

SINGAPORE

**GOING AGAINST THE GLOBAL
TREND TO ABOLISH THE
DEATH PENALTY**

*Amnesty International
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Periodic Review, January -
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**AMNESTY
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EXECUTIVE SUMMARY

This submission was prepared for the Universal Periodic Review (UPR) of Singapore taking place in January-February 2016. While focusing on the death penalty, Amnesty International evaluates the implementation of recommendations accepted by Singapore in its previous UPR, assesses the national human rights framework and the human rights situation on the ground, and makes a number of recommendations to the government.

FOLLOW UP TO THE PREVIOUS REVIEW

Amnesty International welcomes the initial progress Singapore has made on the 2011 UPR recommendations to impose a moratorium on executions¹ while reviewing the Misuse of Drugs Act 2012 and the Penal Code Act 2012. However, Amnesty International also notes that Singapore's progress on the UPR recommendation to remove mandatory death sentencing has been limited.²

While the courts now allow judges to exercise some discretion in deciding whether or not to impose the death penalty in particular circumstances, Amnesty International regrets that the amended legislation still does not conform with international human rights law and standards. Moreover, Singapore's decision to resume executions in July 2014 after the two-year moratorium on executions and to uphold the mandatory death penalty for certain types of offences or if circumstances of the case do not meet certain criteria, is contrary to global trends towards abolition and prior UPR recommendations to abolish the death penalty.³

Singapore is yet to ratify the International Covenant on Civil and Political Rights and its Optional Protocols, or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, as recommended in the previous UPR.⁴ Singapore's second UPR in 2016 is an opportunity for the government to renew and build on its human rights commitments.

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Singapore*, 11 July 2011, A/HRC/18/11, recommendations 97.1 (Finland, France), 97.3 (Czech Republic), 97.4 (Canada).

² A/HRC/18/11, recommendations 97.3 (Czech Republic), 97.4 (Canada), 97.5 (United Kingdom), 97.6 (France, Slovenia).

³ A/HRC/18/11, recommendations 97.1 (Finland, France), 97.3 (Czech Republic), 97.4 (Canada), 97.5 (United Kingdom).

⁴ A/HRC/18/11, recommendations 96.8 (Slovenia), 96.9 (Egypt), 96.10 (Czech Republic), 96.11 (Poland), 96.13 (United Kingdom), 96.14 (Japan), 96.15 (Ghana), 96.16 (France), 96.17 (Kazakhstan).

THE NATIONAL HUMAN RIGHTS FRAMEWORK

LEGISLATION PROVIDING FOR THE DEATH PENALTY

In Singapore, the death penalty remains applicable for a range of offences under the Penal Code and other laws, including the Misuse of Drugs Act, the Terrorism (Suppression of Bombings) Act, the Arms Offences Act and the Singapore Armed Forces Act. Some of these offences do not meet the threshold of the “most serious crimes” for which the death penalty can be imposed under international law. The death penalty is mandatorily imposed for intentional murder under section 300(a) of the Penal Code; sections 33 and 33(a) of the Misuse of Drugs Act; Article 3(1.i) of the Terrorism (Suppression of Bombings) Act; and Article 3(1) of the Arms Offences Act. The death penalty is also the mandatory sentence for murder under the Singapore Armed Forces Act.

To Amnesty International’s knowledge, in recent years, the death penalty has only been imposed, including mandatorily, under the Penal Code and the Misuse of Drugs Act.

NEW DISCRETION TO NOT IMPOSE A DEATH SENTENCE

As of 14 November 2012, following the adoption of the amendments to the Misuse of Drugs (Amendment) Act 2012 and the Penal Code (Amendment) Act 2012, the courts now allow judges to exercise some discretion in deciding whether or not to impose the death penalty on individuals in particular circumstances.⁵

In murder cases, defendants may now be spared the death penalty if charged with murder under sections 300(b) and 300(c) of the Penal Code and if they can demonstrate that they did not intend to cause death. In drug-related cases, this can happen if the defendant was involved only in transporting, sending or delivering an illicit substance, or only offered to commit these acts. Equally, defendants can be spared the death penalty if they can prove that they are suffering from “such abnormality of mind ... [which] substantially impaired his mental responsibility for his acts and omissions”.⁶

While these restrictions on the imposition of the mandatory death penalty are a welcome step, the amended legislation still does not conform to international human rights law and standards. Singapore’s laws still allow torture in the form of caning as an alternative punishment to the death penalty. Further, for defendants to be spared the death penalty in drug trafficking cases, the Public Prosecutor has to be satisfied that the defendants have substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities.

Of further concern are provisions in national legislation that undermine the presumption of innocence and place the burden of proof on the defendant, including under the Misuse of Drugs Act and the Arms Offences Act. Under sections

⁵ Attorney-General’s Chambers, *Revisions to the Mandatory Death Penalty Regime -Follow-Up Actions by the Attorney-General’s Chambers*, 14 November 2012, available at: [https://www.agc.gov.sg/DATA/0/Docs/NewsFiles/AGC%20Press%20Release%20%20\[14%20Nov%202012\].pdf](https://www.agc.gov.sg/DATA/0/Docs/NewsFiles/AGC%20Press%20Release%20%20[14%20Nov%202012].pdf)

⁶ Misuse of Drugs (Amendment) Act, 2012, Section 33B, para. 3(b).

17-22 of the Misuse of Drugs Act, a defendant found in possession of a certain amount of controlled drugs, or holding keys or documents relating to the same controlled drugs, are automatically presumed guilty of possession for the purpose of trafficking unless it is proved that his possession of that drug was not for that purpose.

NOTIFICATION OF EXECUTION

Dates of scheduled executions are not notified to the public in advance. The prisoners, their family and lawyers are usually notified of the scheduled execution four days before it is carried out.

REGIONAL TRENDS ON THE DEATH PENALTY

Among the 41 countries in the Asia-Pacific region, 18 have abolished the death penalty for all crimes – including most recently Fiji in February 2015 – and a further 10 are abolitionist in practice. However, Singapore continues to go against the global trend to abolish the death penalty despite recommendations made in the previous UPR.

Amnesty International opposes the death penalty as the ultimate cruel, inhuman and degrading punishment, and as a violation of the right to life as recognized in the Universal Declaration of Human Rights.

THE HUMAN RIGHTS SITUATION ON THE GROUND

Information published by the Singapore Prison Service⁷ and other governmental agencies,⁸ and reviewed by Amnesty International, indicates that executions continue to be carried out in Singapore and death sentences are imposed on a regular basis.

A temporary suspension in executions was recorded in 2012 and 2013 while the review of Singapore's mandatory laws was taking place. Following that, the 32 prisoners who were on death row at the end of 2012 were given the possibility to apply for a review of their cases. Amnesty International recorded that at least 11 of them had their death sentences commuted to life imprisonment and caning.⁹

⁷ Singapore Prison Service, *2012 Singapore Prison Service Annual Statistics Release*, available at <http://www.sps.gov.sg/2012-singapore-prison-service-annual-statistics-release>; Singapore Prison Service, *2013 Singapore Prison Service Annual Statistics Release*, available at <http://www.sps.gov.sg/2013-singapore-prison-service-annual-statistics-release>; Singapore Prison Service, *2014 Singapore Prison Service Annual Statistics Release*, available at <http://www.sps.gov.sg/news-about-us/news/2014-singapore-prison-service-annual-statistics-release>; and Singapore Prison Service, *2015 Singapore Prison Service Annual Statistics Release*.

⁸ See, for example, Central Narcotics Bureau, *Execution of convicted drug traffickers*, 18 July 2014, available at http://www.cnb.gov.sg/newsroom/current/news_details/14-07-18/Execution_of_convicted_drug_traffickers.aspx

⁹ See Amnesty International, *Death sentences and executions in 2012* (Index: ACT 50/001/2013); Amnesty International, *Death sentences and executions in 2013* (Index: ACT 50/001/2014); and Amnesty International, *Death sentences and executions in 2014* (Index: ACT 50/001/2015).

Among them is Malaysian national Yong Vui Kong, who had been on death row for over five years on drug charges. In a landmark ruling in November 2013, a High Court in Singapore commuted his death sentence to life imprisonment and 15 strokes of the cane. However, at the time of writing, at least 26 people remain on death row in Singapore.

Since its previous UPR, Singapore has carried out seven executions. Four people were executed in 2011. Following the temporary suspension in the application of the death penalty in 2012 and 2013, Singapore resumed executions on 18 July 2014, when Tang Hai Liang, 36, and Foong Chee Peng, 48, were hanged at the Changi Prison Complex. They had been convicted and mandatorily sentenced to death for drug-related offences under the Misuse of Drugs Act in January 2011 and April 2011 respectively. Muhammad bin Kadar was executed for intentional murder on 17 April 2015.¹⁰

Amnesty International recorded the imposition of at least 11 new death sentences in Singapore between 2011 and 2014, all as the mandatory punishment for murder and drug trafficking. At least five new death sentences were handed down in 2011; two in 2012; one in 2013; and three in 2014.

On 14 January 2015, in the case of Malaysian national Kho Jabing, the Court of Appeal had to consider for the first time what punishment to impose in cases of murder for which both the death penalty and life imprisonment with caning are sentencing options. In his and future cases, the five judges unanimously established that the death penalty should be imposed when the manner by which the offender carried out the murder “exhibits viciousness or a blatant disregard for human life”. While the five judges agreed that the evidence available in Kho Jabing’s case did not allow for a precise reconstruction of the murder he allegedly committed, they reached different conclusions as to whether it was possible to prove beyond reasonable doubt that he had inflicted more than two strikes on the victim’s head, showing a “blatant disregard for the sanctity of human life”. Three of the judges found that Kho Jabing’s actions deserved to be punished by death, while two held that the evidence available did not prove with certainty that he had hit the victim more than twice. The death penalty was therefore re-imposed with a narrow majority and with no further avenue for legal appeal. On 27 April 2015, Kho Jabing applied for clemency from the President of Singapore; if his appeal is rejected, he is at risk of imminent execution.¹¹

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Singapore to:

- Immediately re-establish a moratorium on executions, with a view to complete abolition of the death penalty, in line with five UN General Assembly resolutions adopted since 2007;

¹⁰ See also Amnesty International, *President urged to grant clemency* (Index: ASA 36/1565/2015).

¹¹ Amnesty International, *President urged to grant clemency* (Index: ASA 36/1565/2015).

- Commute all death sentences to terms of imprisonment and ensure that no one is subjected to torture or other ill-treatment, including caning;
- Review national legislation, including the Penal Code and the Misuse of Drugs Act, with a view to repealing all provisions that are in breach of international law, including:
 - restricting the imposition of the death penalty to intentional killing only;
 - abolishing all provisions which provide for mandatory death sentences;
 - prohibiting the imposition of the death penalty against persons with mental and intellectual disabilities;
- Ensure rigorous compliance in all death penalty cases with international standards for fair trial, including the right to be presumed innocent until guilt has been proven beyond reasonable doubt;
- Ratify without reservations the International Covenant on Civil and Political Rights and its Optional Protocols, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.