



International Drug Policy Consortium

A global network promoting objective and open debate on drug policy

Submission by the International Drug Policy Consortium
to the
Joint Standing Committee on Foreign Affairs, Defence and Trade
Inquiry into Australia's efforts to advocate for
worldwide abolition of the death penalty

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Given the increase or resumption of executions in countries including Indonesia, Iran, Pakistan and Saudi Arabia, this inquiry into Australia's advocacy efforts for worldwide abolition of the death penalty by the Joint Standing Committee on Foreign Affairs, Defence and Trade is particularly relevant. Many of those executions were for drug offences, including the 14 individuals executed so far this year in Indonesia,¹ and in 2014, over 40% of the officially announced executions in Iran (122 of 289 individuals), 46% of the reported executions in Saudi Arabia (42 of 90 individuals), 8% of the recorded executions in China, and the two individuals executed in Singapore that year. In Vietnam, 80% of the people receiving a death sentence in 2014 were convicted of a drug offence.² In view of the continual high rates of execution and death penalty sentences for drug offences, it is critical to note the following three points:

1. Imposition of death penalty sentences and executions for drug offences contravene international human rights law. Drug offences do not meet the threshold of "most serious crimes" for which the death penalty may apply under Article 6 of the *International Covenant of Civil and Political Rights*, according to the UN Human Rights Committee.³

2. The international drug control conventions⁴ do not require imposition of the death penalty. Accordingly the International Narcotics Control Board (INCB), the institution established by the conventions to monitor member state implementation of its provisions, encourages "those States which retain and continue to impose the death penalty for drug-

¹ Safi, M., *Bali nine pair among eight executed for drug offences in Indonesia*, The Guardian, 28 April 2015, <http://www.theguardian.com/world/2015/apr/28/bali-nine-pair-executed-indonesia>

² Amnesty International, *Death sentences and executions 2014*, (2015), <https://www.amnesty.org/en/documents/act50/0001/2015/en/>

³ UN High Commissioner for Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights: Report of the UN High Commissioner for Human Rights*, 4 September 2015, at para. 38, www.ohchr.org/EN/HRBodies/.../Session30/Documents/A_HRC_30_65_E.docx

⁴ *Single Convention on Narcotic Drugs, 1954*; *Convention on Psychotropic Substances, 1971*, and; *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988*.

related offences to consider abolishing the death penalty for such offences.”⁵ The INCB further calls on member states to institute proportionate sentencing for drug offences.⁶

3. Imposing the death penalty for drug offences does not deter drug use or drug-related crime. There is no evidence of the effectiveness of the death penalty in deterring the use, cultivation, manufacturing and trafficking of drugs—a fact emphasised by United Nations Office on Drugs and Crime (UNODC) data predominantly showing expanding and diversifying drug markets in all regions of the world.⁷ In addition, the majority of individuals sentenced with the death penalty for drug offences do not play a serious or high-level role in drug trafficking operations. They are often poor, vulnerable to exploitation, and engaged in low-level drug trafficking roles, therefore, easily replaced.⁸

It is important to note that while the death penalty is an ineffective deterrent for drug-related activities, there are other drug policy measures that have proven to be effective for preventing and reducing the harms relating to drug use, notably harm reduction measures to address the risks of overdose, HIV, viral hepatitis and tuberculosis.⁹

Consequently, the International Drug Policy Consortium recommends that Australia take the following steps to advocate for worldwide abolition of the death penalty:

- A. Make and support statements and measures, including the drafting of resolutions, at the UN Commission on Narcotic Drugs calling for abolition of the death penalty for drug offences.**
- B. Make and support statements and measures, particularly during preparations for the outcome document, calling for abolition of the death penalty for drug**

⁵ International Narcotics Control Board, *Report of the International Narcotics Control Board for 2014*, (2015), at p. iii, <http://www.incb.org/incb/en/publications/annual-reports/annual-report-2014.html>. See also UNODC, *Contribution of the Executive Director of the United Nations Office on Drugs and Crime to the high-level review of the implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, to be conducted by the Commission on Narcotic Drugs in 2014*, (2014), at para. 52(c), https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_57/_UNODC-ED-2014-1/UNODC-ED-2014-1_V1388514_E.pdf

⁶ International Narcotics Control Board, *Report of the International Narcotics Control Board for 2007*, (2008), at pp. 1 – 14, http://www.incb.org/documents/Publications/AnnualReports/Thematic_chapters/English/AR_2007_E_Chapter_I.pdf

⁷ UNODC, *World Drug Report 2015*, (2015), <http://www.unodc.org/unodc/en/frontpage/2015/June/2015-world-drug-report-finds-drug-use-stable--access-to-drug-and-hiv-treatment-still-low.html?ref=fs1>

⁸ Gallahue, P. et al., *The Death Penalty for Drug Offences: Global Overview 2012 - Tipping the scales for abolition*, International Harm Reduction Association (now known as Harm Reduction International), (2012), pp. 21 – 22, http://www.ihra.net/files/2012/11/27/HRI_-_2012_Death_Penalty_Report_-_FINAL.pdf

⁹ UNAIDS, (2014). *The Gap Report 2014*, http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS_Gap_report_en.pdf ; World Health Organisation, (2014). *Consolidated Guidelines on HIV prevention, diagnosis, treatment and care for key populations*, http://apps.who.int/iris/bitstream/10665/128048/1/9789241507431_eng.pdf?ua=1&ua=1

offences at the UN General Assembly Special Session on the world drug problem in April 2016.¹⁰

- C. Make and support statements and measures, including the drafting of resolutions, calling for abolition of the death penalty at the Human Rights Council.** Australia could express support for the recent study of the UN High Commissioner for Human Rights on the impact of the world drug problem on the enjoyment of human rights.¹¹ As a follow-up action to this study, Australia could consider requesting that the Human Rights Council set up a Special Procedure to focus specifically on the impact of the world drug problem on the enjoyment of human rights.
- D. Engage bi-laterally with governments retaining the death penalty for drug offences, by offering assistance with the implementation of effective and humane drug policy measures.** Such assistance should aim to achieve improved outcomes for public health, human rights, human security, development and social inclusion through the implementation of harm reduction measures for people who use drugs, and proportionate sentencing frameworks for drug offences.¹² The assistance could be made conditional upon commitments made towards abolition of the death penalty.
- E. Support the efforts of global and local advocates for abolition of the death penalty, particularly the efforts of non-government organisations in countries where executions are imminent, such as Indonesia, Iran and China.**
- F. Call on the UNODC to cease support for drug enforcement operations in countries where such support can lead to increased use of the death penalty and executions.** Although the UNODC has publicly opposed the death penalty for drug offences, it continues to fund and support anti-drug trafficking operations in several countries retaining the death penalty. The United Kingdom, Denmark and Ireland have all resolved to end funding to UNODC programmes in such countries while the death penalty continues to be enforced.¹³

END OF SUBMISSION

¹⁰ For further details on the UN General Assembly Special Session on the world drug problem in 2016, see the official website: <https://www.unodc.org/ungass2016/>

¹¹ UN High Commissioner for Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights: Report of the UN High Commissioner for Human Rights*, 4 September 2015, at para. 38, www.ohchr.org/EN/HRBodies/.../Session30/Documents/A_HRC_30_65_E.docx

¹² For further discussion on achieving these outcomes, see the International Drug Policy Consortium, *IDPC Drug Policy Guide (Edition 2)*, 2012, <http://idpc.net/publications/2012/03/idpc-drug-policy-guide-2nd-edition>

¹³ Reprieve, et al., *Joint statement: INCB report launch and the death penalty for drug offences*, 3 March 2015, <http://idpc.net/incb-watch/updates/2015/03/new-un-report-highlights-ongoing-conflicts-on-the-death-penalty-for-drugs-as-countries-ramp-up-executions-un-drugs-meeting-in-vienna-to-be-scene-of-heightened-debate>