

## THE DEATH PENALTY FOR DRUG OFFENCES: UNODC AND DONOR STATE RESPONSIBILITY

*A submission to the Office of the High Commissioner for Human Rights (OHCHR) in response to a call for information on “the impact of the world drug problem on the enjoyment of human rights”.*

### INTRODUCTION

1. It is the official position of a range of United Nations organisations that capital punishment for drug offences represents a grave breach of human rights and is illegal under international law. The death penalty for drug offences is actively opposed by the United Nations Office on Drugs and Crime (UNODC), the International Narcotics Control Board (INCB),<sup>i</sup> and the UN Development Programme (UNDP),<sup>ii</sup> and in March 2015 the UNDP publically stated that “the death penalty for drug-related crimes is a violation of international law”.<sup>iii</sup>
2. The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has stated his unequivocal view that the death penalty should not be imposed for drug-related offences.<sup>iv</sup> International human rights law stipulates that the death penalty may only be legally applied for the “most serious crimes”<sup>v</sup>, and the UN’s Human Rights Committee has affirmed on a number of occasions its view that drug offences do not fall into this category.<sup>vi</sup> This position has been endorsed in the clearest possible terms by UN Secretary General Ban Ki-Moon.<sup>vii</sup>
3. Despite these categorical statements, the UNODC is in fact actively enabling the execution of drug offenders by sponsoring and administering aggressive anti-drug raids in countries which pursue the death penalty for drug offences. This activity clearly breaches the UNODC’s own human rights commitments and ignores a clear direction from the Secretary General that “donor states and international organizations that provide support to drugs-control projects in retentionist states need to ensure that such assistance does not facilitate and legitimize the use of the death penalty in cases that would not be acceptable in accordance with international standards and safeguards.”<sup>viii</sup>
4. UNODC programmes which enable the death penalty for drug offences are frequently funded by states which actively oppose the death penalty in all circumstances. In most cases, the primary funders of the UNODC’s law-enforcement led “supply reduction” programmes are states within the EU which have made the campaign for worldwide abolition a foreign policy priority. Reprieve’s recent report “European Aid for Executions” sets out how states in this position include the UK, Italy, Germany, France, Denmark, and Norway.<sup>ix</sup>
5. Involvement in active supply reduction programmes of this nature affords donor states and the UNODC significant influence in ending the death penalty for drug offences. By making counter-narcotics assistance conditional on abolition of the death penalty for drug offences, and where this does not occur redirecting funding away from law-enforcement operations and toward programmes focused on health and human rights, donor states and the UNODC itself can deliver on their commitments and strike a strong blow against capital punishment.

### UNODC AID FOR EXECUTIONS

6. In December 2014 Reprieve’s “European Aid for Executions” report revealed that UNODC “supply reduction” programmes have enabled more than 3,000 brutal executions in Iran and at least 112 pending death sentences in Pakistan.<sup>x</sup> These links were established by comparing the specific counter-narcotics programmes supported by European donors in Iran and Pakistan, the timings of their contributions, and recorded death sentences and executions.
7. Abolitionist Governments have provided more than £45 million to aggressive law enforcement operations in Iran and Pakistan which have directly led to death sentences.<sup>xi</sup> This funding has gone toward expert training for anti-narcotics agencies, the establishment of border offices where drug mules are frequently

arrested, and equipment used for pursuing alleged drug carriers (including body scanners, sniffer dogs and night vision goggles).

8. While UNODC's official position is to advocate an end to the death penalty for drug offences, the practical reality is that its programmes end up actively encouraging capital convictions by setting drug agencies performance targets such as "an increase in drug seizures and corresponding increase in arrests".<sup>xii</sup> Projects measuring success by increased numbers of arrests, convictions and size of seizures risk increasing the number of death sentences handed down under Iranian and Pakistani judicial systems, where sentencing codes set out harsher punishments for larger seizures.

## DIRECT EXAMPLES OF UNODC COMPLICITY IN EXECUTIONS

9. Reprieve's research has identified a number of instances where UNODC programmes have directly enabled death sentences and executions in Iran and Pakistan.
10. In one example from 2014 a 15-year old Afghan boy named Jannat Mir was hanged for allegedly moving heroin across the Afghan/Iranian border.<sup>xiii</sup> During the period where Jannat Mir was arrested and executed, the UNODC was administering a \$5.4 million project to support anti-drug operations in this area.<sup>xiv</sup> This project, which delivered intensive training to officers and provided drug detection dogs and vehicles, called for the Iranian Anti-Narcotics Police (ANP) to show increased drug seizures in demonstrating the success of UNODC funding.
11. In another example, a Dutch national named Zahra Bahrami<sup>xv</sup> was arrested for participating in a peaceful political protest, then charged with drug trafficking after the ANP allegedly discovered cocaine and opium in a retrospective search of her house. She was executed in 2011 for being a member of an "international narcotics transit gang". During this period the UNODC was overseeing a project called IRN I52, which set the ANP targets to "increase targeting of international drug and criminal networks and narco trafficking operatives" and "enhance and upgrade" its "intelligence-led investigation measures".<sup>xvi</sup>
12. In 2009, 15 year old Naeem Kolbali was executed for alleged drug trafficking in Zahedan,<sup>xvii</sup> after a new border office was established there with funding from the UK, Belgium, Ireland and France. The project overseeing the office's launch called for Iranian counter-narcotics officers to demonstrate an "increase in drug seizures",<sup>xviii</sup> and this case will likely have contributed to these numbers.

## THE DEATH PENALTY FOR DRUG OFFENCES IN IRAN AND PAKISTAN

13. Reports suggest that Iran has hanged at least 220 drug offenders since the beginning of 2015, many in large groups.<sup>xix</sup> This undermines highly questionable claims by its human rights council that it is considering ending the death penalty for drug offences.<sup>xx</sup> Since 1979, Iran has executed at least 10,000 alleged drug traffickers<sup>xxi</sup> caught by the Anti-Narcotics Police, and in 2014 more than 300 alleged drug offenders were hanged.<sup>xxii</sup> 70-80% of Iranian executions in the last 5 years were for alleged drug offences.<sup>xxiii</sup>
14. Many of those hanged in Iran are women and children,<sup>xxiv</sup> and killings frequently take place in a summary fashion, particularly in border areas where a large number of drug mules are apprehended. Executions are often held in public,<sup>xxv</sup> and evidence suggests drug charges are commonly used as a pretext to execute political prisoners.<sup>xxvi</sup>
15. In Pakistan, where more than 8,000 people languish on the world's largest death row, at least 112 people await execution having been convicted on drug charges. Thanks to special measures introduced to secure speedy prosecutions, Pakistani drug courts' conviction rate has risen to 92%. Pakistan's Anti-Narcotics Force lists the number of capital convictions it has enabled on its website under the heading "Prosecution Achievements".<sup>xxvii</sup>
16. Pakistan recently brought an end to its 6 year death penalty moratorium and has executed at least 135 people in 2015 alone.<sup>xxviii</sup> The rate of execution is increasing exponentially and the scope of the hanging

campaign is widening – it began with those sentenced for so-called terrorist offences but has since expanded to murder, then kidnap, then rape. Under such circumstances there is a very high risk that drug offenders will be executed in the coming weeks.

## UNODC AND THE DEATH PENALTY FOR DRUG OFFENCES

17. In 2012, the UNODC issued guidance on the protection of human rights in countries where aid is provided for anti-drugs programmes. This guidance explicitly acknowledged that its funding could enable executions, and suggested support could be withdrawn in such circumstances:

*“At the very least, continued support in such circumstances can be perceived as legitimizing government actions. If, following requests for guarantees and high-level political intervention, executions for drug related offences continue, UNODC may have no choice but to employ a temporary freeze or withdrawal of support...”<sup>xxix</sup>*

18. The UNODC does not appear to have ever frozen or withdrawn support for such programmes, however, even as Iran’s execution rate has escalated and Pakistan has continued to sentence alleged drug carriers to death. UNODC Executive Director Yuri Fedotov recently praised Iran’s “very active role to fight illicit drugs” and declined to consider withdrawing aid for human rights reasons “because it would mean, as a possible reaction from Iran, that all these huge quantities of drugs, which are now being seized by Iranians, would flow freely to Europe.”<sup>xxx</sup>

19. An independent evaluation of the UNODC’s Iran evaluation was published in November of 2013, and this document states that the human rights policy UNODC published in 2011 – which calls for a “temporary freeze or withdrawal” in funding if drug offenders are executed – has been neither “promoted or implemented” in the Iranian case.<sup>xxxi</sup> The evaluation also notes that “no action” has been taken to prevent death sentences and executions as a result of the UNODC’s work, and recommends that the UNODC’s Iranian office “address the issue of human rights with the greatest urgency” and put plans in place “to monitor human rights or legal processes, with a particular course of action in case agreed processes are not adhered to”.

20. A similar evaluation of the UNODC’s country programme in Pakistan was published in April 2014.<sup>xxxii</sup> The document suggests that human rights safeguards were deliberately left out of UNODC projects in the country at the request of the Pakistani Government. The audit found that when planning its support for aggressive anti-drug raids, UNODC was “strongly advised by the GOP (Government of Pakistan) to exclude (human rights) considerations from the CP design and to advance with an oblique approach”; under this system human rights issues would be “addressed indirectly...but not explicitly mentioned”. The document concludes that this approach led to a situation in which human rights had “with some notable exceptions, been disregarded”.

## RECENT ACTION BY DONOR STATES TO END THE DEATH PENALTY FOR DRUG OFFENCES

21. A number of European states have publically acknowledged the link between counter-narcotics funding and death sentences in states which maintain capital punishment for drug offences, and some have resolved not to continue funding while the death penalty is still handed down in these cases. In 2013, Denmark withdrew support for ongoing counter-narcotics efforts in Iran, stating:

*“It’s a signal to Iran that the implementation of the death penalty is unacceptable and not something we can be involved with. [...] As the evaluation indicates, the donations are leading to executions. The efforts are leading to more prisoners and I don’t feel confident that this programme can adequately guarantee the strengthening of human rights in Iran.”<sup>xxxiii</sup>*

22. In 2011 Ireland also ceased funding ongoing projects in Iran citing human rights concerns over the death penalty. In a live radio interview, then Foreign Affairs Minister Joe Costello described how the decision to pull its aid was taken in respect to Iran’s capital punishment system:

*“It was almost being used exclusively for drug traffickers, over 80%, so at that point in time we ceased the funding... We have made it very clear to the UNODC that we could not be party to any funding in relation to where the death penalty is used so liberally and used almost exclusively for drug traffickers”.*<sup>xxxiv</sup>

23. UK Deputy Prime Minister Nick Clegg recently admitted in response to an enquiry from Reprieve that the UK Government had ceased funding Iranian counter-narcotics projects through the UNODC. The letter read:

*“I note the recent decisions by the governments of Denmark and Ireland to withdraw their contributions to UNODC projects in Iran because of their concerns around Iran’s use of the death penalty for drug offences. I would like to reassure you that we no longer fund UNODC programmes in Iran because we have the exact same concerns”.*<sup>xxxv</sup>

24. Unfortunately, the UK, Denmark, and Ireland have all failed to apply the same logic to Pakistan, despite accepting the principal that counter-narcotics efforts in the region can and do adversely impact human rights and increase death sentences and executions.

### **OPPORTUNITIES FOR UNODC AND DONOR STATES TO HELP END THE DEATH PENALTY FOR DRUG OFFENCES**

25. Reprieve proposes that UNODC and its donor states can deliver on their human rights commitments and save thousands of lives by making all counter-narcotics aid to supply control programmes in both Pakistan and Iran conditional on the abolition of the death penalty for drug offences. If this condition is not agreed to, states can maintain their on-the-ground influence in these countries by redirecting their funding toward harm reduction programmes which do not support law enforcement activities.
26. The 2016 United Nations General Assembly’s Special Session (UNGASS) on Drugs presents donor states with an unprecedented opportunity to actively press for the abolition of the death penalty for drug offences. By introducing stronger conditions on their counter-narcotics aid in the manner described above, donor states and the UNODC can take practical action in line with their shared opposition to the death penalty.
27. There is an evident gap between the principles set out in the UNODC’s Human Rights Guidance and the practical impact of the UNODC’s supply control programmes. Ahead of the 2016 UNGASS on drugs, the UNODC should provide a detailed and transparent account of the assessments it has undertaken to ensure all UNODC projects fulfil the criteria set out in its own human rights guidance.

### **CONTACT**

For further information on the issues above, please contact Dan Dolan at Reprieve on [dan.dolan@reprieve.org.uk](mailto:dan.dolan@reprieve.org.uk) or on 02075538147.

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