

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Thematic discussion on supply reduction and related measures

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THE CONTINUED APPLICATION OF THE DEATH-PENALTY FOR DRUG-RELATED OFFENCES

In 2016, after the UN General Assembly Special Session on drugs, Member States reiterated their commitment to respect, protect and promote all human rights. In particular, States pledged to promote and implement “effective criminal justice responses to drug-related crimes” including by ensuring legal guarantees and due process safeguards in the criminal justice system as well as practical measures to uphold the prohibition of arbitrary detention and of torture and other ill-treatment and punishment.

Two years after the Joint Commitment was adopted, Amnesty International has seen positive developments with regards to the abolition of the use of the death penalty for drug-related offences but remains concerned about a small number of countries that continue to impose it.

In line with the global trend towards the full abolition of this practice, significant steps to reduce its use for drug-related offences have been taken even in countries that have been staunch supporters of it, which Amnesty International believes are resulting in a reduction in the number of executions carried out and death sentences imposed for these types of offences.

Last year, Iran and Malaysia took important steps to restrict the application of the death penalty for drug-related offences. Earlier this month, Malaysia’s new administration announced on 10 October that legislation to fully abolish the death penalty will be tabled at the forthcoming session of Parliament. In November 2017, the Parliament of Iran amended the country’s Anti-Narcotics Law, increasing the threshold of drugs for the imposition of a mandatory death sentence with potential retroactive effect. Government officials have indicated that up to 15,000 people on death row would have their death sentences for drug-related offences reviewed with a view to commutation under the amended law.¹

Amnesty International also noted that in Indonesia, where four people convicted of drug crimes were executed in 2016 in an ill-conceived attempt to tackle drug crime, there were no executions in 2017 and there was a slight decrease in the number of death sentences imposed.

These positive developments follow previous legislative amendments to the mandatory death penalty in Singapore and Thailand in 2013 and 2016, respectively. Amnesty International has found that Singapore’s reform resulted in a significant decrease in the amount of death sentences imposed for drug trafficking.² The amendment in Thailand related to the offence of selling drugs came into force in January 2017, although its impact has not yet been assessed.³

However, in violation of international law and standards, the use of the death penalty for drug-related offences continues to be a reality. In 2017, half of the 30 UN Member States in which drug-related offences are still punishable by death were known to have imposed death sentences. The Middle East and North Africa region recorded the highest number of drug-related executions, while 10 countries in the Asia-Pacific region resorted to the death penalty for this type of offence.

Overall, drug-related executions accounted for approximately 30% of all executions recorded by Amnesty International in 2017, down from 40% in 2015. Such executions occurred in only four countries: China, Iran, Saudi Arabia and

¹ Amnesty International, *Death sentences and executions in 2017*, p.32.

² Amnesty International, *Cooperate or Die – Singapore’s flawed reforms to the mandatory death penalty*.

³ Amnesty International, *Death sentences and executions in 2017*, p.26.

Singapore.⁴ Two of these significantly increased the number of executions for such offences: in Saudi Arabia, executions for drug-related offences went from representing 16% of all executions in 2016 to 40% in 2017; while Singapore all executions in 2017 were for drug-related offences, when in 2016 they represented 50%. The organization believes that it was highly possible that Malaysia and Viet Nam also carried out executions for these offences last year, but was unable to verify this.

In cases where defendants have faced the death penalty for drug-related offences, in addition to the violation of the right to life, Amnesty International has documented violations of the right to a fair trial, including the right to access legal counsel and interpreters from the time of arrest and their right to be free from torture.⁵

Of particular concern remains the retention of legal “presumptions” whereby defendants found with specified amounts of certain drugs, or even simply in possession of keys to a building or vehicle in which drugs are found, are presumed guilty of drug trafficking.⁶ In those circumstances, the burden of proof is shifted onto the defendant, in violation of the right to be presumed innocent and other fair trial rights.⁷

Amnesty International has also documented the reliance on statements taken without a lawyer present, even when defendants have raised that these were made under coercion.⁸ Moreover, certain countries still allow for caning and other forms of corporal punishment for drug-related offences, which constitute cruel, inhuman or degrading punishment and often torture, and are absolutely prohibited under international law.⁹

The death penalty has long been recognized as a human rights issue and it is well established that drug-related offences do not meet the threshold of the “most serious crimes” to which the use of this punishment must be restricted under international law and standards.

The use of the death penalty for drug-related offences continues to be a human rights violation that some States still justify in the name of drug control, despite the lack of evidence to support the perception that the death penalty has a unique deterrent effect and should be abandoned, once and for all, as a response to attempt to reduce the supply of illicit drugs.¹⁰

Several UN bodies, including the INCB and UNODC, have identified circumstances where the imposition of the death penalty violates human rights and have called for an end of the death penalty for drug-related offences with the ultimate goal of its full abolition. But the silence of the CND in this regard has been deafening.

We urge all Member States to take the opportunity of next year’s Ministerial Segment to speak up against this injustice and take decisive steps to put an end to this violation of human rights. The UN drug control bodies, including the Commission on Narcotic Drugs, have an important responsibility to ensure that the protection of human rights remains at the core of drug policy and should ensure that appropriate mechanisms are in place to monitor and provide remedies when drug laws and policies are found to be inconsistent with international human rights law and standards.

⁴ Amnesty International, *Death sentences and executions in 2017* (ACT 50/7955/2018), 12 April 2018, p.9, www.amnesty.org/en/documents/act50/7955/2018/en/

⁵ Amnesty International, The UNGASS on drugs outcome document must urge the respect and protection of human rights as an integral part of drug policies – Written statement to the 31st session of the UN Human Rights Council (29 February – 24 March 2016), February 2016; Flawed justice: Unfair trials and the death penalty in Indonesia (ASA 21/2434/2015), October 2015; Killing in the name of justice: The death penalty in Saudi Arabia (MDE 23/2092/2015), August 2015; Growing up on death row: The death penalty and juvenile offenders in Iran (MDE 13/3112/2016), January 2016; Addicted to Death: Executions for drug offences in Iran (MDE 13/090/2011), December 2011.

⁶ Brunei Misuse of Drugs, Arts. 3A, 15-16; Malaysia’s Dangerous Drugs Act, Art.37; Singapore’s Misuse of Drugs Act, Art.18.

⁷ For more information, see *Cooperate or Die – Singapore’s flawed reforms to the mandatory death penalty*, p. 13.

⁸ See, for example, in Malaysia the case of Hoo Yew Wah, highlighted in Amnesty International, *Death sentences and executions in 2017*, p.23; and in Singapore, *Public Prosecutor v Lim Boon Hiong and another* [2010] SGHC 205; and *Public Prosecutor v Mohamad Fadzly bin Din* [2010] SGHC 117.

⁹ See Amnesty International, *Combating torture and other ill-treatment: A manual for action*, 2016, pp. 84-8, available at www.amnesty.org/en/latest/campaigns/2016/08/combating-torture-manual/

¹⁰ See, for example, Amnesty International, *Cooperate or Die – Singapore’s flawed reforms to the mandatory death penalty* (ACT 50/7158/2017), October 2017, pp. 13-14, 22-23, www.amnesty.org/en/documents/act50/7158/2017/en/