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End the Death Penalty for Drug-Related Offences

Joint Statement by The Anti Death Penalty Asia Network (ADPAN), of which Amnesty International is a member, Human Rights Watch and the International Harm Reduction Association

As the International Day Against Drug Abuse and Illicit Trafficking approaches on 26 June, the Anti Death Penalty Asia Network (ADPAN), of which Amnesty International is a member, Human Rights Watch (HRW) and the International Harm Reduction Association (IHRA) call upon governments in Asia to cease applying the death penalty for drug-related offences.

There is a clear, long-standing and worldwide move toward restriction or abolition of the death penalty. Only a small minority of countries continue to implement the death penalty: in 2008, 25 countries carried out executions. ADPAN, Human Rights Watch and the International Harm Reduction Association oppose the death penalty in all cases as a violation of fundamental rights- the right to life and the right not to be subjected to cruel, inhuman and degrading punishment.

Sixteen countries in Asia apply the death penalty for drug-related offences. As many countries in the region do not make information on the death penalty available, it is impossible to calculate exactly how many drug-related death sentences are imposed. However, in Indonesia, Malaysia, Singapore and Thailand, reports indicate that a high proportion of death sentences are imposed upon those convicted of drug offences. ADPAN, HRW, and IHRA express particular concern that China, Indonesia, and Vietnam continue to execute individuals for drug offences – and that some countries, such as China since the early 1990s, and Indonesia in 2008, have marked the occasion of June 26 with such executions.

Despite the executions in Asia there is no clear evidence of a decline in drug-trafficking that could be attributed to the threat or use of the death penalty. There is no credible evidence that the death penalty deters serious crime in general more effectively than other punishments. The most recent survey of research findings on the relation between the death penalty and homicide rates, conducted for the United Nations (UN) in 1988 and updated in 1996 and 2002, concluded: "...research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole gives no positive support to the deterrent hypothesis."

UN human rights mechanisms – including the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions, and the UN Human Rights Committee -- have concluded that the death penalty for drug offences

fails to meet the condition of “most serious crime”, under which the death penalty is allowed only as an “exceptional measure” where “there was an intention to kill which resulted in the loss of life” (UN Doc, A/HRC/4/20, 29 January 2007, para 53). The UN High Commissioner for Human Rights and the director of the UN Office on Drugs and Crime have likewise expressed grave concerns about the application of the death penalty for drug offences.

Death sentences are often handed down after unfair legal processes, a problem made worse by laws, policies or practices regulating drug offences in some Asian countries. Mandatory death sentences are applied for certain drug offences in Brunei, India, Laos, Singapore and Malaysia, leaving a judge with no discretion over the sentence for defendants found guilty. Mandatory death sentences violate international standards on fair trials. Individualised sentencing is required to prevent cruel, inhuman or degrading punishment and the arbitrary deprivation of life. Singapore, which has one of the highest per capita execution rates in the world, as well as Malaysia, continue to hand down death sentences to individuals alleged to be drug traffickers after trials that presume guilt, and in which death sentences are mandatory.

Confessions that have been coerced sometimes form the basis of guilty verdicts, death sentences and executions. Competent legal assistance is unavailable to many defendants, including defendants facing drugs-related charges, leaving many with little capacity to mount a defence at any stage of the proceedings.

Draconian penalties for drug offences, including the death penalty, hinder public health programmes that reduce the harm drugs may cause to individual drug users, their loved ones, communities and states. China, Malaysia and Viet Nam have recently stepped up their harm reduction programmes to reduce HIV, hepatitis C and other drug-related health and social harms. However, excessive punishments and overly repressive drug law enforcement have been shown time and again to drive target groups away from such services. The death penalty therefore not only violates the right to life of those condemned, but is actually counterproductive to efforts to reduce the harm caused by drugs.

On the occasion of UN Anti-Drugs Day 2009 ADPAN, Amnesty International, Human Rights Watch and the International Harm Reduction Association appeal to Asian governments to:

- Introduce an immediate moratorium on executions with a view to the abolition of the death penalty in line with UN General Assembly resolution 62/149 and 63/168 on “moratorium on the use of the death penalty”;
- Commute all death sentences including for drug offences;
- Remove provisions within their domestic legislation that allow for the death penalty for drugs offences;
- Abolish the use of mandatory sentencing in capital cases;
- Publicize statistics on the death penalty and facts around the administration of justice in death penalty cases;
- Use the occasion of Anti-Drugs Day 2009 to highlight public health policies that have proven effective in reducing drug-related harms.

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