

Indonesia

Foreign Nationals and the Death Penalty

Death Penalty Overview

According to data collected by the Institute for Criminal Justice Reform (ICJR) from the Directorate General of Corrections (Ditjen PAS) of Indonesia, there were 355 people on death row in September 2020. Just over a quarter of those under sentence of death (26%) were foreign nationals. Death penalty offences in Indonesia include murder, robbery, terrorism, drug trafficking and possession, and corruption. However, all of the cases involving foreign nationals were involving drug offences.

Executions have not been carried out in Indonesia since 2016. However, in 2019 the Attorney General announced his intention to resume executions in the near future. The majority of the executions carried out in 2015 and 2016 were of foreign nationals, though, according to latest statistics, they account for only 26% of the death row population (12 of the 14 executions carried out in 2015 were of foreign nationals and 3 of the 4 executions in 2016).

Despite the fact that drug-related deaths have been decreasing in Indonesia, death sentences have been steadily increasing. This is leading to an exponential increase in the death row population where most prisoners remain indefinitely, given the lack of commutation mechanisms and hesitancy in granting clemency applications. In fact, in December 2014 President Joko Widodo declared that he would refuse all clemency applications for drug offenders on death row, closing the door to the final chance to avoid execution.

Political will appears to be against the abolition of the death penalty; with politicians citing public opinion and a belief in its deterrent power and in its effectiveness against the drugs trade. However, research by Carolyn Hoyle for The Death Penalty Project suggests that deterrence and public opinion are not barriers to abolition.

Mary Jane Veloso



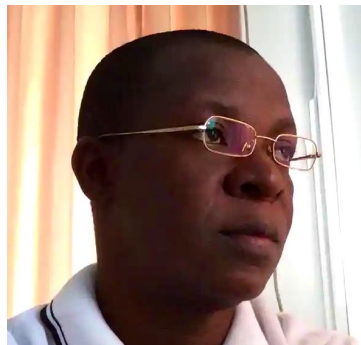
Mary Jane, a Filipina and a single mother of two, fled Dubai, where she was working as a domestic worker after an attempted rape by her employer. She claims she was then offered a job in Indonesia, as a domestic worker, by a family friend who gave her some luggage to take with her. On arrival in Indonesia, in April 2010, 2.6kg of heroin was found in her luggage. She was arrested and sentenced to death later in 2010, at aged just 22. She was due to be executed in April 2015, but was granted a temporary stay hours before the execution was due to take place. Her alleged traffickers have been convicted for human trafficking offences in the Philippines.

Foreign Nationals on Death Row

Foreign nationals may commit drug offences due to their economic precarity or limited opportunities provided by the licit economy. For example, many were working as salesmen, traders or sailors. A few were involved in drug production, for example as chemical engineers. All of the women were 'housewives' or 'domestic workers' and were couriering for significant men in their lives, usually a romantic partner, rather than in a role associated with their own profession.

Some foreign nationals enter Indonesia with illegal documents. Several Nigerians used false passports from other African countries, such as Sierra Leone, Senegal, South Africa, and Zimbabwe. Many of the Nigerians appeared to have couriered drugs into Indonesia from supply lines in Pakistan. There is also some evidence that black people are discriminated against in the criminal justice system and receive worse treatment in detention, including coerced confessions. Of the 14 scheduled executions that were due to take place in July 2016, only four were carried out, all of whom were black Africans. Black Africans also made up almost half of all executions in 2015, despite only representing 1% of all those on death row.

Humphrey 'Jeff' Ejike



Jeff, a Nigerian national, owned a restaurant in Jakarta. He had made a complaint to the police about harassment he had been subject to at the restaurant from a

local drug gang. On 2 August 2003, while he was at church, police raided the restaurant and reportedly found drugs hidden in a mattress. His lawyer at LBH Masyarakat (LBHM) believes Jeff was framed. Jeff was beaten severely while in police custody and was reportedly told he would be released if he gave the police the name of another African man instead.

Jeff was sentenced to death in April 2004, despite evidentiary inadequacies. Appeals against his sentence were unsuccessful and he was transferred to Nusakambangan prison. In prison, Jeff volunteered at the prison hospital and led prayer services for other inmates. While his clemency application was still pending, Jeff was executed in July 2016, aged 42, along with three other Africans and an Indonesian man.

Ooi Swee Liew



Ooi Swee Liew, a Malaysian woman, suffered from several health conditions. Her husband Tor Eng Tart told her that he had made arrangements for them to travel to Indonesia to seek help from a traditional healer. In fact, he was arranging a drugs transfer. The pair were arrested when drugs were found in their hotel room. Both were sentenced to death in September 2016. During her trial, the court provided only a Mandarin interpreter although Ooi Swee Liew did not speak Mandarin, as her husband did. The court appointed lawyer only met her at the trial for the first time and she was sentenced to death. Legal aid clinic LBH Masyarakat (LBHM) offered their assistance at the appeal stage, but the judges

would not overturn the death sentence. LBHM managed to secure her transfer to a women's prison, however Ooi Swee Liew died in custody in August 2020, aged 51.

Lim Jit Wee 'Kim'



Kim, a 54-year-old Malaysian man, came to Indonesia in August 2007 to work as a driver for a man who imported flour. In November 2007 ecstasy tablets were found hidden

in sacks of flour in his boss's car. Kim was taken for questioning and subjected to torture. He confessed to attempting to smuggle the drugs after his fingers were damaged during torture. Kim states that he was also forced to name an innocent man as being involved. Both men were sentenced to death in September 2008, and their sentences were upheld on appeal in December 2008. A judicial review was denied in 2009.

Where information is available regarding case support offered to individuals, it was found that in most cases consulates were not informed of an arrest until after the person had been sentenced to death. Consular support often amounted to annual prison visits rather than active case support. While many were provided a court appointed interpreter at trial, they often did not speak the same language as the accused. The quality of appointed legal representatives was poor in many cases.

In March 2020, the Supreme Court announced that, due to the pandemic, criminal proceedings would be conducted remotely. Though some basic administrative regulations were brought in (Reg No. 4 of 2020), this presented further challenges to due process of law. There was a 62% increase in all death sentences in 2020, despite the considerable obstacles to a fair trial when investigations and hearings are conducted remotely.



The island of Nusa Kambangan, where most death row prisoners are held. Once a penal island during Dutch colonial rule, the island continues to be used as a prison island today.

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