

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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WORLD DRUGS DAY: UNODC MUST INTEGRATE ENDING DRUG-RELATED EXECUTIONS IN ITS WORK

On 26 June, the International Day against Drug Abuse and Illicit Trafficking which the UN Office on Drugs and Crime (UNODC) has dedicated this year to the theme “Share facts on drugs. Save lives”, Amnesty International is renewing its call on the UN and its Member States to end the use of the death penalty for drug-related offences as a critical first step in ensuring drug policies are effectively designed to protect people.

The continued secrecy around the use of the death penalty and the silence from UNODC about its use for drug-related offences by some countries, and its wider impact on the enjoyment of human rights, is deeply concerning. The failure by UNODC to even mention the death penalty in its annual report and unreservedly advocate for the abolition of the death penalty not only allows for the harmful narrative that has dominated punitive state responses in the past decades to continue, but also offers cover for violations of human rights committed by some governments in the name of the ending drug-related harm.

The use of the death penalty for drug-related offences represents the pinnacle of the highly punitive paradigm of the “war on drugs”. Amnesty International renews its call on the Economic and Social Council (ECOSOC) and its subsidiary bodies, including UNODC, to make the abolition of the death penalty an integral component of all programmes to promote drug policy reform, prevent crime and improve criminal justice systems globally. Ending the death penalty, an inherently cruel and unfair punishment, would ultimately save lives and allow for the development of new drug policies based on the respect of public health and human rights.

INCREASED RESORT TO THE DEATH PENALTY

For decades, 26 June has been closely associated with the resort to the death penalty and other punitive measures in various countries. In the lead-up to this date, Amnesty International has recorded an increase in reports of executions of people convicted of drug-related offences in **China**, where thousands of people are believed to be sentenced to death and executed every year but where figures remain classified as state secrets. The authorities have also held press conferences explicitly linking the use of the death penalty to mark 26 June. For example, the Jiangsu High People’s Court announced in 2019 that 43 courts across the province ruled in 82 drug cases to mark the day and imposed some death sentences;¹ in 2020, the Supreme People’s Court issued new guidelines highlighting 10 “illustrative cases” relating to drug-related offences “warranting severe punishment”, including the execution of four men.² Similarly, the then President of **Sri Lanka**, Maithripala Sirisena, signed in 2019 warrants to carry out executions during the “Drug Eradication Week”, held between 23 June and 1 July.³ The executions were eventually put on hold by the Supreme Court.⁴

To date, drug-related offences are still punished or punishable by death in more than 30 countries.⁵ This is in violation of international human rights law which states that, in countries where the death penalty has not yet been abolished, its imposition must be restricted to “the most serious crimes”,⁶ interpreted as intentional killing.⁷ The UN Human Rights Committee has stated that “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 [of the International Covenant on Civil and Political Rights], for the imposition of the death penalty”.⁸

¹ Amnesty International, *Death sentences and executions in 2019* (ACT 50/1847/2020), April 2020, p.24.

² Amnesty International, *Death sentences and executions in 2020* (ACT 50/3760/2021), April 2021, p.26.

³ Colombo Telegraph, “Desperate President Sirisena Preps For Secret Execution”, 21 June 2021, colombotelegraph.com/index.php/desperate-president-sirisena-preps-for-secret-execution/; Amnesty International, *Sri Lanka: Halt plans for executions, once and for all* (News release), 25 June 2019, [amnesty.org/en/latest/news/2019/06/sri-lanka-halt-plans-for-executions-once-and-for-all/](https://www.amnesty.org/en/latest/news/2019/06/sri-lanka-halt-plans-for-executions-once-and-for-all/)

⁴ Amnesty International, *Sri Lanka: Death row prisoners win a temporary reprieve* (News release), 5 July 2019, [amnesty.org/en/latest/news/2019/07/sri-lanka-death-row-prisoners-win-a-temporary-reprieve/](https://www.amnesty.org/en/latest/news/2019/07/sri-lanka-death-row-prisoners-win-a-temporary-reprieve/)

⁵ This list covers offences that include drug trafficking resulting into death, drug trafficking not resulting into death, and drug trafficking by agents of the state.

⁶ Article 6(2) of the International Covenant on Civil and Political Rights; Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the UN Economic and Social Council in resolution 1984/50 of 25 May 1984.

⁷ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, UN doc. A/67/275, 9 August 2012, para. 35.

⁸ 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

Known drug-related executions have significantly decreased in recent years, from at least 272 in 2017 to at least 30 last year, but still represented 14% and 6% of all recorded executions of 2019 and 2020, respectively.⁹ The reduction is largely linked to the 2017 amendments to **Iran's** anti-narcotics law, which led to a decrease in death sentences and executions for this offence, as well as a drop in 2020 in known drug-related executions in **Saudi Arabia** (from 84 in 2019 to five in 2020). Both countries, however, still retain the death penalty for drug-related offences and have continued to carry out such executions in recent years. While the figures of known drug-related executions seem encouraging, the secrecy that surrounds the use of the death penalty in China, North Korea and Viet Nam, among other countries, makes it impossible to assess the real number of death sentences and executions. Reports suggest that it is possible that the death penalty continues to be used extensively in these countries, including for drug-related offences.

The imposition of death sentences for these offences continues to be of alarm, with 179 new death sentences (12% of all death sentences recorded by Amnesty International in 2020) known to have been imposed in 8 countries last year.¹⁰ A closer look at these figures reveals that drug-related death sentences alarmingly constitute a significant proportion of all death sentences imposed in some South-East Asian countries, such as **Indonesia** (101 out of 117 recorded death sentences, or 86%), **Laos** (9 out of 9, 100%), **Singapore** (6 out of 8, 75%), and **Viet Nam** (47 out of 54, 87%).

Amnesty International is further concerned by efforts in some countries to reintroduce the death penalty for drug-related offences. In March 2021, the House of Representatives of **the Philippines** adopted a bill amending the Comprehensive Dangerous Drugs Act of 2002 to increase the penalties for drug-related offences, including by re-introducing the death penalty.¹¹ The Philippines is a state party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and as such bound under international law to refrain from introducing this penalty again.

UNFAIR PROCEEDINGS, ENHANCED INEQUALITY

Amnesty International has found how the use of the death penalty for drug-related offences in several countries frequently follows proceedings that violate safeguards established under international human right law and standards to guarantee the protection of the rights of those facing execution; and disproportionately affects people from certain marginalized groups or disadvantaged socio-economic backgrounds.

Despite some recent reforms, the death penalty in Iran, Malaysia and Singapore continues to be applied as the mandatory **punishment** in some circumstances of alleged drug trafficking. The imposition of the mandatory death penalty is prohibited under international law.¹² The UN Human Rights Committee has stated that “the automatic and mandatory imposition of the death penalty constitutes an arbitrary deprivation of life [...] in circumstances where the death penalty is imposed without any possibility of taking into account the defendant’s personal circumstances or the circumstances of the particular offence”.¹³ In addition, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that “[the] mandatory death penalty which precludes the possibility of a lesser sentence being imposed regardless of the circumstances, is inconsistent with the prohibition of cruel, inhuman or degrading treatment or punishment”.¹⁴

Amendments to the anti-narcotics laws in **Malaysia** and **Singapore**, which came into force in 2018 and 2013, respectively, retain the mandatory death penalty for all but those convicted of transporting, sending or delivering a prohibited substance and who were also found to have co-operated with law enforcement in disrupting drug trafficking activities – an extremely narrow range of circumstances.¹⁵ In such cases, the only available alternative sentence is life imprisonment and strokes of the whip or the cane – the latter being a punishment that contravenes the prohibition on torture and other ill-treatment under international human rights law.¹⁶ An issue of further concern is the retention of **legal presumptions** that defendants found with specified amounts of certain drugs, or even simply in possession or in control of objects or premises in which prohibited substances are found, are guilty of drug trafficking. In those circumstances, the burden of proof is shifted onto the defendant, in violation of the presumption of innocence and other fair trial guarantees.

⁹ Amnesty International, *Death sentences and executions in 2020* (ACT 50/3760/2021), p.15; *Death sentences and executions in 2019* (ACT 50/1847/2020), p.13.

¹⁰ China, Indonesia, Laos, Malaysia, Singapore, Sri Lanka, Thailand, Viet Nam.

¹¹ Amendments to Dangerous Drugs Act an alarming knee-jerk reaction to PNP-PDEA shootout, 3 March 2021, [amnesty.org/ph/2021/03/amendments-to-dangerous-drugs-act-an-alarming-knee-jerk-reaction-to-pnp-pdea-shootout/](https://www.amnesty.org/ph/2021/03/amendments-to-dangerous-drugs-act-an-alarming-knee-jerk-reaction-to-pnp-pdea-shootout/)

¹² Report of the Special Rapporteur on Extrajudicial, summary or arbitrary executions, UN doc. A/HRC/14/24, 20 May 2010, para.51.

¹³ Human Rights Committee, *Pagdayawon Rolando v Philippines*, Communication No. 1110/2002, UN document CCPR/C/82/D/1110/2002, 8 December 2004, para. 5.2.

¹⁴ Report of the Special Rapporteur on Extrajudicial, summary or arbitrary executions, UN doc. E/CN.4/2005/7, 22 December 2004, para. 80.

¹⁵ Act A1558 (Malaysia), Dangerous Drugs (Amendment) Act 2017; Act no.30 of 2012 (Singapore), Misuse of Drugs (Amendment) Act 2012.

¹⁶ Amnesty International, *Fatally flawed: Why Malaysia must abolish the death penalty* (Index: ACT 50/1078/2019), October 2019; and *Cooperate or die – Singapore's flawed reforms to the mandatory death penalty*, ACT 50/7158/2017.

The imposition of the death penalty after violation of the right to a fair trial violates the right to life.¹⁷ Amnesty International has documented violations of the right to a fair trial in some countries, such as **Indonesia**¹⁸ and **Malaysia**,¹⁹ where laws and policies that are in contravention of international law and standards have added multiple layers of arbitrariness into the use of this punishment and further inequality in the experience of the criminal justice system. In the great majority of cases that Amnesty International has been able to document, those facing the death penalty for drug-related offences have been persons from disadvantaged or marginalized socio-economic backgrounds, with no or little means to pay for legal assistance.²⁰ The lack of adequate legal assistance has not only exposed them to an increased risk of torture or other ill-treatment to extract “confessions” during investigations, but also resulted, in many cases, in defendants not benefitting from adequate legal representation, including in being unable to appeal against their death sentences and being executed following grossly unfair trials. Additionally, Amnesty International has found that the arbitrariness and secrecy that surrounds the handling of **pardon petitions** have aggravated the mental trauma of the prisoners and their families and exacerbated the systemic flaws that undermine their right to this last review.

Foreign nationals have been at greater disadvantage when facing the criminal justice systems in other countries and constitute a significant proportion of those sentenced to death and executed for drug-related offences.²¹ International law affords foreign nationals the additional protections of consular assistance and interpretation, 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 to correctly identify and notify consular officials of the arrest of their nationals and provide the defendant with interpretation from the time of arrest and throughout the proceedings. The nationality of those facing the death penalty has also been a determining factor directly affecting the ability of persons to defend themselves and the outcome of death penalty cases, depending on whether or not the country of nationality provides consular and legal assistance, as well as on the effectiveness of any consular assistance provided. Discriminatory laws and practices have also resulted in foreign nationals not accessing legal representation during pre-trial proceedings;²² not being able to make use of all avenues of appeal available to the country’s own nationals;²³ and in their bodies not being returned to their families after the executions.²⁴

Furthermore, **women** convicted of drug-related offences are disproportionately represented on death row. In **Thailand**, 55% of all those under sentence of death at the end of 2020 (240) had been sentenced for these crimes. Whereas only 49% of men on death row (105) had been found guilty of drug-related offences, 100% of women (26) sentenced to death were for drug-related offences. Similarly, the use of the death penalty for drug-related offences in **Malaysia** disproportionately impact women, where 95% of all women under sentence of death in 2019 were convicted for this reason. Remarkably, while the numbers of those convicted of drug-related offences overall were split almost equally between Malaysian (51%) and foreign (49%) nationals, almost all women (90%) sentenced to death for drug-related offence were foreign nationals. In most cases documented by Amnesty International, women said that they were not aware that they were carrying illicit drugs and 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 that are at the low-end of the drug chain (drug couriers). In many cases, they 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. The mandatory death penalty for drug trafficking, combined with the legal presumptions of guilt, had the effect of judges giving little consideration to the facts that led to the discovery of the drugs by the Malaysian police, even when they had no other reason to disregard the accounts that the women put forward as their defence.

Over the past year, Amnesty International documented pervasive human rights abuses in the context of the **Covid-19 pandemic**, including the deliberate scapegoating and targeting of marginalized groups, the limitation of fair trial

¹⁷ Human Rights Committee, General Comment No. 32-Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32, 23 August 2007, para.59.

¹⁸ Amnesty International, *Flawed justice - Unfair trials and the death penalty in Indonesia* (ASA 21/2334/2015), October 2015.

¹⁹ Amnesty International, *Fatally flawed: Why Malaysia must abolish the death penalty* (Index: ACT 50/1078/2019), October 2019.

²⁰ See, for example, Amnesty International, *Flawed justice - Unfair trials and the death penalty in Indonesia* (ASA 21/2334/2015), October 2015, <https://www.amnesty.org/en/documents/asa21/2434/2015/en/>; Amnesty International, *‘Killing in the name of justice’ - The death penalty in Saudi Arabia* (MDE 23/2092/2015), August 2015, <https://www.amnesty.org/en/documents/mde23/2092/2015/en/>; and Amnesty International, *Growing up on death row - The death penalty and juvenile offenders in Iran* (MDE 13/3112/2016), January 2016.]

²¹ See, for example, Amnesty International, *Flawed justice-Unfair trials and the death penalty in Indonesia* (ASA 21/2334/2015), pp.40-45; Amnesty International, *‘Killing in the name of justice’ - The death penalty in Saudi Arabia* (MDE 23/2092/2015), pp.24-27. See also report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, to the 70th Session of the General Assembly, UN doc. A/70/304, 7 August 2015.

²² Amnesty International, *Fatally flawed: Why Malaysia must abolish the death penalty* (Index: ACT 50/1078/2019), p.27.

²³ See, for example, Amnesty International, *Flawed justice-Unfair trials and the death penalty in Indonesia* (ASA 21/2334/2015), p. 45

²⁴ See, for example, Amnesty International, *Urgent Action 302/09-Saudi Arabia: further information-executed, body not returned to family* (MDE 23/034/2014), 26 November 2014, available at <https://www.amnesty.org/en/documents/mde23/034/2014/en/>.

guarantees and difficulties in accessing legal counsel.²⁵ Disturbingly, Amnesty International noted the determination of officials in some countries to relentlessly pursue executions and death sentences despite increased restrictions due to the pandemic, which added an additional layer of cruelty to their use of the death penalty.²⁶

Amnesty International opposes the death penalty unconditionally, as a violation of the right to life as proclaimed in the Universal Declaration of Human Rights and as the ultimate cruel, inhuman and degrading punishment. As of today, 109 countries have fully abolished capital punishment from their legislation, and 142 in total – more than two-thirds of the world's countries – have abolished the death penalty in law or in practice.

SAVING LIVES ALSO MEANS ABOLISHING THE DEATH PENALTY

More than 50 years of drug control policies based on prohibition and criminalization have left a legacy of violence, disease, mass incarceration, suffering and abuse across the world. The poorest and most marginalized communities are suffering as a result of harsh drug control policies that are devastating lives and tearing communities apart. Punitive policies have failed to decrease the use and availability of drugs over the years, and have instead undermined the rights of millions, exacerbated the risks and harms of using drugs, deepened inequalities that fuel discrimination, and intensified the violence associated with illicit markets.²⁷

Saving lives and protecting people from the risks associated with drugs also means ensuring the abolition of the death penalty for drug-related offences. The retention of this cruel punishment is inconsistent with international human rights law and standards, which clearly set its abolition as a goal,²⁸ as well as with the objectives set out under the 2030 Agenda for Sustainable Development.²⁹ The use of the death penalty for drug-related offences continues to be a human rights violation that some countries still justify in the name of drug control even in the absence of evidence to support the perception that the death penalty has a unique deterrent effect on crime.

Yet, the abolition of the death penalty was excluded from UNODC's strategy for 2021-2025, and data around the use of this punishment as a policy aimed at reducing the supply of drugs continues to be missing from its annual reports. Prioritising drug enforcement indicators that ignore the harm they cause on people contributes to distorted perceptions around the effectiveness of drug policies and facilitates the continued violation of human rights.

Amnesty International renews its call on all governments to immediately abolish the death penalty and end punitive approaches that violate human rights in the name of drug control. The organization further calls on UNODC and other relevant UN agencies to put the promotion and protection of human rights at the centre of discussions and programmatic commitments on drug policy, crime prevention and criminal justice reforms. A commitment to saving lives must include an unwavering commitment to the abolition of the ultimate cruel, inhuman and degrading punishment.

²⁵ Amnesty International, COVID-19 Crackdowns: Police Abuse and the Global Pandemic, ACT 30/3443/2020, available at <https://www.amnesty.org/download/Documents/ACT3034432020ENGLISH.PDF>; Amnesty International, Forgotten behind bars: COVID-19 and prisons, POL/403818/2021, available at <https://www.amnesty.org/download/Documents/POL4038182021ENGLISH.PDF>; Amnesty International, Europe: Policing the Pandemic: Human Rights Violations in the Enforcement of COVID-19 Measures in Europe EUR 01/2511/2020 available at <https://www.amnesty.org/en/documents/eur01/2511/2020/en/>; Amnesty International, Public Statement: The COVID-19 pandemic must serve as a catalyst for the transformation of outdated and failed drug policies available at [amnesty.org/download/Documents/POL3025082020ENGLISH.pdf](https://www.amnesty.org/download/Documents/POL3025082020ENGLISH.pdf)

²⁶ Amnesty International, *Death sentences and executions in 2020* (ACT 50/3760/2021), p. 8.

²⁷ UN Human Rights Council, Study on the impact of the world drug problem on the enjoyment of human rights, 4 September 2015, UN Doc. A/HRC/30/65; Implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights, 14 September 2018, UN Doc. A/HRC/39/39.

²⁸ Article 6(6) of the International Covenant on Civil and Political Rights, notes that none of the provisions allowing for the use of the death penalty in certain circumstances "shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant." The Covenant came into force in 1976. See also 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 (2018), para.50.

²⁹ Including Sustainable Development Goal (SDG) 3.4, due to the impact of the death penalty on both the mental and physical health of those facing it; SDGs 5.1 and 10.3, as the death penalty is discriminatory and disproportionately impacts those from disadvantaged socio-economic backgrounds and ethnic, racial, religious or sexual minorities; and SDG 16, on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels.