

## BRIEFING FOR UNIVERSAL PERIODIC REVIEW - CHINA

### THE DEATH PENALTY FOR DRUG OFFENCES

**The death penalty is an abhorrent, inhuman practice in all cases without exceptions, regardless of the person accused and their guilt, the nature of the crime, and the method of execution. Its implementation for drug offences is a clear violation of international human rights law.<sup>i</sup>**

**In China, information on death sentences and executions are considered so sensitive that they remain a State secret, making it impossible to know the true number of death sentences and executions taking place each year. Despite this lack of transparency, China is considered to be the world's top executioner, executing more people than all other countries combined in 2017.<sup>ii</sup>**

This briefing details developments in the legislation and practice surrounding the death penalty for drug offences in China since the last session of the Universal Periodic Review (UPR) in October 2013, ahead of the 3<sup>rd</sup> examination cycle (31<sup>st</sup> Session of the UPR Working Group, November 2018), as well as suggestions for recommendations for Member States.<sup>iii</sup>

#### BACKGROUND

- Despite numerous recommendations (some of which accepted) to consider doing so during its last UPR, China has not ratified the International Covenant on Civil and Political Rights – the key international treaty governing the use of the death penalty.
- During the **second cycle of Universal Periodic Review**, China received several recommendations addressing its death penalty legislation and practice, encouraging the country to either abolish capital punishment or restrict the range of offences this is applicable for, and to increase transparency around death sentences and executions. Regrettably, the country did not accept such recommendations.

#### STRATEGIC RECOMMENDATION FOR MEMBER STATES

- ✓ Ratify without reservations the International Covenant on Civil and Political Rights and its Second Optional Protocol;

#### THE DEATH PENALTY FOR DRUGS IN CHINA: CONTEXT AND DEVELOPMENTS

- In violation of international human rights standards, China retains the **death penalty for a range of drug crimes**, including drug manufacturing, trafficking, and smuggling. Drug offences are estimated to make up a significant portion of executions in the country.
- Despite the lack of official information, there are sporadic reports of death sentences and/or executions for drug offences, often carried out in public and/or as a result of mass trials. For example, in June 2018 (in the build-up to the UN's International Day Against Drug Abuse and Illicit Trafficking) two alleged drug traffickers were sentenced to death in front of a crowd of over 300 people (many of which children) and immediately sent for execution.<sup>iv</sup> Earlier the same month, ten individuals had been publicly sentenced to death for drug offences.<sup>v</sup>

## STRATEGIC RECOMMENDATIONS FOR MEMBER STATES

- ✓ Consider establishing a moratorium on all executions and commuting existing death sentences, with a view to fully abolishing the death penalty in national legislation;
  - ✓ Consider reducing the scope of crimes subject to the death penalty, including eliminating all crimes that do not meet the threshold of “most serious crimes”, such as drug-related offences.
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- Information around the use of the death penalty is classified as a ‘state secret.’ This prevents from accessing reliable, official **information** on death sentences and executions in the country. China also consistently refuses to cooperate with UN bodies and procedures by providing requested information on the death penalty.
  - Recent research by Amnesty International found that the death penalty in China is **disproportionately** meted out against individuals who are poor, have lower levels of educational attainment, and who are members of racial, ethnic and religious minorities. Foreign nationals are also disproportionately impacted by this measure, particularly in cases relating to drug trafficking.
  - Death sentences in China are often the outcome of trials who do not meet standards of **fairness and due process**. Among others, there are no legal provisions to allow those sentenced to death to apply for clemency.

## STRATEGIC RECOMMENDATIONS FOR MEMBER STATES

- ✓ Make publicly available complete, reliable, and disaggregated information on the use of the death penalty in China - including, but not limited to: the number of death sentences, people in death row, and executions carried out each year; the category of crimes for which the death penalty is imposed; the nationality of executed prisoners; the number of overturned death sentences on appeal; the number of pardoned convicts.
- ✓ Consider introducing dedicated legal provisions allowing individuals sentenced to death to apply for clemency.

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<sup>i</sup> United Nations human rights and drug control bodies consistently stated that the drug-related offences do not meet the threshold of ‘most serious crimes’ to which capital punishment must be restricted according to art. 6(2) of the International Covenant for Civil and Political Rights. Among many others, see: UN Human Rights Committee. Concluding Observations: Thailand (8 July 2005), para 14. UN Doc. CCPR/CO/84/THA; UN Human Rights Committee. Concluding Observations: Sudan (29 August 2007), para. 19. UN Doc. CCPR/C/SDN/CO/3. Human Rights Council. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston: Civil and Political Rights, Including the Questions of Disappearances and Summary Executions (29 January 2007), para. 39-53. UN Doc. A/HRC/4/20 UN Economic and Social Council. Resolution 1984/50 (25 May 1984).

<sup>ii</sup> ‘Death Sentences and Executions 2017’ (London: Amnesty International, 2018), 20.

<sup>iii</sup> More detailed information on the use of capital punishment in Malaysia is provided in the report ‘Death Penalty in Malaysia: Joint stakeholder report for the 31<sup>st</sup> session of the Working Group on the Universal Periodic Review – March 2018’ submitted by: Anti-Death Penalty Asia Network (ADPAN), Ensemble contre la peine de mort (ECPM), The Advocates for Human Rights, Harm Reduction International (HRI), The World Coalition Against the Death Penalty (WCADP), Kuala Lumpur and Selangor Chinese Assembly Hall Civil Rights Committee (KLSCAHC/Malaysia), Malaysians Against the Death Penalty (MADPET).

<sup>iv</sup> Among others, see ‘Drug dealers are sentenced to death on a sports ground in front of hundreds of people by a Chinese court before being executed by firing squad’ (Daily Mail Online, 27 June 2018). Available at: <http://www.dailymail.co.uk/news/article-5891447/Drug-dealers-sentenced-death-public-Chinese-court-executed.html>.

<sup>v</sup> ‘10 executed for series of drug crimes’ (Chinadaily.com, 25 June 2018). Available at: <http://www.dailymail.co.uk/news/article-5891447/Drug-dealers-sentenced-death-public-Chinese-court-executed.html>.