

**UNIVERSAL PERIODIC REVIEW ON SINGAPORE**

**FOR THE 11<sup>TH</sup> SESSION OF UPR**

**MAY 2011**

**This document is a submission by**

**Singapore Anti Death Penalty Campaign (SADPC)**

## **Introduction**

This submission highlights the existing issues that we are dealing with in Singapore with regards to the death penalty. It also includes two recommendations that the group strongly feels that should take place here.

Singapore Anti Death Penalty Campaign is a coalition of independent activists who are deeply concerned about the use of the death penalty in Singapore. It was formed in 2005 and our activities include campaigning for inmates who are on the death row, organising forums and film screenings to discuss and debate about the use of the death penalty in Singapore. We have also recently organised a book launch for *Once a Jolly Hangman*, a book written by Alan Shadrake.

Currently our campaign efforts are mainly focussed on Yong Vui Kong, a 23 year old Malaysian youth who was arrested in 2007 for the possession of 47 grams of heroin and subsequently sentenced to the mandatory death sentence in 2009.

## **The death penalty in Singapore**

Singapore had been described as the world's hanging capital leading in the number of executions per capita. Each execution is carried out by hanging at Changi Prison every Friday at dawn. Crimes that constitute the death sentence include the following:

- a. Waging or attempting to wage war, or abetting the waging of war against the Government
- b. Offences against the President's persons or treason
- c. Mutiny
- d. Piracy endangering lives
- e. Murder
- f. Abetting the suicide of a person under the age of 18, or an 'insane' person
- g. Attempted murder by a prisoner serving a life sentence
- h. Kidnapping
- i. Drug trafficking
- j. Unlawful discharge of firearms

Official statistics regarding the number of executions are seldom released and all information related to the death penalty is considered to be State secrets under the Official Secrets Act.

The death sentence is currently mandatory for the following class of crimes: murder, drug trafficking, firearms offences and sedition. This is applicable to offenders over the age of 18.

The word 'mandatory' in the section of law means that judges have no discretion to apply a lighter sentence on the offender, even if the offender has considerable mitigating factors. As stated above, this applies to offenders over the age of 18.

## **Misuse of Drugs Act**

Under the Misuse of Drugs Act, any person found in possession of more than 100 grams of opium, 3 grams of morphine, 2 grams of diamorphine, 15 grams of cannabis, 30 grams of cannabis mixture, 10 grams of cannabis resin, 3 grams of cocaine, 25 grams of methamphetamine, 113 grams of ketamin or 10 grams of any or any

combination of N, a-dimethyl-3,4-(methylenedioxy) phenethylamine, a-methyl-3,4-(methylenedioxy) phenethylamine, or N-ethyl-a-methyl-3,4-(methylenedioxy) phethylamine will be automatically given the death sentence.

Death sentence is also mandatory for the manufacturing of morphine, diamorphine and cocaine.

### **Position of the Government on the death penalty**

In 1996, the Government received recommendation from the U.N Special Rapporteur on extrajudicial, summary or arbitrary executions to change its Drug Act so as to bring it into line with international standards since “the Misuse of Drugs Act, which partially shifts the burden of proof to the accused, does not provide sufficient guarantees for the presumption of innocence and may lead to violations of the right to life when the crime of drug trafficking carries a mandatory death sentence”. However the recommendations were ignored.

On an international platform, the Government of Singapore is one of the few leading retentionist proponent on the application of death penalty as capital punishment as evidenced by its very active role in lobbying against the UN General Assembly’s reaffirmation to the resolution on death penalty moratorium in 2008.

The Government adopts a utilitarian position regarding the right to life in arguing for their right to impose the death penalty especially for non-violent crimes in the case of drug trafficking.

The current Law Minister K Shanmugam stated in a public dialogue session in 2010 that “the mandatory death penalty for serious drug offences here is a "trade-off" the government makes to protect "thousands of lives" that may be ruined if illegal drugs were freely available”.

### **The judiciary and the mandatory death penalty**

During the most recent ruling in May this year by the Court of Appeal chaired by the current Chief Justice alongside two other High Court justices, regarding the appeal of a Malaysian, Yong Vui Kong, against his mandatory death penalty sentence on drug trafficking charges, it was of the view that “there presently does not exist a rule of Customary International Law prohibiting the Mandatory Death Penalty as an inhuman punishment”.

In the same judgement, the court declared that no further arguments against the mandatory death penalty shall be made in a court of law. Currently the final recourse for clemency lies with the President of Singapore, however, his decision is subjected to the advice of the Cabinet.

### **Recommendations**

Singapore Anti Death Penalty Campaign strongly urge the Government of Singapore to adopt a more reasonable approach to drug-related problem. The imposition of the mandatory death sentence for drug trafficking is inconsistent with the criteria of absolute necessity and proportionality.

We urge the Government of Singapore to impose an immediate moratorium on executions to review upon the death penalty, with focus on the mandatory death penalty; and take serious consideration to implement the abolition of the death penalty because state-sanctioned killing denies the right to life and denies the human capacity for change.

We also recommend that with regards to the issuance of clemency for cases involving the death penalty, an independent Pardons Board should be established so that clemency appeals can be reviewed on a case by case basis.