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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Open Society Institute, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[4 February 2023]

* Issued as received, in the language of submission only.



Limiting the Use of the Death Penalty to the Most Serious Crimes

Drug Policy Global Programs at the Open Society Institute submits the following statement on the occasion of the High Level Panel on the Death Penalty, with respect to limiting the use of the death penalty to the most serious crimes.

Despite a clear international human rights standard that drug offences do not meet the threshold of the most serious crimes, the use of the death penalty for drug crimes appears to be on the rise. It also remains one of the authoritarian leaders' preferred tools for garnering popular support and quelling dissent.

In most jurisdictions where the death penalty for drugs operates, retentionist arguments normally revolve around two major points: deterrence effect and public opinion.

If the death penalty was supposed to reduce drug crimes, we should have seen a drop in drug offenses a long time ago. Drug crimes in death penalty jurisdictions, on the other hand, show no signs of abating.

Meanwhile, when it comes to public opinion, retentionist governments tend to justify their stance by citing high levels of public support for punitive measures. They typically rely on polls conducted by mainstream media, where the question is as simple as "yes" or "no." This simple binary question, however, obscures the complexities of the death penalty as well as drug-related issues.

Comprehensive and rigor public opinion polls in a number of countries have revealed that, on a broad level, public support for the death penalty for drug offenses can be quite high. However, this support is primarily motivated by a lack of knowledge. When confronted with real-life examples, public support for the death penalty falls precipitously, and people become more open to alternatives to the death penalty. And, when asked whether the government should invest more in health services for those in need rather than instituting the death penalty, the public tends to favor the former over the latter.

Another critical component to help disempower the death penalty regime is legal representation. Almost everyone on death row for drug offenses is a poor and vulnerable person exploited by the syndicates. Early and competent legal services from the time of arrest can be a life-saving means for people facing the death penalty.

Unfortunately, despite the presence of qualified human rights and criminal defense lawyers in many death penalty jurisdictions, due to the stigma associated with drugs, only a few lawyers are willing to risk their reputations and represent drug defendants facing the death penalty. Even when lawyers are available to assist people facing the death penalty, they are frequently underfunded.

However, one question lingers at the end of the day. How do we abolish the death penalty for drugs while also addressing the so-called drug problem, which is a legitimate concern for many governments and the general public?

Open Society Institute is of the view that so long as the belief for a drug free world continues to exist, retentionist states will always justify the death penalty for drug as a necessary measure to curb the illicit drug trade, despite the fact that there is no robust evidence that it actually deters crime.

As a result, efforts to abolish the death penalty for drug offenses should be combined with a drug policy reform agenda in which abolitionists can also articulate alternatives to punitive drug policies.

To begin, we need an open and honest public debate about drugs, drug use, and the illicit drug economy that goes beyond the "just say no" rhetoric. It should also include laws and policies that decriminalize drug use and possession while providing health and social services to those in need, investing in harm reduction programs, and repairing the past harms caused by the drug war.

Decriminalizing drug use lowers barriers for people who use drugs to seek treatment. Decriminalization can also assist governments in redirecting resources away from ineffective

repressive policies and toward health and socioeconomic support, which will address the root of the so-called drug problem.

A key component in this is an opposition to the logic of the prohibitionist regime. A commitment to end the death penalty for drug offenses should not coexist with a mindset that continues to demonize drugs.

As long as the current paradigm of drug control maintains that drugs are an “evil” that the international community has a “duty to combat,” there will always be justification for extreme policies and practices.

One may abolish the death penalty for drugs, but one will continue to impose policies and practices that violate human rights in the name of drug control. Abolition of the death penalty for drugs and drug policy reform efforts are thus mutually reinforcing and complementary.
