

AMNESTY
INTERNATIONAL



UNLAWFUL AND DISCRIMINATORY

THE DEATH PENALTY FOR DRUG RELATED OFFENCES

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Cover: Haikal bin Nazeri bursts into tears over his father's gravestone at Choa Chu Kang Cemetery, Singapore. Nazeri bin Lajim was sentenced to the mandatory death penalty for drug trafficking and hanged on 22 July 2022. Photo: ©Piero Zilio

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CONTENTS

INTRODUCTION	4
1. THE EXTENT OF THE ISSUE	5
1.1 HUNDREDS OF UNLAWFUL DRUG RELATED EXECUTIONS	5
1.2 RETENTION IN LAW AND DEATH SENTENCES	7
1.3 SHORT TERM UPWARDS, LONG TERM DOWNWARDS?	8
2. DRUG CONTROL AND HUMAN RIGHTS: NEED FOR A PARADIGM SHIFT	9
2.1 WAR ON DRUGS, WAR ON HUMAN RIGHTS	9
2.2 THE UN POSITION AGAINST THE DEATH PENALTY: UNEQUIVOCAL CONDEMNATION, INEFFECTIVE IMPLEMENTATION	10
2.3 MUCH NEEDED CHANGE IN PARADIGM	13
3. UNFAIR PROCEEDINGS, ARBITRARY DEATH SENTENCES	14
3.1 DENIAL OF LEGAL COUNSEL FROM TIME OF ARREST, ENHANCED RISK OF TORTURE	15
3.2 LEGAL PRESUMPTIONS OF GUILT AND MANDATORY DEATH SENTENCES	16
3.3 SINGAPORE'S UNFAIR CERTIFICATE OF SUBSTANTIVE ASSISTANCE	17
4. MULTIPLE LAYERS OF DISCRIMINATION	18
4.1 SOCIO-ECONOMICALLY DISADVANTAGED GROUPS	18
4.2 AT THE BOTTOM OF THE DRUG TRAFFICKING CHAIN	19
4.3 THE "LETHAL LOTTERY" OF NATIONALITY	21
5. RECOMMENDATIONS	23

INTRODUCTION

The use of the death penalty for drug-related offences is unlawful under international human rights law and standards. It frequently violates international safeguards and restrictions established to prevent the arbitrary deprivation of life. It disproportionately affects groups that are already marginalized, deepening existing structural socio-economic inequalities, stigmatization and discrimination. Yet more than 30 countries still retain it in their laws and hundreds of drug related executions are carried out every year in the name of the so-called “war on drugs”.

On the occasion of the 2023 World Day Against the Death Penalty (10 October), Amnesty International draws attention to the use of this punishment for drug-related offences as a human rights violation, calling for its full abolition; and highlights the urgent need for states to shift away, when tackling problems associated with drugs, from punitive responses 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. Amnesty International is a founding member of the **World Coalition Against the Death Penalty** and joins forces with its members to mark this global day of activism against the death penalty every 10 October.



WORLD DAY AGAINST THE DEATH PENALTY

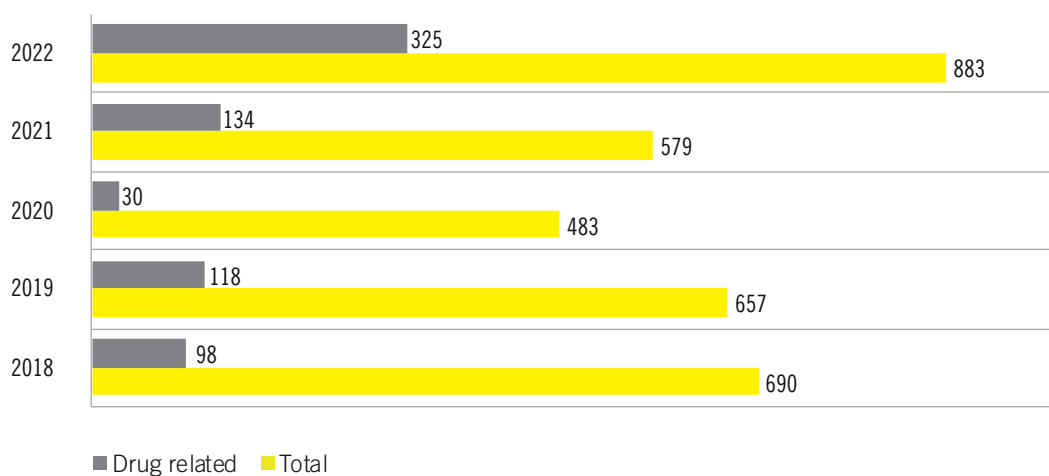
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1. THE EXTENT OF THE ISSUE

1.1 HUNDREDS OF UNLAWFUL DRUG RELATED EXECUTIONS

More than 700 executions have been carried out for drug related offences in the five year-period between 2018 and 2022. Of all executions that Amnesty International could confirm for 2022, 37% were drug related (*Figure 1*). This is particularly alarming when considering that the imposition of the death penalty for these offences is **unlawful under international human rights law and standards**.

FIGURE 1: RECORDED GLOBAL EXECUTIONS (2018-2022)



INTERNATIONAL
STANDARDS

PENDING ABOLITION, DEATH PENALTY ONLY FOR “MOST SERIOUS CRIMES”

Article 6(2) of the [International Covenant on Civil and Political Rights](#) and Safeguard No.1 of the [UN Safeguards guaranteeing protection of the rights of those facing the death penalty](#), adopted through UN Economic and Social Council resolution 1984/50, provide that the imposition of the death penalty must be restricted to the “most serious crimes”. The UN Human Rights Committee has stated that “The term ‘the most serious crimes’ must be read restrictively and appertain only to crimes of extreme gravity, involving intentional killing. Crimes not resulting directly and intentionally in death, such as [...] drug and sexual offences, although serious in nature, can never serve as the basis, within the framework of article 6, for the imposition of the death penalty. [...]” *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, 30 October 2018, para.35.*

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has similarly stated that “The death penalty may not be imposed for drug-related offences unless they meet this requirement.” *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (2012), UN Doc. A/67/275, para.122.*

The number of drug related executions that Amnesty International recorded globally for 2022 (325) more than doubled the 134 total of 2021. The increase was primarily linked to two countries, Iran and Saudi Arabia (Table 1). Iran's 255 drug related executions constituted 78% of the confirmed global total for these offences (325). Convictions for drug-related offences were linked to 44% of Iran's total executions for the year and represented a 93% increase from 2021, when 132 were recorded. An increase in the rate of drug related executions was first recorded in 2021 and followed three years during which figures for these executions showed a significant drop, linked to the implementation of [amendments to the country's anti-narcotics law](#) from November 2017.

In 2022, the authorities of Saudi Arabia ended a moratorium on drug related executions, which according to the Saudi Human Rights Commission had been established in 2020. The total number of executions carried out in the country tripled from 65 in 2021 to 196 in 2022, the highest number Amnesty International recorded in the country in 30 years. Drug related executions made up close to one-third of this total.

In Singapore, where executions resumed in March 2022 after a hiatus of two years, the authorities carried out 11 drug related executions which represented 100% of its total for the year.

Table 1: RECORDED EXECUTIONS IN IRAN, SAUDI ARABIA AND SINGAPORE (2018-2022)

Source: Amnesty International

YEAR	IRAN			SAUDI ARABIA			SINGAPORE		
	Total known executions	Drug related	Percentage of total	Total known executions	Drug related	Percentage of total	Total known executions	Drug related	Percentage of total
2022	576	255	44%	196	57	29%	11	11	100%
2021	314	132	42%	65	0	0	0	0	0
2020	246	23	9%	27	5	19%	0	0	0
2019	251	30	12%	184	84	46%	4	2	50%
2018	253	25	10%	149	60	40%	13	11	85%

China and Viet Nam are also believed to have carried out executions for drug related offences in the period 2018-2022, but the secrecy that surrounds figures on their use of the death penalty has impeded an accurate assessment. Amnesty International was able to confirm that executions were carried out for drug-related offences in China, but it was not able to provide a comprehensive and credible minimum figure. For Viet Nam, the organization could not get sufficient confirmation that drug related executions were carried out, but believes it very likely.

Media reports also indicated that executions for drug-related offences could have taken place in North Korea in recent years, but the lack of access to the country and independent media sources continue to make it impossible for Amnesty International to verify the information.

This secrecy and lack of transparency has inevitably meant that the figures that Amnesty International has been publishing over the years should be considered as minimum ones; and that hundreds other executions could have taken place, including for drug related offences. The true extent of the resort to the death penalty and an assessment of its implications for the protection of human rights will only become possible when secretive practices end and all states that retain this cruel punishment in law make full information publicly available. Pending full abolition, Amnesty International renews its call for full transparency in the use of the death penalty in accordance with international standards.



INTERNATIONAL STANDARDS

WHAT INFORMATION SHOULD STATES MAKE PUBLIC?

In its most recent resolution on a moratorium on the use of the death penalty, the UN General Assembly called on states to “make available relevant information, disaggregated by sex, age, disability, nationality and race, as applicable, and other applicable criteria, with regard to their use of the death penalty, inter alia, the number of persons sentenced to death, the number of persons on death row and the location of their detention, and the number of executions carried out, the number of death sentences reversed or commuted on appeal or in which amnesty or pardon has been granted, and according to which procedure, as well as information on any scheduled execution, which can contribute to possible informed and transparent national and international debates, including on the obligations of States pertaining to the use of the death penalty.”

UN General Assembly resolution [77/222](#) of 15 December 2022

1.2 RETENTION IN LAW AND DEATH SENTENCES

Although in recent years drug related executions have been confined to a handful of countries, the death penalty is still retained in law to punish various drug related offences in 36 jurisdictions. None of these offences meet the threshold of “the most serious crimes”, including production, possession, trafficking resulting in death, trafficking not resulting in death, or trafficking in specific circumstances – for example, by agents of the state or on military premises, or for repeated offences only.

Countries that still retain the death penalty for drug-related offences in law are:

Bahrain, Bangladesh, Brunei Darussalam, China, Cuba, Democratic People’s Republic of Korea, Democratic Republic of the Congo, Egypt, Guyana, India, Indonesia, Iran, Iraq, Jordan, Kuwait, Laos, Libya, Malaysia, Mauritania, Myanmar, Oman, Palestine (State of), Qatar, Saudi Arabia, Singapore, Republic of Korea, South Sudan, Sri Lanka, Sudan, Syria, Taiwan, Thailand, United Arab Emirates, United States of America, Viet Nam and Yemen.

Table 2: RECORDED DEATH SENTENCES FOR DRUG RELATED OFFENCES AND NUMBER OF COUNTRIES (2018-2022).

Source: Amnesty International

YEAR	DRUG RELATED DEATH SENTENCES AND PERCENTAGE OF KNOWN TOTAL	NUMBER OF COUNTRIES KNOWN TO HAVE IMPOSED DRUG RELATED DEATH SENTENCES
2022	213 out of recorded total of 2,016 (11%)	9: Bangladesh, Egypt, China, Indonesia, Laos, Malaysia, Pakistan, Singapore and Viet Nam.
2021	220 out of recorded total of 2,052 (11%)	11: Bangladesh, Egypt, Indonesia, Iran, Malaysia, Pakistan, Singapore, Sri Lanka, Thailand, UAE and Viet Nam.
2020	179 out of recorded total of 1,477 (12%)	8: China, Indonesia, Laos, Malaysia, Singapore, Sri Lanka, Thailand and Viet Nam.
2019	184 out of recorded total of 2,307 (12%)	8: Bahrain, Bangladesh, China, Indonesia, Malaysia, Singapore, Sri Lanka and Viet Nam.
2018	226 out of recorded total of 2,531 (9%)	14: Bahrain, Bangladesh, China, Egypt, Indonesia, Iran, Iraq, Kuwait, Malaysia, Pakistan, Singapore, Sri Lanka, Thailand, Viet Nam.

1.3 SHORT TERM UPWARDS, LONG TERM DOWNWARDS?

Developments in the first half of 2023 indicate that the upward trend in drug related executions recorded in 2022 has continued. Alarmingly, between January and end of May 2023 the authorities of [Iran executed 282](#) people, which is nearly double the number of executions recorded in the first five months of 2022. At least 173 of these 2023 executions were for drug-related offences, close to two-thirds of the total.

An initial assessment of executions carried out in [Saudi Arabia in the first six months](#) of 2023 suggests a similar trend. Thus far, 54 people have been executed, including for drug related offences. On 27 July 2023, [Kuwait](#) executed five people, including a Sri Lankan national convicted of “possessing with intent to traffic and use intoxicating and mind-altering drugs”. Singapore carried out further executions of people convicted of drug trafficking, including [three in just under two weeks](#) in July – including the first woman in two decades.

However, recent developments in South East Asia suggest that in the long term a significant decrease in the global resort to the death penalty for drug related offences is possible. In Thailand – where this punishment has been frequently imposed for drug related offences – the National Assembly adopted amendments to the Narcotic Act (Vol. 6) in November 2016 to change the death penalty from mandatory to discretionary for the offence of selling prohibited substances. King Maha Vajiralongkorn Badintheop Thearawangkun granted pardons commuting death sentences on several occasions, lowering the number of people under sentence of death in the country.

In Malaysia, the mandatory death penalty was fully [repealed](#) as of 4 July 2023, but drug trafficking remained among the offences for which death sentences can be imposed at the discretion of the judge. In Indonesia, where drug related death sentences constituted 94% of the recorded total for 2022 (105 out of 112), the parliament adopted in 2022 a new Criminal Code that, once effective in 2026, would allow for the commutation of death sentences after 10 years if certain conditions are met.

These changes not only represent significant steps towards aligning national laws with restrictions on the use of the death penalty set out under international law and standards, but also reflect a shift away from highly punitive approaches championed by the so-called “war on drugs”, of which the death penalty has been the most extreme example.

2. DRUG CONTROL AND HUMAN RIGHTS: NEED FOR A PARADIGM SHIFT

2.1 WAR ON DRUGS, WAR ON HUMAN RIGHTS

A [1995 survey](#) from Amnesty International highlighted how the death penalty for drug related offences was introduced in most jurisdictions from the mid-1970s-1980s, as part of a global effort to tackle the use and sale of drugs. The prevailing narrative at the time, which continued to dominate for many subsequent decades, was to treat drug use and dependence as a threat to humankind that needed to be suppressed. “Zero tolerance”, “tough on crime” and other highly punitive approaches based on the prohibition and criminalization of drugs were then implemented in many countries around the world.

“Drug traffickers, transnational criminal organizations, and violent street gangs all contribute substantially to this scourge. To combat this deadly epidemic, federal prosecutors must consider every lawful tool at their disposal. [...] [T]his should also include the pursuit of capital punishment in appropriate cases. Congress has passed several statutes that provide the Department with the ability to seek capital punishment for certain drug-related crimes. [...] I strongly encourage federal prosecutors to use these statutes, when appropriate, to aid in our continuing fight against drug trafficking and the destruction it causes in our nation.”

Former US Attorney General Jeff Sessions, 21 March 2018

The implications for human rights [have been devastating](#), particularly for those from the poorest and most marginalized sectors of society. In addition to the death penalty, 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 – are just some of the consequences of the “war on drugs”. In [some occasions](#), certain abuses committed as part of the “war on drugs” even amounted to crimes against humanity. The “war on drugs” has effectively been a war on people, has undermined the rights of millions, and has left a legacy of violence, disease, mass incarceration, suffering and abuse around the world.



DISCRIMINATORY AND ARBITRARY DETENTION IN “WAR ON DRUGS”

“The so-called war on drugs has resulted in a large and disproportionate increase in detention and imprisonment for drug-related offences. Some States have gone well beyond what is required by the international drug control treaties in terms of criminalization and associated penalties, while others have demonstrated excessive zeal in applying the criminalization provisions of those treaties. These disproportionate actions have frequently resulted in widespread human rights violations leading to increased arbitrary detention. Association of the military with drug control efforts has aggravated the situation in several States and has frequently resulted in more and worse human rights violations and punitive outcomes that have not proven effective in reducing the incidence of drug-related offences. The war on drugs has also generated a culture of corruption within law enforcement bodies, particularly regarding payments made to avoid arrest or to affect the outcome of judicial proceedings.”

“The war on drugs may be understood to a significant extent as a war on people. Its impact is often greatest on those who are poor, but also frequently overlaps with discrimination in law enforcement directed at vulnerable groups. This has been referred to as the intersectionality of different forms of discrimination, which reinforces disadvantage. The Working Group has observed that criminalization of drug use facilitates the deployment of the criminal justice system against drug users in a discriminatory way, with law enforcement officers often targeting members of vulnerable and marginalized groups, such as minorities, people of African descent, indigenous peoples, women, persons with disabilities, persons with AIDS and lesbian, gay, bisexual, transgender and intersex persons. Homeless persons, sex workers, migrants, juveniles, the unemployed and ex-convicts may also be vulnerable. The Working Group has encouraged States to take measures to prohibit discriminatory practices of arrest and detention of members of vulnerable and marginalized groups in their drug-control efforts.”

Working Group on Arbitrary Detention, [Arbitrary detention relating to drug policies – Study of the Working Group on Arbitrary Detention](#), UN Doc. A/HRC/47/40, 18 May 2021, paras.8 and 51.

2.2 THE UN POSITION AGAINST THE DEATH PENALTY: UNEQUIVOCAL CONDEMNATION, INEFFECTIVE IMPLEMENTATION

Current drug policies worldwide are based on an international legal framework embedded in three different UN Conventions to which almost all States are party. These are the Single Convention on Narcotic Drugs (1961), the Convention on Psychotropic Substances (1971) and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988). The UN Drug Conventions are founded on an underlying assumption that drugs and drug dependence are an ‘evil’ that should be prevented and eradicated for the protection of humankind.

However, none of these conventions makes any reference to the death penalty. Importantly, the international framework established by these conventions was negotiated at the same time as the International Covenant on Civil and Political Rights was adopted by the UN General Assembly and came into force, enshrining under international human rights law the abolition of the death penalty and reformation of offenders as goals for states to fulfil.

The UN has constantly expressed its total opposition to the death penalty, a position repeatedly reiterated by various bodies, agencies and experts. Notwithstanding clear international standards and UN guidelines that mandate the abolition of the death penalty for drug-related offences, the Commission on Narcotic Drugs and other international mechanisms have not yet taken a formal position against the death penalty nor supported abolitionist instruments adopted by other UN bodies, such as repeated resolutions adopted by the UN General Assembly [on a moratorium on the use of the death penalty](#) and by the UN Human Rights Council [on the question of the death penalty](#).



INTERNATIONAL STANDARDS

AGAINST THE SPIRIT OF THE UN DRUG CONVENTIONS

The UN Common Position on Drugs has reiterated in unequivocal terms that the application of the death penalty for drug-related offences does not respect the spirit of the international drug-control conventions and has the potential to become an obstacle to effective cross-border and international cooperation against drug trafficking. *UN Chief Executives Board, “[What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters](#)”, UN Doc. E/CN.7/2019/CRP.10.*

The International Narcotics Control Board has noted that the use of the death penalty for drug-related offences is in breach of the UN Drug Conventions and a violation of international human rights law, and has called on States that still retain this punishment for drug-related offences to consider abolishing it for such offences and commuting death sentences that have already been handed down. *[Report of the International Narcotics Control Board for 2021](#), UN DOC. E/INCB/2021/1, para. 90.*

Historically, international drug control bodies – such as the Commission on Narcotic Drugs (CND), established by the UN Economic and Social Council – have largely been dissociated from human rights mechanisms and have largely failed to ensure that drug policies are consistent with international human rights law. In turn, this has resulted in poor monitoring of human rights compliance in the application of drug control policies. For its part, the UN Office on Drugs and Crime (UNODC) has also been criticised for its failure to address human rights violations in a comprehensive way, both in its operative and monitoring tasks.

Notwithstanding the sharp increase in executions and the distressing cases in which the death penalty was applied over the last years, the UNODC and other international drug control mechanisms have failed to publicly condemn these serious violations of international law. The World Drug Report, published by UNODC every year on 26 June to mark World Drugs Day, [continues to omit](#) mentions to the application of the death penalty for drug related offences. The World Drug Day itself, an initiative designed to encourage international cooperation in the fight against drugs, has frequently been used to promote highly punitive approaches as the authorities display “iron-fist on drug crime” stances. In some retentionist countries, World Drug Day has been used to support an [increased resort to the death penalty or even to ramp up executions](#) for drug related offences. For example, this international day



A police officer waits at the scene of an anti-drug police operation, in Manila, in the Philippines, in August 2017. Photo: ©Amnesty International.

has been a regular hook for Chinese courts, including the Supreme People's Court, to [issue judicial guidelines](#) on how to apply the death penalty for drug related offences.

Amnesty International has called on all international drug control mechanisms, including the CND and UNODC, to consistently incorporate human rights into their work. In particular, the organization has called 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 constant monitoring work, including through the inclusion of a specific chapter on human rights in its yearly World Drug Report.

International law has also made clear that States and intergovernmental organizations engaging in international assistance and cooperation, including in the area of drug control, have an extraterritorial obligation to ensure that their drug policies do not lead to human rights abuses in other countries, either directly or indirectly. As highlighted in a [2015 report](#) by the UN Special Rapporteur on extrajudicial executions, abolitionist countries and intergovernmental organizations may be responsible for the imposition of the death penalty in other countries due to cooperation over law enforcement programmes, the provision of technical or legal assistance, or extradition to countries where the death penalty is still imposed for drug related offences. States may also be responsible for their failure to take reasonable steps to prevent or stop human rights abuses committed as part of their international assistance and cooperation in the area of law enforcement, including the sale and transfer of arms used to violate human rights during drug enforcement operations.

2.3 MUCH NEEDED CHANGE IN PARADIGM

The argument that the death penalty has a unique deterrent effect on crime has long been [challenged](#), among a lack of convincing evidence in its support and, more critically, its failure to address the human rights of those sentenced to death and their relatives. In recent years, the whole paradigm underlining the “war on drugs” has come under increased scrutiny of international human rights mechanisms that have documented the negative impact of punitive drug policies on human rights. Many states, including old-time supporters of punitive policies, have also acknowledged in recent years that this punitive framework has failed to deliver on its promise of protecting the health and rights of the population.

“But the problem has not been resolved effectively but has instead resulted in other systemic issues such as overcrowding in prison and an overburdened criminal justice system. [...] Therefore, in my view, the existing approaches to the problem need to be studied and reviewed in line with international developments”.

Reported [statement](#) by Datuk Seri Azalina Othman Said, Minister in Prime Minister’s Department (Law and Institutional Reform) of Malaysia, 14 September 2023

Drug control policies should be understood as a way to achieve broader objectives, including the protection of the right to health, ensuring equality and non-discrimination, and avoiding the violence associated with illicit markets. This necessarily requires a paradigm shift, to ensure that drug policies do not rely on punitive approaches intended to suppress the use and availability of drugs and instead be based on measures that tackle social inequalities and promote social justice and economic, social and cultural rights. These should include a wide set of gender-sensitive and holistic socio-economic protection measures tackling the different stages of the drug trade, from cultivation and production to distribution and use.

As highlighted by the UN High Commissioner on Human Rights in his 2023 [report](#) submitted to the UN Human Rights Council (para.67):

“Shifting away from punitive models is critical to addressing all human rights challenges that arise from or are facilitated by the implementation of punitive drug control policies. Drug control policies should be understood as a way of achieving broader objectives, including the protection of human rights, in particular the right to health, ensuring equality and non-discrimination”.

Among other recommendations (para.68), the report calls on states to adopt alternative approaches to criminalization, “zero tolerance” and elimination of drugs, such as decriminalization and responsible regulation “to eliminate profits from illegal trafficking, criminality and violence”; to adopt drug policies that explicitly protect people’s rights “to health and to be treated with respect, dignity and equality, without discrimination on any grounds “including drug dependency”; and to address the underlying socioeconomic factors and social inequalities that increase the risks of using drugs or that lead to engaging in the drug trade, including by promoting human rights.

When some drug related conduct remains criminalized, the report calls on states to abolish the death penalty for all crimes, including for drug related offences; to ensure that crimes are clearly defined in law, and that penalties are proportionate to the gravity of offences and take mitigating and aggravating factors into account; and to ensure that any financial and technical assistance provided to countries for drug enforcement operations does not contribute, or carry a risk of contributing, to the commission of human rights violations.

3. UNFAIR PROCEEDINGS, 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. These have taken place at the time of arrest, during police interrogation, before and during trial and when the conviction and sentence were appealed.



**INTERNATIONAL
STANDARDS**

FAIR TRIAL GUARANTEES TO BE OBSERVED IN ALL DEATH PENALTY CASES

“Violation of the fair trial guarantees provided for in article 14 of the Covenant in proceedings resulting in the imposition of the death penalty would render the sentence arbitrary in nature, and in violation of article 6 of the Covenant. Such violations might involve the use of forced confessions; the inability of the accused to question relevant witnesses; lack of effective representation involving confidential attorney-client meetings during all stages of the criminal proceedings, including criminal interrogation, preliminary hearings, trial and appeal; failure to respect the presumption of innocence, which may manifest itself in the accused being placed in a cage or being handcuffed during the trial; lack of an effective right of appeal; lack of adequate time and facilities for the preparation of the defence, including the inability to access legal documents essential for conducting the legal defence or appeal, such as official prosecutorial applications to the court, the court’s judgment or the trial transcript; lack of suitable interpretation; failure to provide accessible documents and procedural accommodation for persons with disabilities; excessive and unjustified delays in the trial or the appeal process; and general lack of fairness of the criminal process, or lack of independence or impartiality of the trial or appeal court.

Other serious procedural flaws not explicitly covered by article 14 of the Covenant may nonetheless render the imposition of the death penalty contrary to article 6. For example, a failure to promptly inform detained foreign nationals of their right to consular notification pursuant to the Vienna Convention on Consular Relations, resulting in the imposition of the death penalty, and failure to afford individuals about to be deported to a country in which their lives are claimed to be at real risk the opportunity to avail themselves of available appeal procedures would violate article 6 (1) of the Covenant.”

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, 30 October 2018, paras.41-42.

3.1 DENIAL OF LEGAL COUNSEL FROM TIME OF ARREST, ENHANCED RISK OF TORTURE

Access to legal counsel from the time of arrest and judicial oversight of the detention are critical safeguards of the right to a fair trial as they serve to protect the presumption of innocence and prevent other human rights violations, including torture and other ill-treatment to extract “confessions” later used as evidence at trial. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment is absolute and non-derogable, which means that it can never be justified under any circumstance. The absolute prohibition of torture and other ill-treatment is also a norm of customary international law that applies to all people in all circumstances, binding on all states regardless if they have ratified a particular treaty containing such prohibition.

On 12 March 2023, the Saudi Arabian authorities executed [Hussein Abo al-Kheir](#), a Jordanian man and father of eight. He was sentenced to death in Saudi Arabia in 2015 for drug smuggling following an unfair trial.

Hussein Abo al-Kheir was arrested on 18 May 2014 by Saudi customs officials while crossing the Durra border from Jordan to Saudi Arabia and accused of drug smuggling. Upon arrest, Abo al-Kheir was held in incommunicado detention at an unknown location for a period of 12 days. He was only allowed to contact his family two weeks after his arrest. Throughout his pre-trial detention, he said that he was subjected to torture and other ill-treatment to extract a “confession”. He retracted his self-incriminating statement before the Tabuk Criminal Court on 15 December 2014 and again on 6 July 2017, stating that the authorities had tortured him into signing a statement, which he had to do with his fingerprint because he had been beaten to the point that he could not hold a pen.

During his pre-trial detention and trial proceedings, he had no access to legal representation or consular assistance.

Amnesty International’s research has shown that those arrested on suspicion of having committed a drug related offence have frequently been interrogated by the police without a lawyer present. This can occur because the law and procedure of a country do not guarantee the right to be assisted by legal counsel at this time, as is the case for Singapore; because of deliberate intent on the part of the authorities to violate this right; or because of practical yet avoidable reasons, such as legal representation not being readily available. In a [report](#) published in 2019, for example, Amnesty International found that gaps in legal aid coverage in death penalty cases in Malaysia meant that it had been a common experience for those who could not hire a lawyer independently to be unrepresented at the time of arrest or during their time on police remand, before the charges were brought. Lack of access to legal counsel from the time of arrest was linked to various reasons, including restricted access to pre-trial schemes for foreign nationals; different level of resourcing for legal aid across the country; or even delays in the notification of arrest from the police to the relevant legal office.

In Iran, drug-related executions often follow 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 their right to a fair trial, including through lack of access to legal representation and the use of torture-tainted “confessions” as evidence to convict them.

“The judges in Revolutionary Courts will ask if the drugs are yours and it makes no difference if you say yes or no. The judge at my trial told me to be quiet when I said the drugs were not mine. He said my sentence was death and ordered me to sign a document accepting it. He didn’t even allow my lawyer to speak in my defence.”

Interview with a person under sentence of death in Iran, Amnesty International, May 2023.

3.2 LEGAL PRESUMPTIONS OF GUILT AND MANDATORY DEATH SENTENCES

Amnesty International has further expressed concern over the retention of legal presumptions of guilt that contravene the right to be presumed innocent in Brunei Darussalam, Malaysia and Singapore. These presumptions, when invoked, allow the prosecution to automatically infer without having to prove the case that a defendant was in possession of drugs when these were found in their bag or car, or if they had keys to a premise or vehicle containing drugs; or that a defendant had knowledge of the drugs when found in possession of them; or to infer that a defendant intended to traffic the drugs when the amounts in their possession go 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”. Legal presumptions of guilt violate the presumption of innocence and other fair trial rights because under international human rights law the burden of proving the charge should rest on the prosecution. In addition to undermining the right to a fair trial, presumptions of guilt have also had 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 found guilty of committing it and therefore violate international law and standards.

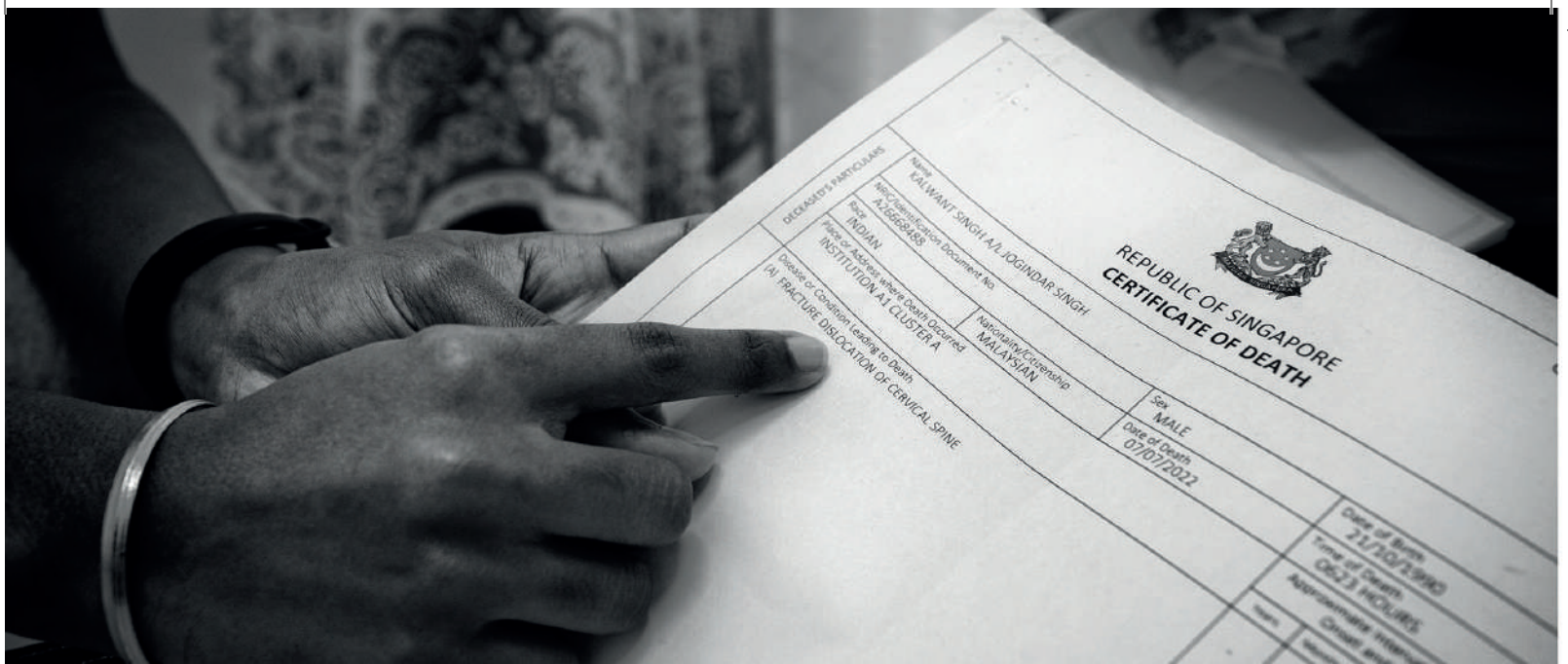


INTERNATIONAL STANDARDS

ARBITRARY NATURE OF MANDATORY DEATH SENTENCES

“In all cases involving the application of the death penalty, the personal circumstances of the offender and the particular circumstances of the offence, including its specific attenuating elements must be considered by the sentencing court. Hence, mandatory death sentences that leave domestic courts with no discretion on whether or not to designate the offence as a crime entailing the death penalty, and on whether or not to issue the death sentence in the particular circumstances of the offender, are arbitrary in nature.”

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.37.](#)



Certificate of death of Kalwant Singh, executed in Singapore on 7 July 2022. Photo: © Piero Zilio.

3.3 SINGAPORE’S UNFAIR CERTIFICATE OF SUBSTANTIVE ASSISTANCE

Following amendments to the Misuse of Drugs Act effective from 2013, judges in Singapore have some sentencing discretion in drug cases where the role of the defendant is limited to transporting drugs (“courier”). To benefit from this provision, the public prosecutor must issue a certificate of substantive assistance in “disrupting drug trafficking activities” within or outside Singapore or the defendant needs to be found to have mental or intellectual disabilities that substantially impaired their mental responsibility for their acts and omissions in relation to the offence.

Alarming, if the prosecution does not provide a certificate of substantive assistance after a defendant is found to be a “courier”, the court is deprived of any discretionary powers and must sentence the accused to death. This mechanism effectively shifts the sentencing decision in practice to the prosecution, which lacks the necessary independence and impartiality in the judicial process. It is also discriminatory, in that exposes those at the end of the drug trafficking chain – who typically have little control or knowledge of the drug trade and as such have limited to no information to offer to the authorities – at greater risk of being sentenced to the mandatory death penalty.

Kalwant Singh, a Malaysian national, was convicted and sentenced to the mandatory death penalty in Singapore in 2016 for drug trafficking. The [trial judgment](#) records that Kalwant Singh had stated that the drugs that he was found with in 2013 belonged to his boss in Malaysia, who worked as an illegal money lender and betting bookmaker. Kalwant said that he owed his boss a sum of RM 44,000 from betting on football online, and that he was threatened with beatings after he told his boss that he could not pay his debts. His boss later offered him to repay the debt by working for him to deliver bundles from Johore, in the South of Malaysia, into Singapore, using the motorcycle of his boss.

Kalwant was arrested after he crossed into Singapore and found with packets containing diamorphine (heroin). At the trial, the prosecution relied on the legal presumption of guilt under section 18 of the Misuse of Drugs Act to infer that he had knowledge that the bundles contained drugs simply because he was in possession of them. The legal presumption of guilt meant that he had the burden of proof to show that he had no knowledge of the drugs, but he was unable to rebut it.

The High Court found him to have been involved merely in transporting drugs (“courier”). However, despite this finding, the prosecution did not provide him with a certificate of substantive assistance, precluding the judge from deciding between the death penalty and life imprisonment with caning. He was sentenced to the mandatory death penalty. His conviction and death sentence were upheld by the Court of Appeal in 2016. Kalwant Singh was executed on 7 July 2022.

4. MULTIPLE LAYERS OF DISCRIMINATION

The systemic violations of human rights associated with the death penalty are frequently compounded by multiple and intersecting layers of discrimination to which those facing the ultimate cruel, inhuman and degrading punishment are subjected, including in their experience of criminal justice. Whenever there is discrimination in its application, the use of the death penalty is rendered arbitrary.



INTERNATIONAL STANDARDS

DEATH PENALTY AND DISCRIMINATION: “ARBITRARY IN NATURE”

“The right to life must be respected and ensured without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or any other status, including caste, ethnicity, membership of an indigenous group, sexual orientation or gender identity, disability, socioeconomic status, albinism and age. Legal protections for the right to life must apply equally to all individuals and provide them with effective guarantees against all forms of discrimination, including multiple and intersectional forms of discrimination. Any deprivation of life based on discrimination in law or fact is ipso facto arbitrary in nature.”

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.

4.1 SOCIO-ECONOMICALLY DISADVANTAGED GROUPS

Amnesty International has documented many cases over the years 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 or disadvantaged background, many of these people have had no or little means to pay for legal assistance. The lack of adequate legal assistance has not only exposed them to an increased risk of torture or other ill-treatment to extract “confessions” after arrest, but has also exposed them to a greater risk of exploitation and violence that may have put them in a situation of conflict with the law.

In [Iran](#), executions for drug-related offences recorded in the first five months of 2023 predominantly impacted people from marginalized and economically disadvantaged backgrounds. The relative of a prisoner on death row in Iran, who was the breadwinner of her family prior to imprisonment, told Amnesty International:

“She never saw her court-appointed lawyer. He gave the family false promises that he would have her death sentence overturned if they paid him an extortionate amount of money. They sold everything they had to pay him, even their sheep. Once he took their money, he disappeared and left the family with a lot of debt.”



Rally in solidarity with protesters in Iran in front of the German Reichstag on 23 November 2022.
Photo: © Amnesty International/Stéphane Lelarge.

The teenage son of a prisoner executed for drug-related offences told Amnesty International:

“I should be worried about my exams like other children, not going to work. My wages do not cover my family’s necessities because of all the loans we have. I don’t even have the money to cover my school registration for next year. If my father hadn’t been executed, I would be thinking about my future right now, not thinking of how to make money for my family.”

Additionally, members of Iran’s persecuted and impoverished Baluchi ethnic minority account for around 20 percent of the recorded executions despite making up only five percent of Iran’s population. Families of those executed frequently have difficulties to afford legal assistance and then struggle with the dire economic consequences of losing breadwinners and being heavily indebted from legal fees.

4.2 AT THE BOTTOM OF THE DRUG TRAFFICKING CHAIN

Amnesty International has also found that those on death row for drug related offences were frequently convicted after they were found in possession of and transporting relatively small quantities of drugs, without having committed or being involved in any form of violence and were often people at the low-end of the drug chain. Often referred to as “drug couriers” for the way in which they transport drugs they typically come from marginalized groups and are often motivated by poverty or economic hardship. For example, in [Singapore](#), the majority of the recorded cases of those sentenced to death for drug trafficking or convicted and awaiting sentencing between 2013 and 2017 (more than 70%) were carrying under 50 grams of diamorphine (heroin).

In many of the cases Amnesty International analysed from [Malaysia](#), defendants claimed that they were forced or lured into the drug trade by their partners or people they knew, for example, or because of their lack of financial means. Given their low-ranking status and the elevated risks such positions entail, many of those who have been sentenced to death had little or no control over what drugs and what amounts they were asked to carry; they had little or no information about where the prohibited substances were coming from or going to; and in many cases they only had a name and a mobile phone to call once they arrived at their assigned destination. This situation left people carrying drugs 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 that abolished the mandatory death penalty have made the use of this punishment 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.

Systemic and intersecting forms of discrimination have disproportionately affected **women** convicted of drug-related offences. In 25 of 30 cases of women that Amnesty International reviewed in its 2019 report on Malaysia, the women were convicted of trafficking after they were caught with drugs as they tried to enter Malaysia at international airports. The drugs were mostly found in bags; in some cases, these were tied to their bodies and in two others the drugs were found in capsules that had been swallowed. The substances and amounts they carried varied, but in most cases the women said that they were not aware that they were carrying drugs.

During the trial, some women argued that they were asked to carry a bag containing items for sale, such as clothes or shoes, for a person known to them without obtaining any financial compensation. In other cases, the women had agreed to travel to Malaysia to transport fashion items, for example, for a business contact or a known person, in exchange for some money (which in several cases it was indicated to be the equivalent of approximately USD500). Most women stated that they were not aware they were transporting drugs, or that the plan was changed at the last minute. Even those found with drugs tied to their bodies told the police and judges that they were not informed of the content and weight of the drugs found in the packages.

Several of these women were meant to travel to Malaysia with their partner or a friend, who at the last minute had to pull out of the trip for visa or other reasons. In some cases, the women claimed that they were in financial trouble and were coerced by the circumstances to take on or continue the job.

The mandatory death penalty, which was still in force at the time, meant that women were not able to have these mitigating circumstances considered for the determination of their sentence, despite the systemic and intersecting forms of discrimination present in their cases.

4.3 THE “LETHAL LOTTERY” OF NATIONALITY

Foreign nationals have also been at greater disadvantage before criminal justice systems in other countries and constitute a significant proportion of those sentenced to death and executed for drug-related offences. International human rights law affords foreign nationals additional protections of consular and language assistance, but they are often deprived of such protections in countries that still retain the death penalty.

Consular assistance can be critical for defendants throughout the process, including in gathering evidence that could enable them to present mitigating factors at sentencing or when appealing for clemency. Amnesty International has documented numerous cases where the authorities have failed



An activist from Amnesty International Malaysia holds an anti-death penalty sign at a candlelight vigil held on 27 July 2023 in front of the High Commission of Singapore in Kuala Lumpur, Malaysia. Photo: © Asyraf Abdul Samad.

to correctly identify and notify consular officials of the arrest of their nationals and to provide the accused with interpretation throughout the proceedings from the time of arrest. Discriminatory laws and practices have also resulted in foreign nationals not being able to make use of all avenues of appeal available to the country’s own nationals, for example in [Indonesia](#), and in their bodies not being returned to their families after the executions – as documented in this case in [Saudi Arabia](#).

In addition, foreign nationals can find themselves at further disadvantage depending on whether or not the country of nationality provides consular assistance and the effectiveness of any consular assistance provided by their country of origin. The availability and quality of consular assistance depends on many factors, including the status of the death penalty in their country of nationality; the government’s political agenda and willingness to intervene with a foreign government; and the resources available to the relevant foreign representation to assist and advocate for nationals facing the death penalty abroad.

Amnesty International has been repeatedly contacted by family members of persons under sentence of death in other countries who were unable to ascertain how the legal proceedings against their relatives were evolving, could not support them with the preparation of their cases and did not receive assistance from the relevant consulate.

These situations have shown how the nationality of the defendants can become a factor directly affecting the ability of persons to defend themselves against the imposition of the death penalty, which can render the execution arbitrary due to discrimination on the basis of nationality intersecting with the right to a fair trial. This is not only because the imposition of the death penalty failed to adhere to the highest standards of fair trial, but also because the additional arbitrariness concerning the extent to which particular states intervene in support of their own nationals facing the death penalty abroad. In this sense, an individual's specific nationality becomes an additional significant factor in determining their fate in the lethal lottery of the death penalty, in which governments that fail to make all efforts to provide effective assistance to their nationals abroad also bear some responsibility for the outcome of the case.

As the UN Special Rapporteur on extrajudicial, summary or arbitrary executions concluded in a [2015](#) report (para. 119):

“Since the provision of consular assistance can materially diminish the likelihood of the imposition of a death sentence, a State that does not take all reasonable steps to provide adequate consular assistance could arguably be said to have failed in its duty of due diligence to protect its nationals from arbitrary deprivations of life”.



Activists hold candles and anti-death penalty signs at a candlelight vigil held on 27 July 2023 in front of the High Commission of Singapore, in Kuala Lumpur, Malaysia, organized by the Anti-Death Penalty Asia Network. Photo: © Asyraf Abdul Samad.

5. RECOMMENDATIONS

TO GOVERNMENTS OF COUNTRIES THAT STILL RETAIN THE DEATH PENALTY

Amnesty International calls on governments of countries that still retain the death penalty to immediately establish a moratorium on executions and fully abolish this cruel punishment.

Pending full abolition, states are encouraged to:

- Bring provisions in national legislation that allow for the use of the death penalty in line with international law and standards, including by:
 - removing from the scope of the death penalty drug-related and any other offences other than intentional killing;
 - ensuring that proceedings meet the highest standards for a fair trial, from the time of arrest;
 - and repealing legal presumptions of guilt and mandatory death sentences.
- Review all cases where people have been sentenced to death with a view to commuting the death sentences. In particular:
 - review all cases where the death penalty has been imposed for drug-related offences or where the trial did not meet the most rigorous international fair trial standards;
 - in cases where the procedures were seriously flawed, offer a fair retrial without resort to the death penalty.
- When allegations of torture and other ill-treatment by the police or other authorities are made, ensure:
 - prompt, thorough, impartial and effective investigations by independent bodies;
 - that victims have access to an effective remedy and receive adequate reparations;
 - and that, if there is sufficient admissible evidence, those suspected of responsibility, including superior officers who knew or should have known that those under their command were resorting to torture or other ill-treatment and who did not take all measures in their power to prevent, halt or report it, are prosecuted in fair proceedings and without resort to the death penalty.
- Put in place a wide set of gender-sensitive and holistic socio-economic protection measures to ensure that drug laws and policies contribute to overcoming structural sources of vulnerability, stigma and discrimination that lead people – especially women and those belonging to marginalized and disadvantaged groups – to engage in the drug trade. These sources include ill-health, denial of education, unemployment, lack of housing, poverty.

- Decriminalize the use, possession, cultivation and purchase of all drugs for personal use and ensure that these policies are accompanied by an expansion of health and other social services to address the risks related to drug use.
- Implement alternatives to the criminalization of other minor, non-violent drug-related offences that do not cause harm to others. When determining whether to make or maintain a specific drug-related conduct as a criminal offence, ensure that the crime is clearly defined in law, that the proscribed conduct is aimed at addressing a specific problem directly associated with the possible harmful use of a particular drug and that the conduct puts others at risk of sufficiently serious harm.
- Regularly publish comprehensive and detailed information, disaggregated at least by gender, nationality and ethnic background, about the use of the death penalty which can contribute to public debates on the issue. The data should include: the number of persons sentenced to death and for what offences; the number of prisoners appealing the sentences and at what level; location of detention; information on past and scheduled executions; the total number of persons under sentence of death; the number of death sentences reversed or commuted on appeal; and the number of instances in which pardons have been granted.

TO ALL GOVERNMENTS

- Ensure that criminal justice systems are adequately resourced so that the most rigorous internationally recognized standards for fair trial are respected, particularly in proceedings where the death penalty might be imposed.
- Ensure that consular assistance to own nationals facing the death penalty in other countries is readily available, adequately resourced and effective.
- Ensure that human rights violations committed in the name of drug control are halted; and any international cooperation, including through the provision of technical and financial assistance, does not contribute, or carry a real risk of contributing, to the use of the death penalty or the commission of human rights violations. Any such cooperation must be halted if used, or if there is a real risk of it being used, to commit human rights abuses or violations, either directly or indirectly.



TO DRUG CONTROL MECHANISMS, INCLUDING THE COMMISSION ON NARCOTIC DRUGS AND UN OFFICE ON DRUGS AND CRIME


- Ensure that assessments and monitoring of the impacts of punitive drug policies on human rights are consistently incorporated into their bodies of work. In particular, the CND should establish a standing item in its agenda to address the human rights impacts of drug policies; and UNODC should ensure that human rights are part of its monitoring and reporting work, including through the insertion of a specific chapter on human rights in its yearly World Drug Report.
- Pay particular attention to the continued application of the death penalty for drug related offences, intervening publicly and privately to condemn its use; and engaging governments of countries that still retain this cruel punishment to take steps towards its full abolition.
- Ensure that any forms of support, cooperation and technical assistance do not facilitate or result in the application of the death penalty.



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WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

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UNLAWFUL AND DISCRIMINATORY

THE DEATH PENALTY FOR DRUG RELATED OFFENCES

The use of the death penalty for drug-related offences is unlawful under international human rights law and standards. It frequently violates international safeguards and restrictions set out to prevent the arbitrary deprivation of life. It disproportionately affects groups that are already marginalized, deepening existing structural socio-economic inequalities, stigmatization and discrimination. Yet more than 30 countries still retain it in their laws and hundreds of drug related executions are carried out every year.

On the occasion of the 2023 World Day Against the Death Penalty (10 October), Amnesty International draws attention to the use of this punishment for drug-related offences as a human rights violation, calling for its full abolition. The organization calls on states that still retain this punishment to urgently shift their highly punitive responses in the context of the so-called “war-on drugs” towards alternatives that better protect human rights.

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.

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