

# The Jolly Hangman, the Jailed Journalist, and the Decline of Singapore's Death Penalty

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Received: 8 February 2012 / Accepted: 3 May 2012 / Published online: 27 May 2012  
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**Abstract** British journalist Alan Shadrake was convicted of contempt of court in 2010 for writing a book about capital punishment in Singapore. This article uses that book and other sources to analyze four aspects of Singapore's death penalty. It begins with a profile of Darshan Singh, the hangman who executed 1,000 persons over the past half-century. The article then shows that Singapore's system of mandatory capital punishment does not produce consistency in death penalty decision-making. Next the article argues that the prosecution of Shadrake increased criticism of capital punishment in Singapore by propelling his book to bestseller status. This is followed by an explanation of why the number of persons executed in Singapore has declined in recent years, from an average of 66 per year in the mid-1990s to an average of 5 per year since 2004. The key proximate cause of this decline appears to be prosecutors, who can use their discretion to charge defendants for possessing amounts of heroin, cannabis, cocaine, and methamphetamine that are just under the thresholds for a mandatory death sentence. Capital punishment in Singapore is not really mandatory, and it cannot escape the problems of bias and arbitrariness that have long plagued discretionary death penalty systems in the United States, Japan, and other nations.

**Keywords** Capital punishment · Mandatory death penalty · Executions · Contempt of court · Prosecutorial discretion · Freedom of expression

Repression is like making love. It is always easier the second time.

Lee Kuan Yew, the father of modern Singapore (1956)<sup>1</sup>

I think we have to go in whatever direction world conditions dictate if we are to survive and to be part of this modern world.

Lee Kuan Yew (2007)<sup>2</sup>

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<sup>1</sup>Quoted in Seow 2006:vi.

<sup>2</sup>Quoted in Mydans and Arnold 2007.

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## Introduction

Research on capital punishment is thick and thin: so thick in some parts of the subject—especially concerning the United States—that no one can master it all, and so thin in others that researchers are reduced to guesswork, weaving great quilts of narrative from little rags of data (Friedman 1993). Studies of capital punishment in Asia are especially scarce. This is unfortunate, because 60 % of the world’s population resides in that region, and because Asia is where more than 90 % of the world’s executions have taken place in recent years.

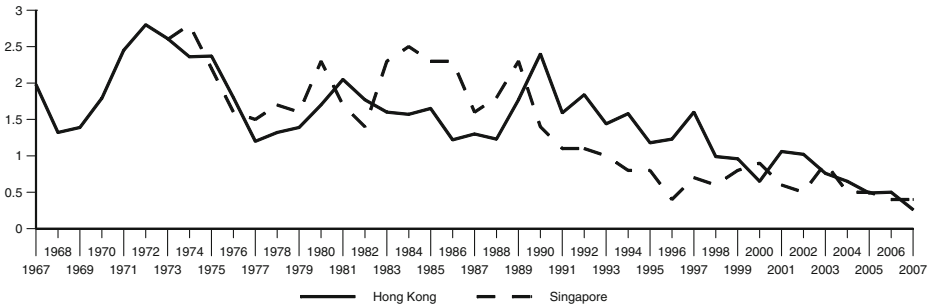
Yet even within Asia, few countries carry out executions with any frequency. The main exceptions are China, which probably executed about 4,000 persons in 2011 (half its estimated total for 2006), Vietnam, North Korea, and Singapore: three authoritarian regimes of the left and one of the right (Dui Hua 2011). Because none of these states provides decent data about death sentences or executions, empirical analysis of capital punishment in these places tends to traffic in words as much as numbers. The death penalty is said to be used “a lot” or “less than in the past,” but even the most capable researchers are unable to carry out quantitative analysis of the kind that appears routinely in American criminology journals.

Despite these data difficulties, Singapore was long considered the world capital of capital punishment (Johnson and Zimring 2009:408). In the mid-1990s, it executed at a per capita rate that was almost double the execution rate during China’s notorious “Strike Hard” (*yanda*) campaigns, and its execution risk for murder was 24 times higher than in Texas. The comparison of Singapore to the largest city in Texas—Houston—further reveals this government’s zeal for capital punishment. Houston is the execution capital of the most aggressive executing state in the most aggressive executing democracy in the world, and its homicide rate in 2000 was about nine times higher than the homicide rate in Singapore. Nonetheless, from the time the US Supreme Court reinstated capital punishment in 1976 until 2004, Harris County—the Houston metropolitan area, with a present population of about 4 million—accounted for 73 executions. Singapore, by comparison, with a population only a little larger than Houston, had 76 executions in 1994 and 73 more in 1995. Thus, Singapore’s peak execution rates during these three decades were 20 to 25 times higher than Houston’s. Comparison with Japan is also instructive. In 1994, Singapore executed as many people (76) as did the country of Japan (with a population 30 times larger) in the 30 years between 1978 and 2007 (Zimring et al. 2010).

The centerpiece of Singapore’s system of capital punishment is a statutory scheme that attaches a mandatory death penalty to convictions for homicide and for possession of drugs with intent to traffic in very low quantities: 15 grams of heroin (about half an ounce), 30 grams of cocaine, 250 grams of methamphetamine, and 500 grams of cannabis. Moreover, the usual burden of proof is reversed in drug cases, so a person arrested in possession of a quantity greater than those just mentioned is presumed to be trafficking unless he or she can prove otherwise. If such proof is not forthcoming, the court *must* issue a sentence of death.

Supporters of Singapore’s system of mandatory capital punishment believe it has two positive effects: deterrence of potential offenders, and consistency in administration. These beliefs are not well-founded.

Singapore may be the best case for deterrence through capital punishment because its death penalty policy fits the theory of deterrence well. The theory holds that three features of punishment predict its deterrent power. The first is severity and, in Singapore as in other retentionist jurisdictions, the death penalty is the most severe sanction. But compared to other retentionist nations, Singapore stands out with respect to the other two dimensions of



Source: Zimring, Fagan, and Johnson 2010:14.

**Fig. 1** Homicide rates in Hong Kong and Singapore, 1967–2007. Source: Zimring et al. 2010:14

the deterrence model: certainty of punishment, and speed of administration. A death sentence is mandatory in Singapore for various offenses, including murder and drug dealing. In the United States and Japan, by contrast, only 1 or 2 % of all known murder offenders are sentenced to death (despite broad eligibility), and no one has been sentenced to death for a drug offense in many years. As for speed of punishment, homicide trials in Singapore seldom take more than a few months, and death sentence appeals are finished typically within 18 months of conviction. By contrast, the appeals process in the United States and Japan routinely takes 10 years or more, and waits on death row often last another 10 to 20 years, even after appeals have been exhausted.

Yet, despite this theoretical fit, the Singapore case for deterrence through capital punishment is not supported by the available evidence. For the crime of homicide—the only offense for which Singapore’s government provides data that enable deterrence assumptions to be tested—Singapore’s death penalty system does not deter any better than the penal regime in Hong Kong, a closely similar city that performed its last execution in 1966 and abolished capital punishment altogether in 1993. Although these two cities have radically different death penalty policies, their homicide curves have tracked each other closely for the past 40 years (see Fig. 1). If Singapore obtains deterrence benefits from its mandatory system of capital punishment, the effect is invisible for homicide.<sup>3</sup>

The death penalty for drugs could have a deterrent effect, but this claim cannot be tested because Singapore’s government refuses to release the relevant data. As a leading legal scholar in Singapore has observed,

“One might have expected that if the death penalty is being imposed on drug offenses in order to deter or incapacitate, the [Singapore] government would be keenly interested in statistical and other studies to find out if, in fact, the increased penalties are working. But such studies, if they exist, are seldom revealed. Statistical data are not provided in any consistent or meaningful way by the government. One can only speculate why” (National University of Singapore Professor of Law Michael Hor, quoted in Lines 2007:14).

<sup>3</sup> For more details on the comparison between Singapore and Hong Kong, see Zimring et al. 2010, and for a critique of that study and others on the death penalty and deterrence, see Nagin and Peppers 2012.

The second assumption underlying Singapore's mandatory death penalty is that it produces consistency in the administration of capital justice (Singapore Ministry of Home Affairs 2004). But this premise is problematic too.

It is well known that arbitrariness and discrimination severely afflict the administration of capital punishment in America's discretionary death penalty system (Black 1981; Bowers et al. 2003). In Connecticut, for example, only 1 of the 32 worst murders from 1973 to 2007 resulted in a capital conviction, and of the nine death sentences that state courts imposed during that period (out of 4,686 murders and 205 death-eligible cases), eight are not included among the "most egregious" murders (Donohue 2011). The lessons from this small state about the effects of race, class, and capriciousness also apply to death penalty decision-making in large American states such as Texas, California, and Ohio, where different prosecutors use drastically different factors to decide who deserves death (Caplan 2012).

Empirical studies such as these do not exist in Singapore, so convictions about capital punishment tend to be rooted in faith, not facts. The signal contribution of Alan Shadrake's *Once a Jolly Hangman: Singapore Justice in the Dock* (2010)<sup>4</sup> is to show that mandatory capital punishment in Singapore is administered in a manner that is neither fair nor consistent. Shadrake, a British journalist who lived in Singapore for more than 6 years, occasionally makes his own leaps of faith, and the evidence he presents is patchy in some places, but on the whole his argument is persuasive, and it demonstrates that the death penalty in Singapore is more problematic than previous analysts have supposed.

The problem with capital punishment in Singapore is not merely its scale or aggressiveness—though these are real concerns (Hood 1989:45; Hood 2002:91; Hood and Hoyle 2008:96; Amnesty International 2004; Oehlers and Tarulevicz 2005; Johnson and Zimring 2009:407–422). Shadrake shows that there are also inappropriate influences on death penalty decision-making, especially during the pre-trial stages of the criminal process, when defendants are selected for capital prosecution. He argues that people who are rich or powerful or who have the backing of a significant trade partner sometimes escape charges that carry a capital sentence, while people who have no influence behind them are frequently charged with capital crimes, convicted, sentenced to death, and executed. If his analysis is correct, "it makes a mockery of the claim that the law is applied equally to all and without discrimination" (Jabbar and Lehrfreund 2010).

The rest of this article proceeds in five parts. *The Jolly Hangman* summarizes the experiences of Darshan Singh—the Singapore hangman who also seems to be the world's most experienced executioner. *A Lethal Lottery?* describes the uneven application of Singapore's system of mandatory capital punishment. *The Jailed Journalist* recounts the

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<sup>4</sup> This article usually cites the first edition of Shadrake's book (2010) because it is the version that led to his criminal conviction. The second edition (2011) differs from the first in three main ways. First, it is shorter, mostly because it omits the chapters on British serial killer John Martin Scripps, "the tourist from hell" who was hanged in Singapore in 1996 (Chap. 22), and on relations between Singapore and Myanmar, which is (according to Shadrake) involved in a "booming billion dollar drug trade" that Singapore's government tolerates or condones (Chap. 23). Second, the revised edition contains some new material, including a Foreword by Australian barrister Julian Burnside and two short chapters describing Shadrake's arrest, trial, and sentencing. Third, following Shadrake's conviction for contempt of court, the copyright page of the revised edition now states "THIS BOOK IS NOT FOR SALE OR IMPORT INTO SINGAPORE."

criminal prosecution of Shadrake for contempt of court for “scandalizing the judiciary.” *A New Normal* describes how executions in Singapore have declined dramatically in recent years and suggests that prosecutors seem to be the key agent of change. The article concludes by offering some *Lessons* from Singapore for students of capital punishment in the modern world.

### The Jolly Hangman

Darshan Singh worked as Singapore’s chief executioner from 1959, when he was 27, until 2006, when he retired at age 75 (pp. 11, 30). During this period Singh hanged about 1,000 persons—an average of almost two executions a month for nearly half a century.<sup>5</sup> This is more than double the most commonly estimated total of 435 executions performed by Albert Pierrepont, the famous British hangman who worked in the United Kingdom and post-war Germany from 1931 to 1956.<sup>6</sup>

Singh was a Sikh who converted to Islam after marrying a Muslim woman. His busiest day occurred in 1964, when he hanged 18 men before lunch—in six groups of three. He considers this his “greatest accomplishment” (p. 40).<sup>7</sup> The 18 men who were executed on that Friday morning were some of the 58 inmates who had been charged for their roles in an uprising in a penal colony on the Island of Ease, ten miles south of the Singapore city. According to Shadrake, who interviewed Singh extensively, “each batch took almost 40 minutes” (p. 41), and the bodies “had to remain hanging for at least ten minutes to ensure death had taken place” (p. 40). Shadrake calls this “perhaps...the biggest, most arduous and most macabre task in the life of any executioner in history” (p. 42). The condemned men waiting their turn could hear the trapdoors falling under those who went first, with some of them wailing “in sheer terror” (p. 41). Singh says the eyes of the condemned often bulge “nightmarishly” during the execution process, and emissions of urine and feces “always” occur (p. 46). Some among the condemned are given drugs to relax before they meet their maker (p. 45), and all of them are hooded with a white cap before being hanged (p. 46).<sup>8</sup> Singh’s final words are meant to be reassuring: “I am sending you to a better place than this” (p. 13).

Singh first came to Singapore in 1957, 2 years before Singapore achieved self-government and 6 years before it declared independence from the UK. He had just graduated from college in Kuala Lumpur. Jobs were scarce, but Singh was accepted as an officer in

<sup>5</sup> Shadrake (2010) provides several accounts of the execution total: “Singh estimates he has executed around 1,000 men and women” (p. 11); Singh is “not really sure” about the number and says it “can be over 1,000 [and] can be under” (p. 12); and Singh says the number is “around 900 to 1,000 executions since 1959” (p. 46). In an article published the year before Singh retired, Shadrake (2005) reported that Singh had “spoken to more than 850 condemned prisoners during his 46 years as Singapore’s chief executioner.”

<sup>6</sup> Pierrepont’s career execution total could be higher than 435 (Fielding 2008). The closing credits of the film *Pierrepont* (directed by Adrian Shergold and released in 2006) say he performed 608 executions, while Pierrepont’s assistant Syd Dernley (Dernley and Newman 1990) said he had hanged more than 680 people.

<sup>7</sup> Singh also says he is the world’s fastest hangman, having once executed seven persons in 90 minutes (NationMaster 2012).

<sup>8</sup> In Singapore, the judge who condemns a person to death wears a black cap at the time of sentencing, and a typical pronouncement goes something like this: “The sentence of this court upon you is that you will be taken from this place to a lawful prison to be hanged by the neck until you are dead. And may the Lord have mercy on your soul” (Shadrake 2010:56–57). Between sentence and execution, condemned inmates live in an “8-foot by 6-foot windowless cell, lit 24 hours with a camera monitoring” them constantly (Shadrake 2010:196). Unlike Japan and Taiwan, last meals and last visits are allowed in some cases, but family and friends of the condemned are not permitted to be present at the hanging.

Changi prison soon after he answered a newspaper advertisement. He quickly became “a member of the 20-man team of fierce, rattan-wielding caners whose skill at inflicting maximum pain on the unfortunate bare buttocks of those convicted of serious offenders was legendary” (p. 29).<sup>9</sup>

In 1959 Singh was approached by B. Seymour, an “English gentleman” who was eager to retire from his post as the chief hangman in this British colony. Singh agreed “without hesitation” because he was a “strict disciplinarian” and because he was attracted to the bonus pay of “around \$30 per head,” which would increase to more than \$300 per hanging by the time of his retirement (p. 30). By comparison, caning earned 50 cents per stroke, up to a maximum of 24 flogs per offender.<sup>10</sup>

On becoming a prison official, Singh had to sign Singapore’s Official Secrets Act, which is worded broadly. Although the law apparently required him not to talk about his actions as executioner, his wife eventually discovered why he left home “almost every Friday” at 2:30 a.m.—and then she left him. Singh refused to talk to Shadrake about this episode, but one of his friends said that Singh’s wife was not only “appalled” at the idea of her husband killing people for a living, she “did not believe in Singapore’s death penalty laws” (p. 30).

Singh was less reluctant to discuss other aspects of capital punishment with Shadrake. He believes “the role he played as master of the gallows for nearly half a century was key to why Singapore had become one of the safest nations on earth” (p. 11). He claims he could “ensure a condemned man or woman is always hanged quickly, efficiently, and painlessly” (p. 31).<sup>11</sup> He says he believes in reincarnation and hopes that the men and women he hangs “would return better men and women when ‘they are reborn,’” thus rendering execution “a means of ‘complete rehabilitation’” (p. 32). He admits traveling to Calcutta to hang a rapist and says he is “always at the service of any government anywhere to carry out an execution by hanging” (p. 32). And he vows that he will “always support the death penalty in his country” (p. 31). True to the title of Shadrake’s book, Singh apparently was a “jolly hangman”, for one finds few signs of the ambivalence felt by executioners in other death penalty states (Otsuka 1988; Prejean 1993; Warrier 2000; Solotaroff 2001; Sakamoto 2003; Jaruboon 2006).

In November 2005, Singapore’s second largest newspaper ran a headline saying “I was tricked” (photograph 4 in Shadrake 2010). It was Singh’s lament that Shadrake had revealed his identity in *The Australian*—along with a photo of the pot-bellied hangman sitting shirtless on a couch. Singh claimed he never agreed to be interviewed, but the media attention led to reports that he had been fired, which were denied by Singapore officials. When Singh was phoned shortly before the controversial execution of an Australian citizen in 2005, Singh said he had not been asked to perform the hanging, and some sources reported that an executioner had to be brought in from outside the country (NationMaster 2012).

<sup>9</sup> Criminologist Peter Moskos has argued “in defense of flogging” for the United States. He believes America should “poach expert floggers from Singapore and Malaysia,” to carry out canings themselves and to train the country’s own crew of capable floggers (Moskos 2011:134). For an argument that America should not go “back to the future” of corporal punishment, see Simon 1985, and for a video with graphic scenes from a caning in Malaysia, see <http://www.corpun.com/vidju2.htm>.

<sup>10</sup> Convicts who have been sentenced to death cannot be caned in Singapore.

<sup>11</sup> This is a dubious claim. In the United States, about 5 % of the executions carried out between 1977 and 2001 were “botched” in one way or another (Borg and Radelet 2004), and executions in Japan and other nations that hang sometimes result in deaths that are prolonged, painful, or both (Goto et al. 2011). Singh says that under his predecessor (B. Seymour), “things often went wrong” (Shadrake 2010:40).



Singh tried to train two replacements prior to his retirement in 2006, but when it came time to pull the lever both froze and could not do it. One trainee became so distraught he “ran from the execution chamber in horror and never came back” (p. 48). The other returned to his normal prison duties and “refused to go anywhere near the scaffold again” (p. 49). Singh stuck to the job while further attempts were made to find a successor. It is unclear who performs hangings in Singapore now.

Singh’s British counterpart, Albert Pierrepoint, expressed angst about executions after he retired in 1956. As he said in his autobiography,

“The fruit of my experience has this bitter after-taste: that I do not now believe than any one of the hundreds of executions I carried out has in any way acted as a deterrent against future murder...I have come to the conclusion that executions solve nothing, and are only an antiquated relic of a primitive desire for revenge which takes the easy way and hands over the responsibility for revenge to other people...The trouble with the death penalty has always been that nobody wanted it for everybody, but everybody differed about who should get off (Pierrepoint 1974).<sup>12</sup>

Singh himself reveals little of the anxiety that plagued Pierrepoint, though one function of his attempts at gallows humor could be (as Albert Camus put it) to “smother under padded words” the reality that he killed people for a living (quoted in Haney 2005:ix).<sup>13</sup> But Singh’s jokes—“I am the fastest executioner in the world and I don’t hang about”—might also reflect a serene sensibility about executions. Indeed, when a colleague asked why he had stayed so long in such a gruesome job, Singh said “It’s all I know. It has become my bread and butter” (quoted in Shadrake 2005). Looking back, Singh told Shadrake that after his 500th execution two prison officers came to his home to celebrate “with a bottle or two of Chivas Regal” (p. 47). Looking ahead he “hopes one day his name will appear in the Guinness Book of Records as the most prolific executioner of all time” (p. 40).<sup>14</sup>

<sup>12</sup> Pierrepoint’s conversion against capital punishment troubled his long-time assistant Syd Dernley, who said in his own autobiography: “I do not think I will ever get over the shock of reading in [Pierrepoint’s] autobiography, many years ago, that like the Victorian executioner James Berry before him, he had turned against capital punishment and now believed that none of the executions he had carried out had achieved anything!...I just could not believe it. When you have hanged more than 680 people, it’s a hell of a time to find out you do not believe capital punishment achieves anything!” (Dernley and Newman 1990). It is “a hell of a time” indeed, though some Justices of the US Supreme Court have had similar post-retirement conversions (Steiker 2009; Dow 2010). Pierrepoint continued to express ambivalence about capital punishment even after his conversion. When BBC Radio asked him in 1976 about some heinous murder cases he said “Oh I could go again.”

<sup>13</sup> Singh may be acknowledging doubts about the death penalty when he says he “learned never to ask questions” about it (Shadrake 2010:31), though this silence might also stem from situational imperatives in a society where dissent can be personally costly (Seow 2006). For a moving short story about a Japanese prison official who is haunted by memories of a hanging in which he participated, see Akira Yoshimura’s “*Kyuka*” (*Holiday*). There is also a film by the same name, directed by Hajime Kadoi and released in 2008.

<sup>14</sup> Singh’s execution total of 1,000 is 25 times higher than the number of persons (40) the hangman in Uttar Pradesh (India’s most populous state, with 200 million people) has executed since 1965, and the latter has not performed any executions in “over two decades” (*The Economist* 2012). The country of India, with a population more than 200 times greater than Singapore and serious problems with lethal violence, has carried out only one judicial execution since 1998, though extrajudicial killings by agents of the state are common (Johnson and Zimring 2009:423).

## A Lethal Lottery?

People who enter Singapore by plane must fill out a disembarkation form which warns in large, red letters: DEATH FOR DRUG TRAFFICKERS UNDER SINGAPORE LAW. There is no footnote saying “unless you are rich, powerful, or the citizen of a nation with which the government wants to maintain good relations.” Alan Shadrake argues that such a footnote would be necessary if Singapore were required to follow the rules of truth-in-advertising in its system of capital punishment.

Shadrake’s main focus is “how the Singapore legal system works in secret and how politics, international trade and business often determine who lives and who dies on the gallows” (p. viii). His main claim is that “justice in Singapore is patently biased against the weak and disadvantaged while favoring the wealthy and the privileged” (p. 3). In his view, Singapore authorities “often bend over backwards to avoid hanging anyone if vital economic or strategic interests with foreign powers are involved” (p. 187). And in his account, mandatory capital punishment is supposed to eliminate discretion at the sentencing stage but its actual administration is “highly discriminatory” (p. 5). The editors of *The Guardian* (2010) and other readers of Shadrake’s book have found these claims “largely accurate” and “convincing” (Au 2010; Barkham 2011; Bland 2010; Gomez 2010; Jabbar and Lehrfreund 2010; Wijaya 2010). This is my view too.

Table 1 summarizes the main cases that appear in the first edition of *Once a Jolly Hangman*. Of the 32 defendants in these 28 cases:

- 27 were foreigners (11 executed) and 5 were Singaporeans (3 executed)
- 20 were male (11 executed) and 12 were female (3 executed)
- 22 were accused of drug crimes (11 executed, 9 for heroin and 2 for cannabis) and 10 were accused of homicide (3 executed)

Let us consider five examples. There is the case of 25-year-old Australian Van Tuong Nguyen, who was hanged at Changi prison in 2005, much to the consternation of millions of his countrymen. According to Shadrake, the Australian government of Prime Minister John Howard did not really try to save this low-level “drug mule,” who was born in a Thai refugee camp and was supposed to receive \$40,000 for carrying 396 grams of heroin from Cambodia to Singapore (Chaps. 7–8).

There is the case of Julia Suzanne Bohl, a German woman who was arrested in 2002 with 687 grams of cannabis and released after serving 3 years in prison. Unlike Nguyen, Bohl apparently benefited from the intervention of her own government, which “used its economic muscle to force the Singapore government to reduce the charges against her so she would not hang” (Chaps. 10–11).

There is the case of a “high society drug ring” composed of the “privileged and pampered sons and daughters” of Singapore tycoons and foreign entrepreneurs, who saw themselves as above the law—and, according to Shadrake, were. The punishments of this “favored few” belie the claim that whether you are rich or poor, the law will come down on you hard (p. 144). When the drugs found in one executive’s possession were weighed a second time, they were “suddenly and miraculously” found to be below the level required for a mandatory hanging (p. 145). Shadrake contends that officials gave this offender (Guiga Lyes Ben Laroussi) a life-saving discount—and let him flee the country—because he could have implicated prominent members of Singapore’s high society who also used illicit drugs (Chap. 17).



**Table 1** Main Cases in *Once a Jolly Hangman*

Name	Nationality and Gender	Crime	Outcome and Year
Nguyen Van Tuong	Australian (m)	Heroin	Executed in 2005
Thi Thanh Nga Ho	Australian (f)	Heroin	9 years beginning 2006 <sup>a</sup>
Julia Suzanne Bohl	German (f)	Cannabis	3 years beginning 2002
Mike McCrea	British (m)	Homicide	28 years beginning 2006
Johannes van Damme	Dutch (m)	Heroin	Executed in 1994
Maria Krol-Hmelak	Dutch (f)	Heroin	Not Guilty in 1993
Peter Johnson	Nigerian (m)	Heroin	Not Guilty in 1993
Flor Contemplacion	Filipina (f)	Homicide	Executed in 1995
Guen Aguilar	Filipina (f)	Homicide	10 years beginning 2006
“Five Indonesia Maids”	Indonesian (f)	Homicide	10 years or life beginning 2004–2005
Angel Mou Pui-Peng	Macanese (f)	Heroin	Executed in 1995
Rozman Jusoh	Malaysia (m)	Cannabis	20 years beginning 1995
Arunprakash Vaithilingam	Indian (m)	Homicide	Executed in 2004
Zulfikar bin Mustaffah	Indian (m)	Heroin	Executed in 2001
Thiru Selvam	Singaporean (m)	Cannabis	Executed in 2001
Dinesh Singh Bhatia	Singaporean (m)	Cocaine	8 months beginning 2004
Andrew Veale	British (m)	Cocaine	8 months beginning 2004
Nigel Simmonds	British (m)	Cocaine	12 months beginning 2004
Petrus van Wanrooij	Dutch (m)	Ecstasy	11 months beginning 2004
Marx Oh Wee Chee	Singaporean (m)	Cocaine and cannabis	6 years beginning 2005
Guiga Lyes Ben Laroussi	Tunisian (m)	Cocaine	Posted bail and fled in 2004
Vignes Mourthi	Malaysian (m)	Heroin	Executed in 2003
Moorthy Angappan	Malaysian (m)	Heroin	Executed in 2003
Shanmugam Murugesu	Singaporean (m)	Cannabis	Executed in 2005
Amara Tochi	Nigerian (m)	Heroin	Executed in 2007
Okele Nelson Malachy	South African (m)	Heroin	Executed in 2007
Yen May Woen	Singaporean (f)	Heroin	Executed in 2004
John Martin Scripps	British (m)	Homicide	Executed in 1996

<sup>a</sup> Ho was arrested, convicted, and imprisoned in Australia, perhaps because of a “secret, unwritten agreement” about how to deal with Australian drug traffickers after the controversial execution of Nguyen Van Tuong (Shadrake 2010:75)

There is the case of Vignes Mourthi, a 21-year-old Malaysian who was hanged in 2003 for drug trafficking. The state’s most valuable witness against Mourthi—police sergeant S. Rajkumar, who helped arrest Mourthi in an undercover sting—was himself being investigated for rape, sodomy, and bribery while Mourthi was on trial, but the prosecution failed to communicate this to the court or the defense. Shadrake regards this as “arguably one of the most appalling miscarriages of justice in Singapore’s history” (p. 158). The year after Mourthi was hanged, Rajkumar was sentenced to 15 months in prison (Chap. 18).

And there is the case of Shanmugan Murugesu, whose hanging in 2005 sparked unprecedented public discussion of capital punishment in Singapore, not least because the defendant was a former jet ski champion who (Shadrake concludes) was encouraged by undercover police to carry more than 500 grams of cannabis in order to ensure that his crime would be capital. Murugesu's trial lasted 4 days, and the only witness for the defense was Murugesu himself, who testified that he had been "severely intimidated" by police during his interrogation, with officers shouting and slapping him in the head (Chap. 19).

In the first edition of Shadrake's book there is also a provocative but not entirely persuasive chapter on Singapore's "unholy alliance" with Myanmar, the brutal military dictatorship that has not carried out any judicial executions since 1989. According to Shadrake, Myanmar's drug lords move freely in and out of Singapore, and Singapore's government turns "a blind eye" to their illegal activities while investing heavily in that resource-rich country. Chee Soon Juan—a leader of Singapore's political opposition—believes Singapore's foreign aid and investment in Myanmar make "a mockery of [the government's] hardline stance on drug trafficking" (Shadrake 2010:214). Chee also illustrates an important theme of Shadrake's study when he concludes that "if the Singapore government truly feels drug abuse is a scourge on society, it would not just want to catch and hang these small-time peddlers. You would want to go after the big fish and go where the source is" (Shadrake 2010:214). In Shadrake's account, the double standard is also domestic, for "nothing is ever heard about the syndicates who entice [drug] mules into their orbit" (Shadrake 2010:130).

In short, what emerges in *Once a Jolly Hangman* is a pattern of inconsistent capital "justice" that can be summarized in three propositions:

1. When foreign governments have clout over Singapore's economic interests and are willing to use that clout, their citizens may not face the death penalty.
2. When suspects come from rich and well-connected families, or when a case threatens to involve others from this stratum of society, a way is often found to avoid capital punishment.
3. When state officials are convinced that a poor and low-class person is guilty, and if rule 1 does not apply, then due process can be less important than putting the person on the fast-track to the gallows.

As Singapore activist Alex Au (2010) concludes,

"The net outcome of these controlling conditions is that the application of capital punishment in Singapore is not a matter of justice. The most important decision as to whether someone is to be hanged is really a political one: some people can be hanged, others just cannot be hanged, and it is the government that determines who, not a court."

Alan Shadrake is no social scientist, and he can be criticized for relying on anonymous sources and for sometimes letting his rhetorical reach exceed his grasp of the evidence. Then again, data difficulties and the stifling of dissent make Singapore a supremely difficult nation in which to do decent death penalty research. All things considered, *Once a Jolly Hangman* may well be the most illuminating account of capital punishment in Singapore ever written. The next section shows that it was achieved at considerable cost to the author.

### The Jailed Journalist

Shadrake arrived in Singapore in 2002 as an experienced journalist who had written a well-regarded book about people-smuggling near the Berlin Wall (Shadrake 1974), a biography

of Bruce Lee (Lee and Shadrake 1975), and (for more than a decade) a “Shooting from the Lip” column for *British Weekly* (Greenslade 2010). He was in his late 60s and his third wife had recently died. After meeting the woman who would become his fourth wife he decided to stay in Singapore for a while, and soon he became interested in investigating “double standards” in the administration of capital punishment (Barkham 2011).

Shadrake was arrested 8 years later, on 18 July 2010. The previous evening there had been a party to launch his new book, and according to the author it was “a tremendous success” (2011:171). After the party Shadrake was followed by plainclothes policemen, who listened to him sing “My Way” in a karaoke bar (Shadrake sang the same song the night after he was convicted). Early the next morning police rapped on the door of his hotel, ransacked his room, and stuffed him into an unmarked car. The 75-year-old great grandfather was then jailed at Central Police Headquarters. Eventually, he was shown three documents: one accused him of “scandalizing the judiciary,” and the others described “criminal defamation” and “illegal communication,” both offenses under the Official Secrets Act (176). Only the first would be charged. Police interrogated Shadrake for 10–12 hours a day for 5 days, though he was released from custody after 2 days when his lawyer M. Ravi posted bail of \$7,420. At the time, Shadrake was taking prescription drugs to stabilize a heart condition and relieve chronic back pain. His interrogations stopped only when Ravi sent his medical records to the police.

News of Shadrake’s arrest spread around the world via the BBC and several major wire services, and he received “many hundreds of emails from family, friends and supporters” (180) in addition to support on Facebook and YouTube and from organizations such as Reporters without Borders and Amnesty International (183). During the 3 months Shadrake was on bail and awaiting trial, he was followed everywhere he went and his mobile phones were believed to be under surveillance (182).

Shadrake’s 3-day trial started in October 2010, with international television crews and print media “in full force” outside the courthouse (185). He was charged with contempt of court for “impugning the impartiality, integrity, and independence” of the judiciary in 14 passages of his book. Shadrake relied on the defense of “fair criticism” while insisting that everything he had written was true except for a small error concerning sentencing guidelines in drug cases (186). He refused to kowtow, saying “I will not be cowed. I will not grovel. I will not say sorry” (185). At trial, one prosecutor threatened his defense lawyer with contempt of court for making allegations that were deemed “mischievous” and “baseless” (186), and another warned reporters that repetition of contempt is itself contempt, so anyone printing parts of Shadrake’s book could find him or herself prosecuted for the same crime (Wijaya 2010).

Prosecutors argued that the contempt proceedings were about preserving “the Rule of Law,” which in turn depends on “public confidence in the administration of justice by the Courts.” In their view, Shadrake’s “true intent was to put the entire Singapore judicial system on trial and to denigrate the Singapore courts,” and his “baseless and unwarranted attacks” amounted to “an especially pernicious case of grave and aggravated contempt” (Singapore Attorney General’s Chambers 2010a). Prosecutors also urged the court to take into account “conditions that are unique” to the nation by claiming that “Singapore’s multi-racial, multi-religious, crowded society requires the Rule of Law to be taken seriously by all to maintain order and liberty” (Singapore Attorney General’s Chambers 2010b).

On November 16, 2010, Shadrake was found guilty of 11 of the 14 charges of contempt and sentenced to 6 weeks imprisonment and a fine of \$16,000. This apparently was “the stiffest sentence” ever imposed in Singapore for contempt of court; the previous longest jail

term was said to be 15 days (Japan Times 2010, 2011). The legal standards applied by High Court Justice Quentin Loh seemed to leave little room for aggressive reporting. If Shadrake had created even a “small likelihood” of undermining confidence in the administration of justice, then he had committed contempt. Moreover, the risk could be potential, not actual, and it did not need to be grave or serious. Justice Loh also rejected the defense of “fair criticism” because, in his view, 11 of the statements had been made “without any rational basis, or with reckless disregard as to their truth or falsehood” (Singapore Attorney General’s Chamber 2010c).

Shadrake appealed his conviction and lost. He could not pay the fine, so his sentence was increased to 8 weeks and he was jailed again in June 2011. He was released for “good behavior” after serving five and a half weeks in the same Changi Prison where Darshan Singh used to work. He was then deported to Britain.

Shadrake is hardly the first person to find himself in the dock for criticizing the Singapore government (Seow 1994, 1998, and 2006; Worthington 2001; Lydgate 2003; Silverstein 2008; Kampfner 2009 and 2010; Rajah 2012a and 2012b). In 2010, on the same day *The New York Times* praised Google for standing up to censorship in China, its sister newspaper, *The International Herald Tribune*, apologized to Singapore’s rulers and agreed to pay damages for breaking a 1994 legal agreement by referring to them in a way they did not like (Hoyt 2010). Many other news organizations have either paid damages to Singapore’s rulers (*The Wall Street Journal*, *The Economist*, *Bloomberg*) or had their circulation banned or limited in that city-state (*The Asian Wall Street Journal*, *Far Eastern Economic Review*, *Time*, *The Economist*).

Lee Kuan Yew once said that he designed Singapore’s press laws to make sure that “journalists will not appear to be all-wise, all-powerful, omnipotent figures,” and his son has warned that without such laws Singapore “would be like America, where people say terrible things about the president and it can’t be proved” (quoted in Hoyt 2010). This is part of the case made for a system of control which regulates expression so thoroughly that Singapore ranked 136th in the world for press freedom in 2010—below Egypt, Iraq, and Cambodia (Reporters Without Borders Press Freedom Index 2010, <http://en.rsf.org/press-freedom-index-2010,1034.html>). Settlements such as those made by *The International Herald Tribune* contrast starkly with the courage of the septuagenarian journalist who refused to feign repentance in the hopes of lessening his punishment. As the executive director of the Southeast Asian Press Alliance has observed, “This continuing line of major media organizations too quick to offer contrition and money is a sad sight and a persisting insult on legitimate journalism, fair commentary, free speech and the rights that Singaporeans deserve” (quoted in Hoyt 2010).

The prosecution of Alan Shadrake had two main effects: it propelled his book to bestseller status (even though Singapore’s Media Development Authority pressured local bookstores not to sell or distribute it),<sup>15</sup> and it made Singapore’s state look deeply insecure. Neither effect is good for the image of Singapore’s government or the legitimacy of a system of capital punishment that was already in decline.

<sup>15</sup> In October 2010, when Shadrake was on trial, the Malaysian publisher of *Once a Jolly Hangman* reported that the criminal case against him increased sales of his book at least fivefold, and predicted that it would become the company’s bestseller to date (Gomez 2010).

## A New Normal?

Singapore's government continues to claim that nothing has changed with respect to capital punishment. The official view remains this: if you commit a capital crime and are caught, you will be prosecuted, condemned, and executed. Moreover, the government still insists that drug traffickers are "worse than murderers" because "a murderer normally kills one person" while a drug trafficker erodes the very "fabric of society" (Shadrake 2010:94).

Singapore's official position obscures significant change in its death penalty system. As Professor Michael Hor has argued in an important new paper, "a new normal" seems to be emerging in Singapore, the first signs of which started to appear after Amnesty International released its report in 2004, thereby catapulting the country to "global attention as the jurisdiction with 'possibly the highest' per capita execution rate in the world" (Hor 2011:1). Singapore's government responded rapidly to Amnesty's report (Singapore Ministry of Home Affairs 2004), but by attacking the framework of human rights in which that report was written, the main effect was to reinforce it (Lakoff 2004). In an age of abolition, leading the world in executions is a difficult status to defend.<sup>16</sup>

There are several signs of change in Singapore's death penalty. Defense attorneys are more aggressively challenging the state's case in capital trials (Ravi 2005), sometimes with assistance from foreign legal professionals.<sup>17</sup> In 2007, the Law Society of Singapore, which had long been cowed and co-opted by the ruling People's Action Party (Buruma 2001:148; Rajah 2012b), called for the scrapping of mandatory death sentences and a switch to a system in which judges have discretion to decide between capital and lesser sentences (Johnson and Zimring 2009:420). Courts have subsequently considered challenges to various assumptions and procedures—including a challenge to the constitutionality of the mandatory death penalty, which was rejected. Singapore's courts may also be starting to recognize that "death is different" and therefore special procedures and protections should be required in capital cases. In an effort to invigorate a clemency system that seldom shows mercy, there have been appeals to courts to review the pardon process and to require more due process for persons seeking relief from the executive branch (Hor 2011). Domestic discussions about the death penalty have become more frequent and sophisticated (Au 2010). The Singapore state had difficulty finding a new hangman after Darshan Singh retired. And in a striking break with previous practice, Singapore's government has released execution figures on at least three occasions: in 2006 to the government-controlled *Straits Times* (Lim and Yong 2006), in 2011 in response to a question in Parliament (Singapore Ministry of Home Affairs 2011), and in 2012 when the *Straits Times* again published execution figures from the MHA (*Straits Times* 2012).

The most important sign of Singapore's "new normal" is a sharp decline in executions that has occurred since Amnesty International issued its critical report in 2004 (see Table 2). The evidence is imperfect, especially for the period before 1990 when official figures are unavailable, but executions apparently peaked during a war on drugs in the mid-1990s, with an average of 66 per year from 1994 to 1996. The annual number of executions dropped nearly two-thirds in the first years of the twentieth century (2000–2003), and then fell into

<sup>16</sup> A similar dynamic of status and shame helps explain the decline of executions in the People's Republic of China (Hood 2009). As University of Hong Kong Professor Borge Bakken (2007:182) has observed, "The fact that China today executes many more people than the rest of the world combined is one that today perhaps shames the country internationally more than any other single question." More generally, the psychology of honor—the giving and receiving of respect—often plays a central role in moral revolutions (Appiah 2010).

<sup>17</sup> On several occasions, solicitors Saul Lehrfreund and Parvais Jabbar of The Death Penalty Project in London have helped local attorneys doing capital defense and appeals in Singapore. See [http://www.deathpenaltyproject.org/content\\_pages/1](http://www.deathpenaltyproject.org/content_pages/1).

**Table 2** Executions and execution rates per million population in Singapore, 1981–2011

Year	Executions	Execution rate
1981	3	1.3
1982	0	0.0
1983	2	0.7
1984	2	0.7
1985	1	0.4
1986	1	0.4
1987	0	0.0
1988	4	1.4
1989	5	1.7
1990	3	1.0
1991	6	1.9
1992	21	6.6
1993	7	2.1
1994	76	22.4
1995	73	20.9
1996	50	13.9
1997	15	4.1
1998	28	7.4
1999	43	11.0
2000	21	5.2
2001	27	6.6
2002	28	6.7
2003	19	4.6
2004	8	1.9
2005	8	1.9
2006	8	1.8
2007	3	0.7
2008	6	1.2
2009	5	1.0
2010	0	0.0
2011	4	0.8
Average	15.4	4.2

Sources: Amnesty International reports (1981–1990) and Singapore Ministry of Home Affairs (1991–2011)

the single digits, averaging 5.3 per year since 2004. In 2010, while Singapore's Court of Appeals was considering a constitutional challenge to mandatory capital punishment, the government carried out no executions at all—the country's first zero year since 1987.

What caused this remarkable decline in executions? It is not clemency, for there have been only seven pardons since 1965. It is not judicial discretion, for all known death sentences since 1974 have been mandatory. It is not a rise in acquittal rates in capital trials, for that has not happened. It is not a drop in capital offending, for murder rates have remained fairly flat since the execution peak in the mid-1990s while drug offenses have increased. And it is not a large backlog of convicted capital offenders who are waiting to go



to the gallows, for unlike Japan—the other developed democracy in Asia that continues to carry out executions on a regular basis—Singapore’s death row population does not appear to be growing (Hor 2011:19–23).

The main factor explaining Singapore’s execution decline seems to be prosecutorial discretion. In particular, prosecutors have been avoiding capital trials by instituting so-called “14.99 charges,” which assert that defendants possessed just under the amount of drugs required to render their crimes capital (*la nausee* 2011). In one case from 2002 (*Public Prosecutor v. Yap Siew Luan*), a 45-year-old Singaporean woman was arrested while driving from Malaysia into Singapore and charged with importing not less than 249.9 grams of methamphetamine without authorization. The original charge alleged importation of 386.1 grams, which the judge noted “would have attracted the mandatory death penalty upon conviction.” The woman was ultimately sentenced to 24 years in prison. In another case from 2008 (*Public Prosecutor v. Balakrishnan a/l Sannasy*), two men were charged with trafficking “not less than 14.99 grams of diamorphine” (the chemical name for heroin) after both were caught in a Central Narcotics Bureau sting. In mitigation, one defendant argued that his domestic life was unhappy because he had “a 14-year-old son who was born with mental retardation, and also that he and his wife did not earn enough to provide money for his family’s medical expenses.” A sentence of 24 years and 15 strokes was imposed on both offenders (Death Penalty in Singapore 2012).<sup>18</sup>

Professor Michael Hor has argued that it is entirely appropriate for prosecutors in Singapore to possess this discretionary power, and he believes that if it is exercised “in a significant way”—and clearly he thinks it is—then the argument for mandatory capital punishment “crumbles” because it is not really mandatory at all (Hor 2011:23). In many cases, the death penalty in Singapore depends as much on what the prosecutor wants as on what the defendant did.

## Lessons

This account of Singapore’s execution decline has at least two important implications. First, if prosecutors have the discretionary capacity to make life and death decisions, then surely their brothers and sisters on the bench should not be denied similar power—especially when they would be required to exercise it in a more transparent and accountable way. The critical question is not whether there will be discretion; it is who will exercise it, and how. Second, prosecutors are the key actors in Singapore’s system of capital punishment, and their charge decisions appear to be as deeply discretionary as those of their counterparts in other countries. To criminologists it should be no surprise to find (as Alan Shadrake has) that the outcomes in the Singapore system are patterned in some of the same problematic ways that have been documented in other death penalty systems, for two centuries of research shows that mandatory penalties have many unwelcome and unintended effects (Tonry 2009).

The story of the death penalty in the modern world is mainly a story of decline—and the same can be said for the story of the *mandatory* death penalty (Hood 2001). In the 1960s, 22 American states still had a mandatory death sentence for murder, as did many retentionist nations. Today, no American jurisdiction permits mandatory capital punishment, and far fewer nations allow it. Governments and human rights organizations oppose mandatory capital punishment because they believe discretion is necessary to weigh relevant factors and individualize sentencing and because they want to prevent cruel, inhuman, or degrading punishment

<sup>18</sup> For descriptions of these and other “14.99” cases, see The Death Penalty in Singapore blog at <http://sgdeathpenalty.blogspot.com/p/1499g-charge.html>.

and the arbitrary deprivation of life. Countries that maintain mandatory capital punishment today are “in breach of a widely accepted human rights norm” (Hood and Hoyle 2008:284).

Singapore has steadfastly rejected this norm, at least on the surface. In 2003, when a barrister argued that mandatory sentencing laws violate international law, the Chief Justice of its Supreme Court retorted, “I’m not concerned with international law. I am a poor humble servant of the law in Singapore” (quoted in Baker 2004). And in 2010, the Court of Appeal refused to find the mandatory death penalty for drugs unconstitutional while holding that this is a policy issue for Singapore’s Parliament to decide. Commenting on this case, Hor (2011:8) observes that the mandatory death penalty for drugs has been a “showcase policy” for Singapore’s government, and he says it could have been “suicidal” for the Court to object to that policy because the government might well have responded to judicial intervention by pushing through constitutional amendments to “neutralize such audacity”—as it did years earlier when the same Court announced it would exercise judicial review over executive decisions to detain suspects without trial.

While Singapore’s official position on capital punishment remains firm, there have been significant changes behind the scenes where key decisions about prosecution and policy are made. This shift may stem ultimately from the desire of Singapore’s rulers to be more respected in the world. Like dueling and foot-binding, capital punishment is one of those practices which declines when it comes into conflict with prevailing conceptions of honor (Appiah 2010). In the twenty-first century, there is no honor in being seen as the capital of capital punishment.

Some observers believe there could be a “bloodbath” on the Singapore gallows now that the legal challenge to mandatory capital punishment has been rejected (Death Penalty in Singapore 2012), while others suggest that the changes described in this article “might well be the beginning of the end of at least the mandatory death penalty, if not the death penalty itself” (Hor 2011:23). Time will tell. What does seem clear for the foreseeable future is the need for Singapore’s government to think twice before attacking messengers who bear inconvenient truths about capital punishment. Singapore officials gave Shadrake many chances to apologize before he was convicted and sentenced, apparently in the hope that some expression of remorse would enable their government to back off his case and save state face at the same time. But Shadrake would not be bullied, and now he promises to be “a thorn in the side of the Singapore authorities” for the rest of his life (quoted in Barkham 2011).

One pivotal question about capital punishment in the modern world is “whether a system of justice can be constructed that reaches only the rare, right cases, without also occasionally condemning the innocent or undeserving” (Turow 2003:114). Many scholars have concluded that the answer is no for the discretionary death penalty systems of the United States and Japan (Johnson 2011). Thanks to Shadrake and pioneers like Michael Hor and Amnesty International, we are starting to see that the same answer may apply to Singapore too. Comparative research should stretch our minds about what is possible and impossible (Nelken 2010). Governments of the world that still practice capital punishment would be wise to consider the convergence of conclusions from these disparate nations.

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