



THE DEATH PENALTY AND DRUG OFFENCES

Q&A

13th World Day against the Death Penalty – 10 Oct. 2015

WHAT ARE DRUG OFFENCES?

- Depending on the country, these can include the **possession, trafficking, supply and/or production of drugs** that are deemed illicit.
- In 33 countriesⁱ in the world, some drug offences are punishable by death. In those 33 countries, legislation allows for a sentence of death solely for drug offences when no intentional killing is involved.
- According to the UN Special Rapporteur on extrajudicial, summary and arbitrary executions, drug offences do not meet the threshold of “most serious crimes” to which the death penalty might lawfully be applied.ⁱⁱ Unlike murder, for example, drug crimes effectively criminalize action not for the grave consequences that it has had but for those believed to be likely.
- Drug possession for personal use is almost universally criminalised around the world, despite evidence of the negative impact this has on public health and human rights, and guidance from UN agencies that drug use should be decriminalised.
- In some countries, other non-capital drug offenses even extend to the possession of drug use paraphernalia (any equipment, product, or material that is modified for making, using, or concealing drugs), or permitting drug use on your premises.

WHY DOES ABOLISHING THE DEATH PENALTY FOR DRUG OFFENCES MATTER?

- In the 1980s and 1990s, a trend emerged towards the abolition of the death penalty as countries repealed laws allowing capital punishment or simply ceased the practice of execution. According to Amnesty International, in 1977 only 16 countries had abolished the death penalty in law or practice. Today, that number has risen to 140.
- During the same period, because of the so-called war on drugs, an increasing number of countries enacted laws permitting the death penalty for drug-related offences. In 1979, approximately 10 countries prescribed the death penalty for such crimes. This number rose to 36 in 2000 and stands at 33 today.
- It is widely condemned by UN, and not endorsed or required in international drug control law. The International Narcotics Control Board, the UN body in charge of the monitoring State implementation of the three drug conventions, recommended in 2014: “taking into account the relevant international conventions on human rights, the various protocols, the various resolutions of the General Assembly, of the ECOSOC, and of UN human rights bodies concerning the death penalty, we encourage state parties, part of the conventions, that still provide for the death penalty for drug-related offences in their national legislation and practice it, to consider the abolishing of the death penalty for drug-related offences.” This same call was reiterated by the INCB at the 2015 meeting of the UN Commission on Narcotic Drugs. Similarly, the UN Office on Drugs and Crime has specifically called for an end to the death penalty for drug offences.
- While opposing the death penalty in all circumstances, abolitionists are also committed to reducing its use by seeing existing international human rights standards implemented. Among these is the restriction of crimes punishable by death for the most serious crimes- intentional killing.
- It serves no purpose: it is no deterrent.

WHY THE DEATH PENALTY DOES NOT SOLVE THE 'WORLD DRUG PROBLEM'?

- **The death penalty doesn't deter drug trafficking.** After many years of sentencing drug-related offenders to death, empirical evidence shows that the death penalty does not reduce drug trafficking. For example, Singapore has had Draconian laws for drug-related offences since 1973, and has been notorious as one of the world's leaders in imposing the death penalty for drug crimes. Still, Singapore's drug-related crime rate is far worse than other countries such as Costa Rica and Turkey, according to the European Institute for Crime Prevention and Control in 2010.
- **The death penalty has not been proven to reduce drug consumption.** According to the 2014 UNODC World Drug Report, during the period 2003-2012, the number of persons arrested/suspected for drug trafficking and for possession for personal use increased, but the number of users of illicit drugs saw no decrease. Moreover, if we compare trends in drug use in England and Wales (abolitionist), in the USA (symbolic application) and China (high number of executions for drug offenses), there is a clear decrease in England and Wales; in the United States, the number of drug users seems to be pretty stable, while in China the number of registered drug users has continued to increase during the period.
- **The death penalty does not reduce drug-related deaths.** In countries where the "war on drugs" is zealously pursued or drug laws are enforced stringently, those who are dependent on drugs may be, and often are, discouraged from accessing health services. It is reported that in some countries this harsh approach has reinforced the status of people who use drugs as social outcasts. They may avoid seeking medical attention for fear that information regarding their drug use will be shared with authorities, which could result in arrest, imprisonment or treatment against their will.

WHICH COUNTRIES STILL HAVE THE DEATH PENALTY FOR DRUG OFFENCES?

- There are **33 countries** with the death penalty for drug offence in domestic law, although only a small number of these actually execute people, and a smaller number still execute with any regularity. The vast majority of executions for drug offences are carried out in only **7 States**.
- Most of the countries that execute people for drug offenses are in Asia and in the Middle East. However, even in Asia and the Middle East, only 12% execute people for drug offenses in large numbers.
- Although drug trafficking is a big issue in Latin America, no countries have the death penalty for drug offenses. Actually few countries have the death penalty at all. Latin America and Europe are long time abolitionist countries and abolition often happened before the adoption of the UN convention on narcotic drugs. For example, in 1863, Venezuela abolished the death penalty for all crimes and in 1882, Brazil abolished the death penalty for ordinary crimes.

WHY ARE SOME COUNTRIES PUSHING FOR AN ALTERNATIVE TO THE DEATH PENALTY AND HARSH SENTENCES?

- Following the 2014 Commission on Narcotic Drugs, 58 countries signed a statement deeply regretting "that the Joint Ministerial Statement did not include language on the death penalty" because of their unequivocal opposition to the death penalty, in all circumstances, and because they considered that the death penalty undermined human dignity and that errors in its application were irreversible. They also argued that imposing the death penalty for drug offences was against the norms of international law.
- In countries that have introduced alternative drug policies – such as decriminalisationⁱⁱⁱ and harm reduction^{iv} – crime and addiction did not increase but instead, important benefits were observed in terms of public health, drug treatment and human rights. For example, Portugal decriminalised drug use and possession in 2001. Ten years later, the decriminalisation model and the associated public health policies were followed by important reductions in drug-related harms and Portugal has experienced a perceived decline in drug use among some of the most vulnerable populations – young people and problematic users.^v
- Attempts to arrest drug users, sellers and traffickers and bring the multi-billion dollar trade under control can have the opposite effect. Crackdowns often exacerbate violence by destabilizing illegal markets and informal controls. Even the UNODC themselves have acknowledged several "unintended consequences" of punitive drug responses: "the first unintended consequence is a huge criminal black market that now thrives in order to get prohibited substances from producers to consumers. (...) the financial incentives to enter this market are enormous. There is no shortage of criminals competing to claw out a share of a market in which hundred fold increases in price from production to retail are not uncommon".^{vi}
- The alternative to such punitive measures^{vii} is to treat drug use as a health and human rights issue, rather than a criminal one – to support, not punish people who use drugs (www.supportdontpunish.org).

Acknowledgements:

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More information about the World Day against the Death Penalty: www.worldcoalition.org/worldday

More information about the “Support. Don’t Punish” campaign: www.supportdontpunish.org

Notes:

ⁱ For more details, see the documents *Facts and Figures* available at www.worldcoalition.org/worldday

ⁱⁱ For more details, see the Special Rapporteur’s 2012 report available at:

http://www.un.org/ga/search/view_doc.asp?symbol=A%2F67%2F275&Submit=Search&Lang=E

ⁱⁱⁱ For more details, see IDPC’s infographic on decriminalisation available at:

<http://idpc.net/alerts/2014/08/infographic-where-un-agencies-stand-on-drug-decriminalization?setlang=en>

^{iv} For more details, see HRI’s “*What Is Harm Reduction*” paper available at: <http://www.ihra.net/what-is-harm-reduction>

^v For more details, see Release’s report “*A Quiet Revolution: Drug Decriminalisation Policies in Practice Across the Globe*” available at: <http://www.release.org.uk/publications/quiet-revolution-drug-decriminalisation-policies-practice-across-globe>

^{vi} For more details, see the UNODC’s report “*Making drug control fit for purpose - Building on the UNGASS decade*” available at: <http://idpc.net/publications/2008/05/building-on-ungass-decade>

^{vii} See examples of punitive measures (in addition to criminalisation) directed at people who use drugs in Asia: <http://idpc.net/alerts/2015/01/throughout-asia-criminalisation-and-hard-punishment-are-imposed-on-people-who-use-drugs>