



Republic of Singapore
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Human rights violations associated with Singapore's anti-drug laws

Executive Summary

Human Rights violations committed in the name of drug control are common in Singapore, including the unlawful application of the death penalty, corporal punishment and the denial of the highest attainable standard of health. Capital and corporal punishment are regularly imposed on people convicted of drug-related offences and the government has yet to implement evidence-based interventions that are proven to reduce the transmission of blood-borne viruses and bacterial infections.

The Death Penalty and the Right to Life

Singapore has a mandatory death sentence for anyone found guilty of importing, exporting or trafficking in more than 500 grams of cannabis, 200 grams of cannabis resin or more than 1,000 grams of cannabis mixture; trafficking in more than 30 grams of cocaine; trafficking in more than 15 grams of heroin; and trafficking in excess of 250 grams of methamphetamine.ⁱ

Singapore does not release official statistics on its use of capital punishment. However, Singapore's Central Narcotics Bureau announces arrests and the possible penalties for suspects. The agency identified cases involving seventy-three people from the beginning of 2007 to the end of 2009 in which capital punishment was explicitly stated as a possible penalty. An additional forty-six people during that same period appear to have been arrested in possession of quantities that could result in death, but where such a penalty was not explicitly mentioned.ⁱⁱ Without greater transparency from Singapore's government, it is impossible to know how many of these people have been sentenced to die.

Capital punishment is significantly restricted under international law to only those offences termed 'most serious crimes'. For more than two decades UN human rights bodies have interpreted this article in a manner that limits the number and type of offences for which execution is allowable under international human rights law explicitly excluding drug offences.ⁱⁱⁱ Although Singapore is not a party to the ICCPR, this principle has been supported by the highest political bodies of the United Nations. The Economic and Social Council of the United Nations (ECOSOC) endorsed a resolution in 1984 upholding nine safeguards on the application of the death penalty, which affirmed that capital punishment should be used 'only for the most serious crimes'.^{iv} The 'most serious crimes' proviso was specified to mean crimes that were limited to those 'with lethal or other extremely grave consequences'^v and was endorsed by the UN General Assembly.^{vi}

However, in a recent appeal for a young man sentenced to die for a crime he was accused of committing when he was just nineteen-years-old, the court held that drug offenders are potentially even more deserving of mandatory death penalty than convicted murderers. It wrote that even if

'the [mandatory death penalty] is an inhuman punishment when prescribed as the punishment for murder, it does not necessarily follow that the [mandatory death penalty], when prescribed for drug trafficking, is likewise an inhuman punishment'.^{vii}

To the appellant's argument that the mandatory death penalty amounted to cruel and inhuman punishment the court replied that Singapore does not guarantee any protection from such treatment in the confines of the island-state. The court wrote that 'the Singapore Constitution does not contain any express prohibition against inhuman punishment.'^{viii} Therefore, the court felt no compulsion to 'decide whether the [mandatory death penalty] is an inhuman punishment.'^{ix}

Torture and other Cruel Inhuman and Degrading Treatment: Corporal Punishment^x

While caning is used for over forty offences in Singapore it is very often imposed for drug-related offences. The Singapore constitution does not explicitly prohibit torture and other cruel, inhumane degrading treatment or punishment. There is no definition of torture laid down in the legislation either which seems to make it easy for the local authorities to legislate certain actions under Singapore regulations.^{xi}

Article 53 (e), chapter 224 of the Singapore Penal Code prescribes caning as a legislated criminal sanction and provides guidelines for the implementation of this sanction (e.g., caning shall be with a rattan).^{xii} The same legislation defines that caning can be used for children as well as for adults according to the gravity of the crime committed. Under Singapore law, a juvenile offender will be caned with a lighter rattan than is used for adults. Females are not liable to caning under Section 231 of the Criminal Procedure Code (CPC).^{xiii} Caning is also used not only as a judicial punishment but as a disciplinary sentence in prisons.

Drug crimes are classified in categories (A, B, C-specified drugs or listed quantities), which may determine the number of strokes received by the offender. A person who commits *unauthorised traffic in controlled drug containing 800 - 1,200 grammes of opium and containing 20 - 30 grammes of morphine, diamorphine - 10 - 15 grammes, cocaine - 20 - 30 grammes, cocaine - 20 - 30 grammes, cannabis - 330 - 500 grammes, cannabis mixture - 660 - 1,000 grammes, cannabis resin - 130 - 200 grammes, methamphetamine - 167 - 250 grammes* except as otherwise provided in this Schedule receives 2-5, 3-10 or 5-15 strokes depending on the drug class involved as an alternative criminal sanction to long term imprisonment. The statistics of caned persons are not made available by the government.^{xiv}

Corporal punishment may not be imposed on any person for any reason, no matter how heinous their crime. The UN Commission on Human Rights in April 1997 told governments that "corporal punishment can amount to cruel inhuman or degrading punishment or even to torture".^{xv} The UN Special Rapporteur on torture also stated in 1997 that "corporal punishment is inconsistent with the prohibition of torture and other cruel, inhuman or degrading treatment or punishment."^{xvi} The imposition of corporal punishment as a sanction for a criminal or disciplinary offence also violates the *right to a fair trial* by inflicting a penalty which is prohibited under international law. More recently the UN Special Rapporteur on Torture issued recommendations which states: "legislation providing for corporal punishment, including excessive chastisement ordered as a punishment for a crime or disciplinary punishment, should be abolished."^{xvii} The special rapporteur stated that corporal punishment is inconsistent with the prohibition of torture and other cruel, inhuman or degrading treatment or punishment enshrined, inter alia, in the Universal Declaration of Human

Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Moreover, rule 31 of the Standard Minimum Rules for the Treatment of Prisoners provides that “corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.^{xviii} The UN Committee Against Torture has also called the UN member states for the abolition of corporal punishment on several occasions.^{xix}

The prohibition of torture and other cruel, inhuman or degrading treatment or punishment is not just a prohibition contained in the Convention, but is also part of customary international law, and is considered to be *jus cogens*. International courts have recognised the customary nature of the prohibition on corporal punishment in a number of cases and established an absolute ban on the use of such treatment.^{xx} Thus even though Singapore is not a party to the ICPPR its authorities are not able to opt out from its human rights obligations as relevant to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.^{xxi}

Injecting Drug Use, HIV/AIDS, and the Right to Health

Hand in hand with draconian counter-narcotics measures in Singapore is the neglect of the right to the highest attainable standard of health of people who use drugs. Asia accounts for a quarter of all injecting drug use in the world, and in many Asian countries HIV epidemics are driven primarily by unsafe injecting practices. However, the number of people who inject drugs in Singapore is unknown due to the lack of available data.^{xxii} As a result, the true picture of the HIV epidemic in the country is also unknown.

Guidelines from the World Health Organization, UNAIDS and the United Nations Office on Drugs and Crime emphasise the importance of harm reduction within a comprehensive package for people who inject drugs.^{xxiii} The commitment of UN member states to key harm reduction interventions as HIV prevention measures is enshrined in political declarations on HIV/AIDS adopted by the General Assembly in 2001 and 2006,^{xxiv} as well as most recently in the Millennium Development Goals summit outcome document.^{xxv} In late 2009, the General Assembly also adopted a Political Declaration on drug control which yet again reaffirmed the importance of measures to address injection driven HIV epidemics.^{xxvi}

Current and former UN Special Rapporteurs on the right to health have stated that harm reduction is essential in realising the right to the highest attainable standard of health for people who use drugs.^{xxvii} The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health recommended that states, ‘Ensure that all harm-reduction measures (as itemized by UNAIDS) and drug-dependence treatment services, particularly opioid substitution therapy, are available to people who use drugs, in particular those among incarcerated populations.’^{xxviii} This has been recognised time and again by the UN Committee on Economic Social and Cultural Rights,^{xxix} and the Human Rights Council, in 2009, has also recognised harm reduction as an essential element of the right to health in the context of HIV/AIDS.^{xxx}

Two of the core HIV-related harm reduction interventions are needle and syringe programmes and opioid substitution therapy (e.g. with methadone or buprenorphine).^{xxxi} The UN Commission on

Narcotic Drugs in a 2010 resolution recognised these measures as essential in the HIV response^{xxxii} Neither is available in Singapore.^{xxxiii} On the contrary, instead of adopting and scaling up proven, evidence-based interventions to reduce the harms associated with injecting drug use, Singapore applies long term imprisonment and corporal punishment to people who are drug dependent and recognised as having a chronic relapsing medical condition.^{xxxiv} It is well recognised that drug use occurs within prisons and other places of detention and that they often represent a concentrated risk environment for HIV transmission.^{xxxv} Guidelines from UN agencies state the importance of HIV prevention interventions within prisons, including needle and syringe exchange and the availability of opioid substitution therapy.^{xxxvi}

Singapore has also recently criminalised buprenorphine (classified as an essential medicine by the World Health Organization^{xxxvii}) and in doing so increased by 20 percent its prosecutions for drug use/possession.^{xxxviii} In 2009, the Human Rights Council adopted a resolution on access to essential medicines in the context of the right to health.^{xxxix} A similar position was articulated in a 2010 resolution on this issue adopted by the UN Commission on Narcotic Drugs.^{xl}

Recommendations:

- 1) The death penalty for drug offences should be abolished and official information on the number of people sentenced to death and executed in the country should be released.
- 2) All articles in the penal code that prescribe corporal punishment should be repealed.
- 3) Singapore should adopt and scale up proven, evidence-based interventions to reduce the harms associated with injecting drug use and decriminalise essential medicines such as buprenorphine.

ⁱ Misuse of Drugs Act (Cap. 185, 2008 Rev. Ed.): <http://statutes.agc.gov.sg/> (last accessed 29 March 2010); AI Singapore: The Death Penalty op. cit. p. 13; Johnson and Zimring op. cit. p. 415; Additional information on thresholds: www.cnb.gov.sg (last accessed 20 January 2009).

ⁱⁱ Gallahue P and Lines R (2010) The Death Penalty for Drug Offences: Global Overview 2010, International Harm Reduction Association

ⁱⁱⁱ See for example, UN Human Rights Committee (8 July 2005), Concluding observations: Thailand. CCPR/CO/84/THA, para. 14; UN Human Rights Committee (29 August 2007) Concluding observations: Sudan. CCPR/C/SDN/CO/3, para. 19; UN Commission on Human Rights, Extrajudicial, summary or arbitrary executions: Report by the Special Rapporteur, submitted pursuant to Commission on Human Rights resolution 1996/74, 24 December 1996, E/CN.4/1997/60; UN Human Rights Council (29 January 2007) Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions. A/HRC/4/20, para. 51-52; UN Human Rights Council (14 January 2009) Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. A/HRC/10/44, para. 66.

^{iv} ECOSOC (25 May 1984) Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty. Resolution 1984/50.

^v *ibid*

^{vi} UN General Assembly (14 December 1984) Human rights in the administration of justice. Resolution A/RES/39/118.

^{vii} *Vui Kong v. Public Prosecutor*, (14 May 2010) In the Court of Appeal of the Republic of Singapore, judgment, criminal appeal no. 13 of 2008 and criminal appeal no. 26 of 2008, paras para 49.

^{viii} *Yong Vui Kong v. Public Prosecutor*, (14 May 2010) In the Court of Appeal of the Republic of Singapore, judgment, criminal appeal no. 13 of 2008 and criminal appeal no. 26 of 2008, paras. 61, 73-74. In para. 75, however, the court does state an explicit prohibition on torture. The court says, 'This explicit recognition by the Government that torture is wrong in the local context stands in sharp contrast to the absence of any statement on its part (in the context of our national policy on combating drug trafficking in Singapore) that the MDP is an inhuman punishment. In addition, torture, in so far as it causes harm to the body with criminal intent, is already criminalised under ch XVI of the Singapore Penal Code, which sets out the types of offences affecting the human body.'

^{ix} *Yong Vui Kong v. Public Prosecutor*, (14 May 2010) In the Court of Appeal of the Republic of Singapore, judgment, criminal appeal no. 13 of 2008 and criminal appeal no. 26 of 2008, para. 120.

^x Singapore has not ratified UN Convention Against Torture and other Cruel Inhumane Degrading Treatment or Punishment, UN Convention on Civil, and Political Rights, UN Convention on Economic, Social and Cultural Rights, UN Convention on the Elimination of Racial Discrimination. Singapore ratified UN Convention on the Rights of the Child (1995) and UN Convention on the Elimination of all forms of Discrimination Against Women (1995)

^{xi} In the *Yong Vui Kong* decision (at para. 75), the court says, 'This explicit recognition by the Government that torture is wrong in the local context stands in sharp contrast to the absence of any statement on its part (in the context of our national policy on combating drug trafficking in Singapore) that the MDP is an inhuman punishment. In addition, torture, in so far as it causes harm to the body with criminal intent, is already criminalised under ch XVI of the Singapore Penal Code, which sets out the types of offences affecting the human body.'

^{xii} Singapore penal code, article 53

^{xiii} Singapore's 2nd and 3rd periodic report to the UN committee on the rights of the child, para 9

^{xiv} <http://www.corpun.com/singfeat.htm> (accessed on 12 September, 2010)

^{xv} [Resolution 1997/38, Commission on Human Rights, Report on the Fifty-Third Session (part one); (E/CN.4/1997/150), at 125

^{xvi} Report of the UN Special Rapporteur on torture, UN Doc: E/CN.4/1997/7, at p. 5, para. 6

^{xvii} General Recommendations of the UN Special Rapporteur on torture.; para C

^{xviii} E/CN.4/1997/7, para. 6.

^{xix} *Official Records of the General Assembly, Fiftieth Session, Supplement No. 40 (A/50/40)*, para. 467, and *ibid.*, *Fifty-second Session, Supplement No. 44 (A/52/44)*, para. 250, respectively

^{xx} *Prosecutor v. Furundzija*, 10 December 1998, case no. IT-95-17/I-T; *Prosecutor v. Delacic and Others*, 16 November 1998, case no. IT-96-21-T, §454; and *Prosecutor v. Kunarac*, 22 February 2001, case no. IT 96-23-T and IT-96-23/1, §466.

^{xxi} Singapore is a party to the Convention on the Rights of the Child but it has a declaration to articles 19 and 37, which protect children from all forms of physical or mental violence, injury or abuse and torture or other cruel, inhuman or degrading treatment or punishment respectively, that states: 'The Republic of Singapore considers that articles 19 and 37 of the Convention do not prohibit - (a) the application of any prevailing measures prescribed by law for maintaining law and order in the Republic of Singapore; (b) measures and restrictions which are prescribed by law and which are necessary in the interests of national security, public safety, public order, the protection of public health or the protection of the rights and freedoms of others; or (c) the judicious application of corporal punishment in the best interest of the child.'

^{xxii} Cook C (2010) *Global State of Harm Reduction 2010: Key Issues for broadening the response*, International Harm Reduction Association

^{xxiii} WHO, UNAIDS & UNODC (2009) *Technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users*. World Health Organization, Geneva.

^{xxiv} See GA Special Session on AIDS Res S-26/2, adopting the Declaration of Commitment on HIV/AIDS (2001) A/RES/S-26/2 Para. 52, and GA Res 60/262, Political Declaration on HIV/AIDS, A/RES/60/262 (2006) Para. 22

^{xxv} United Nations Development Programme, 2010 MDG Summit Outcome, A/65/L.1 (17 September 2010)

^{xxvi} UNGA res 64/182, 30 March 2010.

^{xxvii} Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report to the General Assembly (main focus: the right to health and international drug control, compulsory treatment for drug dependence and access to controlled medicines), UN doc. A/65/255; Foreword, "Harm Reduction and Human Rights: The Global Response to Drug Related HIV Epidemics," <http://www.ihra.net/GlobalResponse>.

^{xxviii} Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report to the General Assembly (main focus: the right to health and international drug control, compulsory treatment for drug dependence and access to controlled medicines), UN doc. A/65/255, para. 76.

^{xxix} See for example, UN Doc No A/HRC/RES/12/27 (para 5)

^{xxx} Human Rights Council resolution 27/12, "The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS),"

^{xxxi} <http://www.unaids.org/en/PolicyAndPractice/KeyPopulations/InjectDrugUsers/default.asp>.

^{xxxii} Commission on Narcotic Drugs, Resolution 53/9, Achieving universal access to prevention, treatment, care and support for drug users and people living with or affected by HIV

^{xxxiii} Cook C (2010) *Global State of Harm Reduction 2010*

^{xxxiv} See, for example, Chapt.185, Section 33A. of Singapore's Misuse of Drugs Act: <http://statutes.agc.gov.sg/> (last accessed 29 March 2010); Cook C (2010) *Global State of Harm Reduction 2010*

^{xxxv} Jurgens, R Lines, R & Cook, C Out of sight, out of mind? Harm reduction in prisons and other places of detention, in Cook, C (2010) *Global State of Harm Reduction 2010: Key Issues for Broadening the Response*. International Harm Reduction Association, UK.

^{xxxvi} See for example, WHO, UNODC, UNAIDS (2007) *Interventions to Address HIV in Prisons: Needle and Syringe Programmes and Decontamination Strategies. Evidence for Action Technical Paper*. Geneva: WHO.

^{xxxvii} World Health Organization (2010) *WHO Model List of Essential Medicines. 16th List (updated) March 2010*.

^{xxxviii} Central Narcotics Control Bureau, Singapore, *Annual Bulletin 2007*

^{xxxix} Human Rights Council, Access to medicine in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/RES/12/24, 12 October 2009

^{xl} Commission on Narcotic Drugs, Resolution 53/4, Promoting adequate availability of internationally controlled licit drugs for medical and scientific purposes while preventing their diversion and abuse