

## 20th World Day Against the Death Penalty – WHRIN statement.



On this 20th anniversary of the World Day Against the Death Penalty, the Women and Harm Reduction International Network (WHRIN) calls for immediate abolition of capital punishment. The paper draws particular attention to women on death row in association with drug offences.



International human rights standards require the abolition of capital punishment. The death penalty violates the right to life as set out in the Universal Declaration of Human Rights. The rights described are designed to protect all people, they are not privileges to be bestowed or withdrawn. The death penalty means the scheduled killing of a defenseless prisoner at the hands of the state. Condemned to death, the prisoner must suffer uniquely cruel distress, with terrible hardship, anguish and grief. These sufferings are also borne by the loved ones of those on death row. There is no proof that the death penalty has any special capacity to reduce crime. A majority of countries have abolished capital punishment and agree that States should refrain from using capital punishment in relation to drug-related offences.

Drug crimes are generally economic, non-violent and victimless offences and as such, they should never result in capital punishment. Those who supply are not murdering or harming anyone, with baseless drug war propaganda driving the notion that supply of drugs is intended to have a deadly result.

Women sentenced for drug related offences are the fastest growing prison population in the world. With mandatory prison sentences for even low-level drug trafficking, the incarceration of women for drug offences has jumped globally by 53% since 2000. In Indonesia, the incarceration rate of women has spiked by 144% since 2011, and between 2000 and 2018, 18 of 22 women sentenced to death were convicted of drug offenses.

Countries where women are still sentenced to death for drug offences include China, Indonesia, Sri Lanka, Malaysia, Thailand, Iran, Lao PDR, North Korea, Pakistan, Saudi Arabia, Singapore, Sri Lanka and Vietnam. China executes the highest number of women convicted of drug offences. In Thailand and Malaysia, the majority of women on death row are sentenced for drug offences. In Iran since 2010 at least 86 women were executed on drug-related charges.

Women who have been sentenced to death for drug offences are typically arrested as ‘mules’, an activity at the lowest and most disadvantaged level of the drug trade. They are often from ethnic minority backgrounds, including significant numbers of foreign nationals, migrant domestic workers from global

south countries and are often single mothers experiencing economic uncertainty and hardship. Larger proportions of women compared to men, are imprisoned for drug offences. For example, in Malaysia, 95% of women and 70% of men are on death row for drug trafficking. In Thailand, of the 33 women on death row in 2021, 94% (as opposed to 60% of men) had been convicted of drug offences.

Capital punishment is a grossly disproportionate response to an essentially economic, victimless and non-violent offence usually conducted in order to provide for or protect family members. Insidious gender biases in justice systems manifest through uneven enforcement, investigation and the lack of access to a fair trial. The death penalty is used disproportionately against the poor, the powerless, and the marginalized.

Migrant domestic workers are ‘easy targets’ for drug trafficking syndicates and law enforcement scrutiny alike. Women have been found to experience measurable gender-bias in Malaysia, with significantly lower chances of having their cases reviewed and overruled in capital appeals. This appears to be associated with harmful gender norms in combination with legislative rigidity that does not enable consideration of mitigating factors, while exaggerating the severity of the conduct involved. Women involved in drug circles evidently pose a challenge to gender stereotypes and patriarchal structures – and this is reflected in over-zealous enforcement and severity of punishment.

Conditions for women on death row are different to those experienced by men. Male prisons, though also frequently overcrowded and unhygienic, tend to be better equipped, resourced and staffed. In women’s prisons, women-specific healthcare and even provision of menstrual materials is lacking. Women may be required to perform sexual acts to receive basic necessities, such as food, and may be shackled and held in dangerously unhygienic conditions and in solitary confinement.

Women also face inequality before the law, with poverty a clear underlying driver in death penalty cases. Women charged with drug offenses struggle more than men to secure skilled counsel.

### **Recommendations:**

- Eliminate the death penalty (including drug trafficking cases), which is a violation of international law. All national, regional and UN agencies must redouble pressure upon retentionist states to immediately commute the sentences of women on death row.
- All countries should cease aid of all types to law enforcement in countries where people could face death for a drug related crime.
- Decriminalisation and harm reduction approaches are the most effective, humane and cost efficient method to address drugs. All states must implement these policies with consideration of the intersectional needs of the most marginalised, including women, gender diverse people, ethnic minorities and foreign nationals.
- States must work towards gender equity and elimination of gendered discrimination in legal systems and institute reforms to protect women from these abuses.
- Women’s’ human rights must be promoted – with a protective rather than punitive framework.
- Improve prison conditions for women and gender minorities, and abide by the Bangkok Rules.
- Meaningfully involve directly impacted women and gender diverse people to inform states’ drug policies.

*(referenced version available on request)*