

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# 2023 WORLD DAY AGAINST THE DEATH PENALTY: END UNLAWFUL AND DISCRIMINATORY DEATH PENALTY FOR DRUG RELATED OFFENCES

On the occasion of the 2023 World Day Against the Death Penalty on 10 October, Amnesty International highlights in a new briefing [<https://amnesty-todesstrafe.de/wp-content/uploads/325/Briefing.pdf>] the use of the death penalty for drug related offences, which is unlawful under international human rights law and standards and has been applied in a discriminatory manner. Despite this, hundreds of drug related executions have been carried out in recent years, disproportionately affecting those from marginalized sectors of society and often following proceedings that violated international standards for a fair trial.

Amnesty International renews its calls on governments of countries that still retain this cruel punishment to immediately establish an official moratorium on all executions, as a first step towards full abolition of the death penalty; and on governments around the world to shift away from punitive responses to drugs towards alternatives that better protect human rights and public health.

Amnesty International opposes the death penalty in all cases without exception, regardless of the nature or circumstances of the crime; guilt, innocence or other characteristics of the individual; or the method used by the state to carry out the execution.

## UNLAWFUL EXECUTIONS FOR DRUG RELATED OFFENCES ON THE RISE

Pending its full abolition, international human rights law restricts the imposition of the death penalty to “the most serious crimes”.<sup>1</sup> This restriction has been authoritatively interpreted by the UN Human Rights Committee as referring only to intentional killing and to categorically exclude drug related offences.<sup>2</sup>

Alarming, in violation of this clear prohibition, 36 countries still retain the death penalty in law to punish drug related offences. Amnesty International has recorded more than 700 executions for these crimes in the five year-period 2018-2022. The number of drug related executions for 2022 (325) represented 37% of the known global total and more than doubled the corresponding figure for 2021 (134).

Executions for drug related offences were recorded in a handful of countries over the last few years. In 2022, Iran’s 255 drug related executions constituted 78% of the confirmed global total for these offences. Saudi Arabia resumed executions for these crimes in 2022, after it had observed – according to the Saudi Human Rights Commission – a hiatus of two years. Fifty-seven people convicted of drug related charges were put to death – approximately one-third of its 2022 execution total (196).

Amnesty International was able to confirm executions for these offences also in Singapore, where 16 executions, all drug related, were carried out in the 18-month period between the end of March 2022 and September 2023; in China, where secrecy surrounds death penalty figures and an accurate assessment was impossible. Amnesty International believes that the Vietnamese authorities also carried out drug related executions in recent years, but it could not get sufficient confirmation for these.

Figures confirmed in the first half of 2023 have painted a similarly disconcerting picture. Between January and end of May 2023, the authorities of Iran executed 282 people, nearly double the number of executions recorded in the first five months of 2022. At least 173 of these were for drug-related offences. Fifty-four executions, including for drug related

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<sup>1</sup> Article 6(2) of the International Covenant on Civil and Political Rights; UN Safeguards guaranteeing protection of the rights of those facing the death penalty, UN Economic and Social Council resolution 1984/50.

<sup>2</sup> UN Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, UN Doc. CCPR/C/GC/36, para.35.

offences, were recorded in Saudi Arabia in the first six months of the year. On 27 July, Kuwait executed five people, including a Sri Lankan national convicted of a drug related offence.

## **WAR ON DRUGS, WAR ON HUMAN RIGHTS**

The death penalty has been deployed in several countries as a tool in the highly punitive, “zero tolerance” approach that has dominated global efforts to tackle the use and sale of drugs. However, numerous studies have shown that the death penalty does not have a unique deterrent effect on crime. In recent years, many states have also acknowledged that this punitive framework has failed to deliver on its promise of protecting people’s health and rights from the risks posed by drugs.

Decades of prohibition and criminalization have undermined the rights of millions and left a legacy of violence, disease and other serious health risks, mass incarceration, suffering and abuse. In addition to the death penalty, the “war on drugs” has led to police abuses, discrimination, extrajudicial executions, torture and other ill-treatment, arbitrary detentions, inhumane conditions of detention and violations of economic, social and cultural rights – including of the right to health.

Amnesty International has joined many other civil society organizations in calling for a paradigm shift in state responses to problems associated with drugs, urging them to put in place measures that tackle social inequalities and promote social justice and economic, social and cultural rights. Among other measures, the organization has been calling on states to abolish the death penalty; decriminalize the use, possession, cultivation and purchase of all drugs for personal use; expand health and other social services to address the risks related to drug use; and to implement alternatives to the criminalization of other minor, non-violent drug-related offences that do not cause harm to others.

Despite widespread human rights abuses committed in the name of the “war on drugs”, international drug control mechanisms – such as the Commission on Narcotic Drugs (CND) and the UN Office on Drugs and Crime (UNODC) – have largely failed to ensure that drug policies are implemented in compliance with international human rights law. Although many UN bodies, agencies and experts have reaffirmed on numerous occasions the UN’s total opposition to the death penalty, including for drug related offences, the CND has not yet taken a formal position against this cruel punishment. Amnesty International reiterates its call on all international drug control mechanisms, including the CND and UNODC, to consistently incorporate human rights into their work. In particular, the organization calls on the CND to establish a standing item in its agenda to address the human rights impacts of drug policies; and on UNODC to ensure that human rights are part of its monitoring work, including through a specific chapter on human rights in its yearly World Drug Report.

## **UNFAIR TRIALS, ARBITRARY DEATH SENTENCES**

In many cases where the death penalty has been applied for drug related offences, Amnesty International has documented serious violations of the right to a fair trial and other safeguards established to protect people from the arbitrary deprivation of life. Amnesty International’s research has shown that those arrested on suspicion of having committed a drug related offence have in many cases been interrogated by the police without a lawyer present, which also left them at greater risk of being subjected to torture or other ill-treatment. In Malaysia, for example, Amnesty International found that gaps in legal aid in death penalty cases left many people without a lawyer of their choosing, particularly foreign nationals who were unrepresented at the time of arrest, or during remand before the charges were brought. In Iran, drug-related executions often followed flawed investigations by Iran’s anti-narcotics police and other security bodies. Trials for drug-related offences are held before Revolutionary Courts and are grossly unfair, with those facing the death penalty being denied access to legal representation and the courts using torture-tainted “confessions” as evidence to convict them.

The retention of legal presumptions of guilt in Brunei Darussalam, Malaysia and Singapore have also rendered trials unfair as these contravene the right to be presumed innocent. These presumptions, when invoked, allow the prosecution to automatically infer guilt without having to prove that drugs found in objects or premises that they were responsible for belonged to the defendant; or that a defendant had knowledge of the drugs when found in possession of them; or that a defendant intended to traffic the drugs when the amounts in their possession went beyond statutory minimums. When these legal presumptions are invoked, the burden of proof is shifted onto the defendant to be rebutted to the higher legal standard of “on a balance of probabilities”, with the effect of lowering the threshold of evidence needed to secure a conviction in capital cases.

Additionally, some countries – including Brunei Darussalam, Iran and Singapore – retain the death penalty as the mandatory punishment for some drug related offences. The mandatory death penalty does not allow judges to take into

consideration at sentencing any mitigating circumstances relating to the offence or the person and therefore violates international law and standards. In Singapore, judges can exercise some sentencing discretion when the role of the defendant is limited to transporting drugs (“courier”), if the defendant is found to have mental or intellectual disabilities that substantially impaired their mental responsibility for the offence, or if the public prosecutor issues a certificate of their substantive assistance in “disrupting drug trafficking activities”. This latter requirement effectively shifts the sentencing decision to the prosecution, which is not an independent and impartial party in the judicial process and adds an additional layer of arbitrariness and unfairness to the proceedings.

## **INTERSECTING LAYERS OF DISCRIMINATION**

The systemic violations of human rights associated with the death penalty are frequently compounded by multiple and intersecting layers of discrimination that affect the experience of criminal justice of those facing the ultimate cruel, inhuman and degrading punishment. As highlighted by the UN Human Rights Committee, “[a]ny deprivation of life based on discrimination in law or fact is ipso facto arbitrary in nature.”<sup>3</sup>

Amnesty International has documented many cases in which those facing the death penalty for drug-related offences have faced discrimination, particularly based on their socio-economic status. Due to their marginalized and disadvantaged socio-economic background, many people were at greater risk of exploitation and violence. In many cases, they were convicted of possessing and transporting relatively small quantities of drugs without having committed or being involved in any form of violence. For example, Amnesty International’s research on Malaysia pointed to several defendants that claimed that they were forced or lured into the drug trade by their partners or people they knew, or because of their lack of financial means. Given their low-ranking status in the drug trade, many of those sentenced to death had little or no control over what drugs and what amounts they were asked to carry; and little or no information on the origin or destination of the parcels that they had been asked to deliver. This left people carrying drugs – including women, who were disproportionately represented on death row for drug crime – more exposed to the risk of the death penalty, as they had no information about those occupying higher positions in the hierarchy of criminal drug networks to share with the authorities to avoid being sentenced to death. Recent legislative reforms in Malaysia have made the use of the death penalty for drug related offences fully discretionary, repealing also a requirement to assist the authorities to avoid the mandatory death penalty. However, the impact of the reforms and how the sentencing discretion will be exercised is yet to be seen.

Amnesty International has also found that many of those charged with drug related offences had no or little means to pay for legal assistance after arrest, leaving them at an increased risk of torture or other ill-treatment to extract “confessions”. Families of people executed for drug related offences have told the organization that they have frequently had difficulties to afford legal assistance and then struggle with the dire economic consequences of losing breadwinners and being heavily indebted from legal fees. Among them were members of Iran’s persecuted and impoverished Baluchi ethnic minority, who account for around 20% of the recorded executions in the first five months of 2023 despite making up only five percent of Iran’s population.

Foreign nationals, who constitute a significant proportion of those sentenced to death and executed for drug-related offences, have also been at greater disadvantage before criminal justice systems in other countries. International human rights law affords foreign nationals additional protections of consular and language assistance, but foreign nationals can find themselves at further disadvantage depending on the willingness of the detaining country to uphold these safeguards, as well as whether or not the country of nationality provides consular assistance and the effectiveness of any consular or legal assistance provided.

## **WORLD DAY ACTION: CALLING FOR A HALT TO SINGAPORE’S EXECUTIONS**

As a founding member of the [World Coalition Against the Death Penalty](#), Amnesty International joins forces with its partners to mark a global day of activism against the death penalty every 10 October. For this year’s action Amnesty International activists will be highlighting the human rights violations associated with the use of the death penalty in Singapore and ask its government to immediately establish a moratorium on executions as first step towards abolition.

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<sup>3</sup> UN Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, 30 October 2018, para.61.

As of today, 112 countries have abolished the death penalty for all crimes and more than two-thirds in total are abolitionist in law or practice. Amnesty International renews its calls on governments of countries that still retain the death penalty to follow the global trend and fully abolish the ultimate cruel, inhuman and degrading punishment.