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Death Penalty in Singapore

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“World’s Hanging Capital”

Introduction

1. Singapore had been described as the world’s hanging capital leading in the number of executions, giving the small city state possibly the highest execution rate in the world relative to its small population of about four million people. According to Amnesty International, more than 420 people have been hanged in Singapore since 1991.

Drug trafficking-main cause for execution

2. Most of the executions arise from trafficking of drugs. Drug peddlers found carrying small quantities of drugs (15g of heroin or 500g of marijuana) are automatically given the death sentence. In addition the law presumes that a person caught in possession of prohibited drugs knows that he is in possession of some drugs, with the burden of rebutting the presumption on the person charged. It is almost humanly impossible to rebut the presumption where the burden is reversed on the accused to prove his innocence.

Unjust criminal Laws

3. The criminal laws of Singapore are completely weighted against the accused. For example confession alone can be relied upon in sentencing a person to death. Also there is no right to pre-trial discovery of accused statements or admissions. Confessions are often used as ambush tactic by the prosecution when their evidence is weak. Defence is kept in the darkness, speculating what their clients would have stated in their statements to the police.
4. Further, an accused person can be convicted and sentenced to death solely on the uncorroborated and unsupported evidence of the co-accused. Also the courts here have repeatedly declared they have no jurisdiction or powers to re-open a case even if there is fresh evidence adduced before the execution showing the accused to be innocent. In one case which argued on the eve of the execution asking for a retrial, the then Chief Justice who presided the hearing maintained that an innocent man can be hanged in Singapore due to procedural matters.

Mandatory death sentence

5. Singapore practices mandatory death sentence in that it takes away the discretionary powers from the judges in precluding them from looking into the extenuating and particular circumstances of the individual cases. Once the accused is convicted of trafficking drugs, e.g...15 gram of heroin, death sentence is mandated. In recent case involving an Australian, Van Nguyen Tuong, 25 who was ruthlessly hanged amidst international criticisms, I filed a complaint to the United Nation Rapporteur against the mandatory death

sentence imposed on Van. In response, the UN issued a statement condemning the mandatory death sentence imposed on Van as being unlawful under international law.

6. A former high court judge had recently argued that mandatory death sentence is unconstitutional even under Singapore laws. I have been campaigning extensively along with other civil society groups in Singapore against the mandatory death sentence. In two of the cases I handled, I filed applications at the eleventh hour on account of miscarriage of justice premised upon trial irregularities and discrimination (PP v Vignes Murthy (2003) and PP v Shanmugam Murugesu (2005). The applications were dismissed without grounds of decision.

Discrimination in treatment of non –western prisoners

7. The Western counterparts get a different treatment in the media, e.g.; Julia Bohl, a German national who was convicted of drug trafficking escaped the gallows in Singapore. Mc Crea, a British National charged for double murder in Singapore received clemency even before his trial commenced. The decision by the prosecution to decide on one gram i.e., 499g vis-à-vis 500g (500g of Cannabis is the legal limit for death sentence) is an arbitrary one and often is discriminatory in nature. The courts have excluded review on discrimination by the prosecution.

Singapore's links with drug lords

8. While Singapore arrests smalltime drug peddlers, drug barons continue to operate untouched. One such drug lord is Lo Hsing Han, a Burmese heroin producer whom an Australian TV station has said to have interest in Singapore. In fact the US State Department has said that “over half (of the investments in Burma) from Singapore have been tied to the family of narcotic-trafficker Lo Hsing Han.” Author and expert on drug trafficking Burma, Bruce Hawke has also written that “the entry (of money from drug trafficking) to the legitimate global system is not Burma but Singapore...” The Government Investment Corporation (GIC), which consists of money from the people holds more than 20 percent share in the company of the drug lord Lo-Hsin Han. “So let us think how hypocritical we are by hanging the poor in society who are often preyed upon by drug lords, yet dealing with one of the biggest Heroin producers of the world.

Brutal facts of hanging

9. The prisoner is weighed the day before execution. Rehearsals are performed several days before the hanging takes place, using a sandbag of the same weight as the prisoner. This is to determine the weight of ‘drop’ necessary to ensure a quick death. Death by hanging is supposedly caused by dislocation of the third and fourth cervical vertebrae or asphyxiation. However, instantaneous death is rarely achieved.

When a human being is hanged, his face becomes engorged, the tongue protrudes, the mouth vomits and drools, the eyes pop, the body defecates, violent movements of body limbs occur, and the face begins to turn a greyish-black. Although the prisoner may appear to be unconscious, the heart does not completely stop beating for some 20 minutes.

(Adapted from the website of ACADP)

Amara Tochi's case

10. Amara Tochi is a 19 year old Nigerian Footballer whose execution is confirmed to take place on 26th January 2007. Tochi was arrested for allegedly carrying heroin. The court in Singapore handed the Death sentence after a 13-day trial. It is disturbing to note that the learned trial judge himself having raised reasonable doubts proceeded to sentence Tochi to death.

Against Tochi, the trial judge Mr.Kan Ting Chiu made the following findings at paragraph 42 of his judgment [2005] SGHC 233:

“There was no direct evidence that he knew the capsules contained diamorphine. There was nothing to suggest that Smith had told him they contained diamorphine, or that he had found that out of his own.

Given the fact that Tochi is innocent of any knowledge of possession or trafficking of drugs,the trial judge ought to have acquitted him based on his own findings.

I was Tochi's counsel until I was recently suspended. He does not have lawyer since my suspension last October. The Nigerian Civil Liberties Organisation have filed a suit at the Federal court against the Attorney General and the Government of Nigeria to compel them to take an action against Singapore the International court of Justice in requesting a stay of execution pending the outcome of the hearing. The Singapore government had ignored the application and is proceeding to execute Tochi this Friday.

International Court of Justice

11. In December 2005, a high profile campaign was launched by Australian and Singapore activists to stop the hanging of Van Nguyen Tuong (an Australian National) which was in vain.

The lawyers for Van did persuade their government to take the matter to ICJ but the government did not adopt the route to ICJ.

This report will examine some of the cases that had gone to ICJ and the recent trends and campaigns to take matters to ICJ. What the international organizations can do to assist the ICJ route would be further discussed.