

AMNESTY INTERNATIONAL PUBLIC STATEMENT

Index: ASA 21/6861/2017
03 August 2017

Indonesia: Government should immediately establish moratorium after maladministration surrounding execution

The undersigned organizations urge the government of Indonesia to establish an official moratorium on all executions and review all death penalty cases with a view to the commutation of their sentences as immediate first steps towards abolition of the death penalty. The call follows the publication of the findings by the Ombudsman of Indonesia, confirming violations of legal procedures in the case of a prisoner executed in July 2016.

On 28 July 2017 the Indonesian Ombudsman concluded that the Attorney General had conducted the execution of Nigerian national Humphrey “Jeff” Jefferson Ejike in violation of Indonesia’s legal procedure. The Ombudsman’s decision was announced almost a year after Humphrey was executed on 29 July 2016 in Nusakambangan Island, Central Java, along with other three prisoners. All men had been convicted of and sentenced to death drug-related offenses, which do not meet the threshold of the “most serious crimes” to which the ultimate punishment must be restricted to, pending abolition, under the International Covenant on Civil and Political Rights (ICCPR), to which Indonesia is a state party.

Amnesty International, **ICJR** (Institute for Criminal Justice Reform), **KontraS** (Commission for the Disappeared and Victims of Violence) and **LBH Masyarakat** (Community Legal Aid Institute) believe that the Ombudsman’s decision echoes the organizations’ findings documented in many other death penalty cases, which point to systemic flaws in the administration of justice in Indonesia. These include serious violations of the right to a fair trial and of other international safeguards that must be observed in all death penalty cases. We regret that the findings come a year too late, as the irrevocable punishment of the death penalty has already been implemented on Humphrey “Jeff” Jefferson Ejike. .

The Ombudsman declared that the Attorney General should have not executed Humphrey “Jeff” Jefferson Ejike because his clemency request was still pending. The Attorney General should have followed the Constitutional Court decision delivered on 15 June 2016 that allowed any convicted person to request clemency beyond up to a year after the final decision being made by the Indonesia’s court. Further, the Ombudsman also declared that the Central Jakarta District Court there was an element of “discrimination” by not submitting Jeff’s case review request –the last available appeal in criminal cases– to the Supreme Court, while they submitted the appeals for case review by other death row prisoners to the Court.

Research findings by the National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia*, Komnas HAM) and additional research carried out by Amnesty International, ICJR (Institute for Criminal Justice Reform) showed that defendants facing the death penalty did not have access to legal counsel at crucial stages of the process, whether from the time of arrest or at different stages of their trial and appeals. In some cases the police ill-treated them to make them “confess” to the crimes or countersign police investigation dossiers used as evidence in court. Several prisoners were brought before a judge for the first time only when their trials began, months after their arrest. Some of them did not receive legal assistance when appealing against their conviction or sentence, or did not even submit an appeal application because they were not informed by their lawyers of their right to do so.

In some cases in 2015 and 2016 executions went ahead despite the courts having accepted prisoners’ applications to submit appeals, which had not yet been heard by the courts. Despite the clear prohibition under international law on the use of the death penalty against persons who were below 18 years of age at the time of the offence, or who have a mental or intellectual disability, our organizations documented that claims which two prisoners made in relation to being under 18 and mental disability were not adequately investigated, resulting in the unlawful imposition of the death penalty and, in one of these cases, execution. The death penalty also continues to be used extensively for drug-related offences.

As of today, 105 countries have fully abolished capital punishment from their legislation and 141 in total—more than two-thirds of the world’s countries—have abolished the death penalty in law or in practice. In the Asia-Pacific region, 20 countries have abolished the death penalty for all crimes and a further seven are abolitionist in practice, following the abolition of the death penalty in Fiji and Nauru in 2015 and 2016, respectively, and in Mongolia last July. By continuing to resort to the death penalty, the government of Indonesia is setting the country against the global and regional trend towards abolition of the ultimate, cruel and degrading punishment.

The organizations above renew their calls on the country’s highest authorities to immediately review all death sentences with a view to their commutation, and to establish a moratorium on the implementation of the death penalty, as essential first steps towards its abolition.