⁷ Both Aslinda and Yusri were immediately arrested.

面临立即执行的风险。¹¹⁹



阿思琳达，2014年2月（监禁之前），摄于她母亲家中。照片由 KK Cheng Law LLC 提供。

2014年末时，**阿思琳达是一个单亲妈妈，在想方设法养活她12岁的女儿伊**斯米拉尔达 (Ismiraldha)。¹²⁰在网上找工作的过程中，阿思琳达遇到了商人欧乌卡 (Chibuzor Onwuka)，欧乌卡提议付她一大笔佣金，让她从中国坐飞机运送几个行李箱的货物到柬埔寨。¹²¹阿思琳达很激动有这个机会，不久就开始在中国广州和柬埔寨金边之间往返运送欧乌卡的货物，每月一到两次。¹²²货物通常包括女士内衣、手提包和打印机硒鼓。¹²³阿思琳达后来认识了一个叫尤思礼 (Mohd Yusri) 的人，他俩开始一起为欧乌卡运货。¹²⁴协助阿思琳达案件的新加坡律师拉维 (M Ravi) 认为阿思琳达深爱着尤思礼，到了可以为他做任何事情的地步。¹²⁵每次运货，欧乌卡付他们 2000 至 3000 美元，以及机票和酒店费用。¹²⁶阿思琳达好奇欧乌卡的生意怎么这么赚钱，但问起他时，他解释说运送的货物都是精心挑选出来卖给柬埔寨知名人士的。¹²⁷她也就不再继续好奇追问了。

2015年10月，阿思琳达和尤思礼第三次共同出行时，中国深圳的海关人员在机场拦下了他们。¹²⁸海关搜查行李，在28个女士手提包的内衬中发现了超过11公斤的甲基苯丙胺(市价约22万美元)。¹²⁹阿思琳达和尤思礼立即被

We know little about Aslinda’s trial in China. Mr. Ravi believes that the legal aid attorney representing Aslinda was ineffective in many respects.⁷⁸⁸ The Singaporean Ministry of Foreign Affairs recommended a number of Chinese defense lawyers when Aslinda was arrested, but Aslinda’s family “couldn’t afford [any of them] due to the very high cost.”⁷⁸⁹ On July 25, 2020, almost five years after her arrest, the Shenzhen Intermediate Court found Aslinda guilty of drug trafficking and sentenced her to death with immediate effect.⁷⁹⁰ This is a far longer pre-trial period than is typical in China.⁷⁹¹ Aslinda’s co-accused, Yusri, received a suspended death sentence,⁷⁹² a lesser punishment that in most cases is reduced to an indeterminate life sentence after two years.⁷⁹³ Without access to the court proceedings— which Chinese authorities have not published and which are classified as a state secret by default⁷⁹⁴—we do not know why they received such disparate sentences.

In December 2020, media sources (likely erroneously) reported that Aslinda would be executed within two weeks.⁷⁹⁵ Ismiraldha, then 17 years old and desperate to help her mother, contacted Mr. Ravi, a well-known human rights lawyer in Singapore.⁷⁹⁶ Mr. Ravi frantically sought to secure local Chinese representation for Aslinda, though many of the defense attorneys he approached asked for exorbitant fees.⁷⁹⁷ Nevertheless, Mr. Ravi’s efforts were eventually successful, and Aslinda is now represented by experienced counsel for her appeal to the Guangdong High Court.⁷⁹⁸

Mr. Ravi laments that the Singaporean authorities have not been more active in assisting Aslinda. For example, they failed to ensure that she was adequately represented at trial. Mr. Ravi says he has “been trying to reach out to the Ministry of Foreign Affairs and they’ve not been very helpful... it’s very frustrating.”⁷⁹⁹ The Ministry has told Ismiraldha, Aslinda’s teenage daughter, that if her mother is executed, Ismiraldha will have to pay the full cost of repatriating the body to Singapore. 800

Meanwhile, Ismiraldha has not seen her mother in over five years. They are, however, sometimes able to write each other letters. In one of Aslinda’s recent letters, she asked after her daughter’s schooling and appearance, imagining how Ismiraldha has grown. Trying to remain positive, she focused on her daughter’s education

捕。

我们对阿思琳达在中国的审判知之甚少。拉维认为，代理阿思琳达的法律援助律师在许多方面都做得不好。¹³⁰阿思琳达被捕时，新加坡外交部推荐了一些中国辩护律师，但阿思琳达的家人“负担不起[任何一位]，因为非常贵。”¹³¹被捕近五年后，2020年7月25日，深圳市中级法院认定阿思琳达贩毒罪成立，并判处死刑，立即生效。¹³²审前羁押时间比中国典型的预审期长得多。¹³³阿思琳达的同案被告尤思礼被判死刑缓期执行，¹³⁴这个刑罚更轻，大多数情况下会在两年后减为无期徒刑。¹³⁵因为无法了解法庭诉讼详情——中国当局不公布这些信息，将其默认为国家机密¹³⁶——我们不知道他们的判决为什么差异这么大。

2020年12月，媒体（错误的）消息来源报道说，阿思琳达将在两周内被处决。¹³⁷当时17岁的伊斯米拉尔达迫切希望帮她妈妈，便联系了新加坡著名的人权律师拉维。¹³⁸拉维四处奔走，为阿思琳达争取中国本地律师，但他询问的许多辩护律师收费都极高。¹³⁹不过拉维的努力最终成功了，阿思琳达一案向广东高院的上诉现在由经验丰富的律师代理。¹⁴⁰

拉维感慨说新加坡当局对协助阿思琳达并不积极。例如，没有确保她在审判中得到恰当的律师代理。拉维说他“一直努力联系外交部，但外交部没有提供很大帮助……很令人沮丧。”¹⁴¹外交部告诉阿思琳达十来岁的女儿伊斯米拉尔达，如果她妈妈被处决，她得支付将尸体运回新加坡的全部费用。¹⁴²

伊斯米拉尔达已经五年多没有见过她妈妈了。她们有时能够互相通信。在阿思琳达最近的一封信中，她询问了女儿的学业和外貌，想象女儿长大了多少。为了保持乐观，她只去想女儿的教

and future: “Elda, by the way, what’s your height and weight now? How’s your [school] life? Fun? Enjoy yourself alright.”⁸⁰¹
Ismiraldha reports that she is “in a state of disbelief”⁸⁰² and “worried and scared” for her mother’s life.⁸⁰³ The Guangdong High Court will soon hear Aslinda’s appeal, and her appellate lawyers are hopeful that, with their assistance, the courts will finally hear her story.

To write this profile, we conducted interviews with Aslinda’s lawyers and consulted publicly available information. We publish this profile with the consent of Aslinda’s daughter and her lawyers.

育和未来：“阿达，你现在多高多重了？你的[校园]生活好吗？开心吗？要好好享受哦。”¹⁴³伊斯米拉达说她一直“处于难以置信的状态”，¹⁴⁴“担心害怕”妈妈的生命。广东高院很快将要审理阿思琳达的上诉，她的上诉律师希望在他们的协助下，法庭最终能听到她的故事。

为了撰写此案例介绍，我们采访了阿思琳达的律师并查阅了公开信息。此案例介绍是在阿思琳达的女儿及其律师同意的情况下发布。

¹ U.N. Office on Drugs and Crimes, Women and Drugs: Drug Use, Drug Supply and Their Consequences, World Drug Report 2018, p. 26, <https://perma.cc/NMT7-9WB2>, Jun. 2018.

² Preeti Jha, Asia’s Prisons Are Filling up with Women. Many Are Victims of the War on Drugs, CNN, <https://perma.cc/8368-C6BS>, last accessed Jun. 14, 2021.

³ Joon Lee, The Death Penalty in 2019: Declining Use of the Death Penalty Worldwide, Cornell Center on the Death Penalty Worldwide, <https://perma.cc/UCA5-JENN>, Apr. 14, 2020.

⁴ Preet Jha, Philippines Death Penalty: A Fight to Stop the Return of Capital Punishment, BBC, <https://perma.cc/7L95-EJP4>, Aug. 16, 2020.

⁵ Cornell Center on the Death Penalty Worldwide, Most Serious Crimes, <https://perma.cc/B4SX-VYNH>, Oct. 8, 2015.

⁶ Human Rights Committee, General Comment No. 36 on Article 6 of the ICCPR, on the right to life, para. 35, U.N. Doc. CCPR/C/GC/36, Oct. 2018. U.N.G.A. Human Rights Council, Annual Report of the U.N. High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, U.N. Doc. A/HRC/42/28, Aug. 2019. See also, Human Rights Committee, Concluding Observations: Thailand, para. 14, U.N. Doc. CCPR/CO/84/THA, Jul. 8, 2005.

⁷ U.N. Office on Drugs and Crimes, Women and Drugs: Drug Use, Drug Supply and Their Consequences, p. 31, <https://perma.cc/NMT7-9WB2>, Jun. 2018.

⁸ Jennifer Fleetwood, Mafias, Markets, Mules: Gender Stereotypes in Discourses, p. 963, *Sociology Compass* Vol. 9 Iss. 11, Nov. 2015.

⁹ See Manipulative Relationships (Section IV.B.).

¹⁰ Jennifer Fleetwood, Mafias, Markets, Mules: Gender Stereotypes in Discourses, pp. 968-969, *Sociology Compass* Vol. 9 Iss. 11, Nov. 2015. U.N. Office on Drugs and Crimes, Women and Drugs: Drug Use, Drug Supply and Their Consequences, p. 27, <https://perma.cc/NMT7-9WB2>, Jun. 2018.

¹¹ See Gender Bias and Gender-Based Discrimination (Section V.A.).

¹² See Gender Bias and Gender-Based Discrimination (Section V.A.).

¹³ Samantha Jeffries, Chontit Chuenurah, and Tristan Russell, Expectations and Experiences of Women Imprisoned for Drug Offending and Returning to Communities in Thailand: Understanding Women’s Pathways into, Through, and Post-Imprisonment, p. 2, 9(2) *Laws* 1, Jun. 22, 2020 (citations omitted).

¹⁴ Carolyn Hoyle and Lucy Harry, Compounded Vulnerability: Foreign National Women and the Death Penalty in Southeast Asia, *Amicus Journal*, Mar. 6, 2020. See Malaysia (Section VI.B.), Indonesia (Section VI.A.), and Thailand (Section VI.C.).

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- ¹⁵ See Avalie’s profile (Section VI.B).
- ¹⁶ Jennifer Fleetwood, *Mafias, Markets, Mules: Gender Stereotypes in Discourses*, pp. 962-976, *Sociology Compass* Vol. 9 Iss. 11, Nov. 2015.
- ¹⁷ The Dui Hua Foundation were able to confirm that from 2014 to 2019, between 4-7 women were executed for drug offenses each year. The real number is likely to be much higher. Even if we take this figure as a floor, China executes more women for drug offenses than any other country. Kevin Li, affiliated with Dui Hua, spreadsheet emailed to CCDPW, Mar. 15, 2021.
- ¹⁸ See, for example, The Rights Practice, Submission to the U.N. Office of the High Commissioner for Human Rights on the Lack of Transparency in the Death Penalty, p. 2, <https://perma.cc/7TBH-6SLT>, Mar. 2021.
- ¹⁹ Tobias Smith, *The Contradictions of Chinese Capital Punishment*, p. 93, UC Berkeley, <https://perma.cc/5C2Y-DZVC>, Jul. 2020. Anonymous, respondent to questionnaire sent by CCDPW, Apr. 2021.
- ²⁰ “From 2016 to 2018, among the drug trafficking cases prosecuted by Wenzhou prosecutors, the proportion of female drug traffickers was 15.57%, an increase of 3.05% from 2013 to 2015. Wenzhou News Net, 温州市检察院发布贩毒犯罪案件八个特点:女性贩毒比例有所上升 [Wenzhou Procuratorate Released Eight Characteristics Of Drug Trafficking Crime Cases: The Proportion Of Female Drug Trafficking Has Increased], <https://perma.cc/VS9W-82WP>, Jun. 26, 2019. Female defendants in drug-related cases “have become increasingly prominent, accounting for about 20%” of drug-related cases in the Haidian Court over the last six years. See Beijing Higher People’s Court, 海淀区法院发布近六年海淀区毒品犯罪案件变化情况调研报告 [Haidian Court Released A Survey Report On The Changes In Drug Crime Cases In Haidian District In The Past Six Years], <https://perma.cc/3E9E-SV66>, Dec. 4, 2015.
- ²¹ The Rights Practice, Submission to the U.N. Office of the High Commissioner for Human Rights on the Lack of Transparency in the Death Penalty, p. 2, <https://perma.cc/7TBH-6SLT>, Mar. 2021.
- ²² *Ibid.* Human Rights in China, *State Secrets: China’s Legal Labyrinth*, p. 41, <https://perma.cc/T2TG-JRHV>, 2007.
- ²³ For example, judges are required to keep “judicial work secrets” confidential—a term which is nowhere enumerated. The Rights Practice, Submission to the U.N. Office of the High Commissioner for Human Rights on the Lack of Transparency in the Death Penalty, pp. 3-4, <https://perma.cc/7TBH-6SLT>, Mar. 2021.
- ²⁴ A person may be sentenced to death if a disclosure of state secrets “causes particularly grave harm to the State and the people or if the circumstances are especially serious.” Criminal Law of the People’s Republic of China, Articles 111 and 113, 1997, amended 2017. See The Rights Practice, Submission to the U.N. Office of the High Commissioner for Human Rights on the Lack of Transparency in the Death Penalty, p. 2, <https://perma.cc/7TBH-6SLT>, Mar. 2021. The Supreme People’s Court (SPC) Interpretation of Certain Issues further states that, revealing top-level classified state secrets where there are “especially deplorable circumstances” is a death-eligible offense. Cited in Human Rights in China, *State Secrets: China’s Legal Labyrinth*, p. 41, <https://perma.cc/T2TG-JRHV>, 2007. Tobias Smith maintains that “the closer a particular Chinese death penalty statistic approximates the indicator of annual national executions, the more severely its disclosure is sanctioned.” See Tobias Smith, *Body Count Politics: Quantification, Secrecy, and Capital Punishment in China*, pp. 707, 710- 711, *Law & Social Inquiry*, May 6, 2020.
- ²⁵ The Rights Practice, Submission to the U.N. Office of the High Commissioner for Human Rights on the Lack of Transparency in the Death Penalty, p. 4, <https://perma.cc/7TBH-6SLT>, Mar. 2021. Dui Hua, *Supreme People’s Court Makes Two Announcements About Online Court Database*, <https://perma.cc/7ARE-R5KY>, Dec. 3, 2020.
- ²⁶ Supreme People’s Court, *Provisions on People’s Court Release of Judgments on The Internet*, <https://perma.cc/4LSD-58KN>, Aug. 29, 2016.
- ²⁷ The Rights Practice, Submission to the U.N. Office of the High Commissioner for Human Rights on the Lack of Transparency in the Death Penalty, p. 4, <https://perma.cc/7TBH-6SLT>, Mar. 2021.
- ²⁸ Amnesty Intl., *China’s Deadly Secrets*, p. 27, ASA 17/5849/2017, Apr. 10, 2017.
- ²⁹ Amnesty Intl., *China’s Deadly Secrets*, pp. 7,31, ASA 17/5849/2017, Apr. 10, 2017.
- ³⁰ Echo Xie, *Millions of Court Rulings Removed From Official Chinese Database*, *South China Morning Post*, <https://perma.cc/W22Y-BLVT>, Jun 26, 2021. Anne Henonchowicz, *Timeline of Court Rulings Removed From the Internet*, *China Digital Times*, <https://perma.cc/TKC7-5G9V>, Jun. 29, 2021.

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- ³¹ See Tobias Smith, *Body Count Politics: Quantification, Secrecy, and Capital Punishment in China*, p. 716, *Law & Social Inquiry*, May 6, 2020.
- ³² Amnesty Intl., *Death Sentences and Executions 2020*, p. 26, ACT 50/3760/2021, Apr. 21, 2021.
- ³³ Amnesty Intl., *Death Sentences and Executions 2020*, p. 26, ACT 50/3760/2021, Apr. 21, 2021. Amnesty Intl., *China's Deadly Secrets*, p. 10, ASA 17/5849/2017, Apr. 10, 2017. Tobias Smith, *Body Count Politics: Quantification, Secrecy, and Capital Punishment in China*, p. 711, *Law & Social Inquiry*, May 6, 2020.
- ³⁴ Dui Hua, *Death Penalty Reform*, <https://perma.cc/CA7C-SWZ4>, last accessed Jun. 19, 2021.
- ³⁵ Teng Biao, affiliated with the Pozen Family Center for Human Rights at the University of Chicago, email to CCDPW, Jul. 9, 2021.
- ³⁶ Sina News, 中国死刑这些年:数量下降范围缩小(图) [China's death penalty in recent years: the number of declines narrowed], <https://perma.cc/GD5P-F35Z>, Sep. 21, 2018.
- ³⁷ Tobias Smith, *The Contradictions of Chinese Capital Punishment*, p. 136, UC Berkeley, <https://perma.cc/5C2Y-DZVC>, Jul. 2020.
- ³⁸ The Rights Practice, *Submission to the U.N. Office of the High Commissioner for Human Rights on the Lack of Transparency in the Death Penalty*, p. 3, <https://perma.cc/7TBH-6SLT>, Mar. 2021.
- ³⁹ According to the China Judgments Online Database sample, women constitute 4% of those sentenced to death for drug offenses. Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021. This is likely a significant underestimate (since the cases of women can elicit more public sympathy and thus the SPC might be reticent to publish them). It is likely to be more in line with the percentage of women incarcerated for noncapital cases, which is 8%. See World Prison Brief, China, <https://perma.cc/L8UK-ZHUR>, last accessed Jun. 26, 2021.
- ⁴⁰ "From 2016 to 2018, among the drug trafficking cases prosecuted by Wenzhou prosecutors, the proportion of female drug traffickers was 15.57%, an increase of 3.05% from 2013 to 2015. Wenzhou News Net, 温州市检察院发布贩毒犯罪案件八个特点:女性贩毒比例有所上升 [Wenzhou Procuratorate Released Eight Characteristics Of Drug Trafficking Crime Cases: The Proportion Of Female Drug Trafficking Has Increased], <https://perma.cc/VS9W-82WP>, Jun. 26, 2019. Female defendants in drug-related cases "have become increasingly prominent, accounting for about 20%" of drug-related cases in the Haidian Court over the last six years. See Beijing Higher People's Court, 海淀法院发布近六年海淀区毒品犯罪案件变化情况调研报告 [Haidian Court Released A Survey Report On The Changes In Drug Crime Cases In Haidian District In The Past Six Years], <https://perma.cc/3E9E-SV66>, Dec. 4, 2015.
- ⁴¹ Anonymous, respondent to questionnaire sent by CCDPW, Apr. 2021.
- ⁴² The penalty is directly translated as "indeterminate term" but is often translated by scholars as "life sentence," hence our choice of the term "indeterminate life sentence." Almost anyone who receives this penalty can reasonably expect to be released at some point. For a discussion of this, see Tobias Smith, *Making Sense of Life Without Parole in China*, p. 75, *Punishment and Society*, Oct. 2019.
- ⁴³ Criminal Law of the People's Republic of China, Article 50, 1997.
- ⁴⁴ It is estimated that 99% of people sentenced to death with suspended execution avoid death. Matthew Seet, *Finding Reprieve: Should the Global Movement Against Capital Punishment Embrace China's Suspended Death Sentence As a Model for Other Retentionist States to Emulate?*, p. 467, *Chinese Journal of International Law*, Sep. 2017.
- ⁴⁵ "Cases are uploaded selectively." See The Rights Practice, *Submission to the U.N. Office of the High Commissioner for Human Rights on the Lack of Transparency in the Death Penalty*, p. 4, <https://perma.cc/7TBH-6SLT>, Mar. 2021. Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ⁴⁶ 96% were sentenced to death for trafficking and transporting drugs, and another 4% were sentenced to death for trafficking, transporting, allowing others to use drugs, or trafficking, transporting, or manufacturing drugs. See Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ⁴⁷ 50% were methamphetamine, 34.7% were heroin, and 15.3% involved both drugs. See Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.

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- ⁴⁸ Only 11 of the 300 cases – so 3.6% – were immediate death sentences. See Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ⁴⁹ Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ⁵⁰ 99.3% had less than a junior high school education. Also, of the five cases (of women sentenced to death for drug offenses) recently confirmed by the SPC for immediate execution, none had completed their junior high school education. See Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ⁵¹ 48.5% of women were between 26-35. 99.3% had less than a junior high school education. See Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ⁵² 99.3% were farmers or were unemployed. See Zhiyuan Guo and Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ⁵³ Of the five cases (of women sentenced to death for drug offenses) recently confirmed by the SPC for immediate execution, three involved male co-defendants. Yang Mei, Huang Pu and Jian Zhuxiang were charged with male co-defendants; Zi Xiaosan and Lan Yuchang were not.
- ⁵⁴ Anonymous, respondent to questionnaire sent by CCDPW, Mar. 2021.
- ⁵⁵ Of the five cases (of women sentenced to death for drug offenses) recently confirmed by the SPC for immediate execution, three were national ethnic minorities. Yang Mei, Huang Pu and Lan Yuchang were national ethnic minorities; Zi Xiaosan was a foreign national and only Lan Yuchang was a Chinese Han.
- ⁵⁶ Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 147, Law & Policy, Feb. 23, 2016.
- ⁵⁷ Yue Hou & Rory Truex, Ethnic Discrimination in Criminal Sentencing in China, p. 1, <https://perma.cc/43NG-P4VV>, Jun. 1, 2020.
- ⁵⁸ Susan Trevaskes, Death Penalty Reform, p. 1, China Story Yearbook, <https://perma.cc/4WCT-KGJB>, 2017.
- ⁵⁹ Ibid.
- ⁶⁰ Dui Hua, Death Penalty Reform, <https://perma.cc/CA7C-SWZ4>, last accessed Jun. 19, 2021.
- ⁶¹ Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, pp. 145,147, Law & Policy, Feb. 23, 2016.
- ⁶² Susan Trevaskes, Death Penalty Reform, p. 1, China Story Yearbook, <https://perma.cc/4WCT-KGJB>, 2017.
- ⁶³ Dui Hua, Death Penalty Reform, <https://perma.cc/CA7C-SWZ4>, last accessed Jun. 19, 2021. Susan Trevaskes, Death Penalty Reform, p. 3, China Story Yearbook, <https://perma.cc/4WCT-KGJB>, 2017
- ⁶⁴ Dr. Teng Biao believes that the annual number of executions in China in recent years is above 6,000. Teng Biao, affiliated with the Pozen Family Center for Human Rights at the University of Chicago, email to CCDPW, Jul. 9, 2021.
- ⁶⁵ Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 152, Law & Policy, Feb. 23, 2016.
- ⁶⁶ Anonymous, respondent to questionnaire sent by CCDPW, Apr. 2021.
- ⁶⁷ Tobias Smith, The Contradictions of Chinese Capital Punishment, p. 93, UC Berkeley, <https://perma.cc/5C2Y-DZVC>, Jul. 2020.
- ⁶⁸ Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 158, Law & Policy, Feb. 23, 2016.
- ⁶⁹ Criminal Law of the People's Republic of China, Articles 48 and 61, 1997. Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, pp. 148-149, Law & Policy, Feb. 23, 2016.
- ⁷⁰ Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 144, Law & Policy, Feb. 23, 2016.
- ⁷¹ U.N. Office on Drugs and Crime, World Drug Report 2020: Global Drug Use Rising, <https://perma.cc/HPR4-H4CP>, Jun. 25, 2020.
- ⁷² Siyu Liu, Moulin Xiong, & Bin Liang, The Death Penalty for Foreign Drug Offenders in China: Legal Protection and Equal Treatment, p. 428, European Journal on Criminal Policy and Research, Mar. 26, 2018.
- ⁷³ Tobias Smith, The Contradictions of Chinese Capital Punishment, p. 97, UC Berkeley, <https://perma.cc/5C2Y-DZVC>, Jul. 2020.
- ⁷⁴ Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 147, Law & Policy, Feb. 23, 2016.

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- ⁷⁵ Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 147, Law & Policy, Feb. 23, 2016.
- ⁷⁶ Yunnan Higher Court quoted in Yunnan Daily. Cited in Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 147, Law & Policy, Feb. 23, 2016.
- ⁷⁷ Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 150, Law & Policy, Feb. 23, 2016.
- ⁷⁸ See, for example, China v. Liu Demei, (2018)云 01 刑 初 505 号, People's Court of Kunming City, Apr. 22, 2019. China v. Luo Fengxiang, (2017)云 01 刑初 751 号, People's Court of Kunming City, May. 13, 2019. China v. Su Ling, (2016)云 01 刑初 64 号, People's Court of Kunming City, Apr. 22, 2019.
- ⁷⁹ Criminal Law of the People's Republic of China, Article 49, 1997. The Supreme People's Court, Understanding and Application of the Minutes of the National Symposium on Trial of Drug Crime Cases in Some Courts, Dec. 2008. Cited in Liu Lan, 最高人民法院印发《全国部分法院审理毒品 犯罪案件工作座谈会纪要》 [Issued by the Supreme People's Court: Minutes of the Symposium on the Trial of Drug Crimes by Some Courts Across the Country], China Court, <https://perma.cc/BR6P-Y89H>, Dec. 22, 2008.
- ⁸⁰ Ibid.
- ⁸¹ Ibid.
- ⁸² Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 150, Law & Policy, Feb. 23, 2016. Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ⁸³ Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ⁸⁴ <http://legal.people.com.cn/n/2012/1012/c42510-19241755.html>, last accessed Nov. 3, 2019. Cited in Anonymous, research memo for CCDPW, Nov. 3, 2019.
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- ⁸⁶ Supreme People's Court, The Dalian Minutes of The 2008 National Judicial Conference. Cited in Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 153, Law & Policy, Feb. 23, 2016.
- ⁸⁷ Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, p. 143 and 153, Law & Policy, Feb. 23, 2016.
- ⁸⁸ SPC, The Dalian Minutes of The 2008 National Judicial Conference. Cited in Susan Trevaskes, Creative Death Penalty Reform in China: The Case of Drug Transportation, pp. 153-154, Law & Policy, Feb. 23, 2016.
- ⁸⁹ Criminal Law of the People's Republic of China, Article 68, 1997.
- ⁹⁰ The Supreme People's Court, Understanding and Application of the Opinions of the Supreme People's Court on Several Specific Issues Concerning the Treatment of Voluntary Surrender and Meritorious Service, Dec. 2010. Cited in China Daily, 最高院发布《自首和立功若干具体 问题的意见》 [Issued by the Supreme People's Court: Opinions on Several Specific Issues of Voluntary and Meritorious Merit], <https://perma.cc/Z63X-B766>, Dec. 29, 2010.
- ⁹¹ See, for example, China v. Liu Demei, (2018)云 01 刑 初 505 号, People's Court of Kunming City, Apr. 22, 2019. China v. Li Fuying, (2017)云刑终 799 号, People's Court of Yunnan Province, Mar. 29, 2018. China v. Huang Fangmei, (2016)云 01 刑初 218 号, People's Court of Kunming City, Apr. 22, 2019.
- ⁹² See, for example, the cases of Xu Youchen and Zhang Yuhuan. Cited in The Rights Practice, Respect for Minimum Standards? Report on the Death Penalty in China, pp. 28-30, 32, <https://perma.cc/E6FJ-XF33>, Oct. 2020. The Rights Practice, Submission To The OHCHR On The Lack Of Transparency In The Death Penalty, p. 4, <https://perma.cc/7TBH-6SLT>, Mar. 2021.
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- ⁹⁵ Tobias Smith, *The Contradictions of Chinese Capital Punishment*, p. 97, UC Berkeley, <https://perma.cc/5C2Y-DZVC>, Jul. 2020.
- ⁹⁶ Tobias Smith, *The Contradictions of Chinese Capital Punishment*, p. 97, UC Berkeley, <https://perma.cc/5C2Y-DZVC>, Jul. 2020.
- ⁹⁷ Ibid. Mr. M Ravi, affiliated with K. K. Cheng Law LLC, interviewed by CCDPW, Jun. 1, 2021.
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- ¹⁰⁰ See, for example, *China v. Su Ling*, (2016) 云 01 刑初 64 号, People's Court of Kunming City, Apr. 22, 2019. *China v. Li Guihua*, (2016)云 01 刑初 700 号, People's Court of Kunming City, Apr.22, 2019. *China v. Li Fuying*, (2017) 云刑终 799 号, People's Court of Yunnan Province, Mar. 29, 2018.
- ¹⁰¹ Tobias Smith, *The Contradictions of Chinese Capital Punishment*, p. 123, UC Berkeley, <https://perma.cc/5C2Y-DZVC>, Jul. 2020. Zhiyuan Guo and Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, note their disagreement with this point.
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- ¹⁰⁸ Amnesty Intl., *China's Deadly Secrets*, p. 30, ASA 17/5849/2017, Apr. 10, 2017.
- ¹⁰⁹ Susan Trevaskes, *Creative Death Penalty Reform in China: The Case of Drug Transportation*, p. 144, *Law & Policy*, Feb. 23, 2016.
- ¹¹⁰ Tobias Smith, *Mixed Signals in Reports of "Zero Confession" Executions*, *Dui Hua Foundation Human Rights Journal*, <https://perma.cc/YV4Q-N3JH>, Jun. 6, 2018.
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- ¹¹² Susan Trevaskes, *Creative Death Penalty Reform in China: The Case of Drug Transportation*, p. 156, *Law & Policy*, Feb. 23, 2016.
- ¹¹³ As stipulated in *Criminal Law of the People's Republic of China*, Article 68, 1997. Zhiyuan Guo & Rong Ma, affiliated with the Center for Criminal Law and Justice of the China University of Political Science and Law, research memo for CCDPW, May. 4, 2021.
- ¹¹⁴ A description of increased fees can be found in Tobias Smith, *The Contradictions of Chinese Capital Punishment*, p. 97, UC Berkeley, <https://perma.cc/5C2Y-DZVC>, Jul. 2020. Mr. M Ravi, affiliated with K. K. Cheng Law LLC, interviewed by CCDPW, Jun. 1, 2021.
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- ¹¹⁷ See, for example, *China v. Li Xiaozhen*, (2018) 云 01 刑初 242 号, People's Court of Kunming City, Apr.22, 2019. *China v. Huang Fangmei*, (2016) 云 01 刑初 218 号, People's Court of Kunming City, Apr. 22, 2019. *China v. Su Ling*, (2016) 云 01 刑初 64 号, People's Court of Kunming City, Apr. 22, 2019.

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- ¹²⁸ Obbana Rajah, Singaporean Woman on Death Row in China May Have Hope: M Ravi, The Independent Singapore, <https://perma.cc/4APF-C6TP>, Feb. 10, 2021.
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- ¹³³ Our conclusion is based on our analysis of published death penalty cases in China.
- ¹³⁴ Obbana Rajah, Singaporean Woman on Death Row in China May Have Hope: M Ravi, The Independent Singapore, <https://perma.cc/4APF-C6TP>, Feb. 10, 2021.
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- ¹³⁶ Email correspondence between Mr. M Ravi and anonymous Chinese capital defense lawyers citing Article 33 of the Provisions on Confidentiality in the Work of the People's Procuratorate, emailed to CCDPW, Jun. 10, 2021.
- ¹³⁷ Malaysia Now, Singapore Woman Faces Death by Firing Squad in China, <https://perma.cc/2LLD-6ZPK>, Dec. 15, 2020. James Griffiths, Singaporean Woman Faces Execution in China as Family Launches Last Desperate Appeal, CNN, <https://perma.cc/7JMR-5CL3>, Dec. 25, 2020.
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- ¹³⁹ The Online Citizen, Hope Surfaces for S'porean facing Execution in China as Pro Bono Lawyers Seek Case Review in Higher Courts, <https://perma.cc/8XES-5RML>, Feb. 10, 2021.
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