

7 December 2016

Hon. Pantaleon D. Alvarez  
Speaker  
House of Representatives, Philippines Congress  
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Senator Aquilino Pimentel III  
President  
Senate, Philippines Congress  
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Dear Hon. Pantaleon D. Alvarez and Senator Aquilino Pimentel III:

**Re: 17<sup>th</sup> Philippines Congress - House Bill No. 1 on the Death Penalty**

We call on the 17<sup>th</sup> Philippines Congress to preserve the right to life, and to not bring back use of the death penalty as proposed in *House Bill No. 1*.<sup>i</sup> We urge all members of the House of Representatives and Senate to uphold the right to life enshrined in the *Philippines Constitution 1987*<sup>ii</sup> (the Constitution) and to strengthen compliance with the Philippines' obligations not to impose the death penalty under section 19 of the Constitution<sup>iii</sup> and the *International Covenant on Civil and Political Rights* (ICCPR) along with the Second Optional Protocol. We urge the Government of the Philippines to ensure proportionate sentencing of drug offences to protect the vulnerable, and invest in harm reduction approaches<sup>iv</sup> to protect the health and well-being of the Filipino people. By doing so, the Republic of the Philippines can retain its authority to protect overseas Filipino workers, including those who fall victim to disproportionately punitive laws and find themselves on death row abroad.

As demonstrated by the case of Mary Jane Veloso, an overseas Filipina worker on death row in Indonesia, the majority of individuals sentenced with the death penalty for drug offences do not play a serious or high-level role in drug trafficking operations. They are often poor, vulnerable to exploitation, and engaged in low-level drug trafficking roles. A socio-economic profiling of capital offenders in the Philippines conducted by the Free Legal Assistance Group (FLAG) showed that more than half of the inmates on death row in 2004 belong to the lowest socio-economic classes—largely undereducated, underemployed, lacking access to sanitation and water and generally living in poverty.<sup>v</sup> Their involvement in drug-related activities are driven by poverty and socio-economic marginalisation, which can only be effectively addressed with drug policies that prioritise development over harsh punishment. In addition, the low-level roles they play in drug markets are easily replaced by other individuals, particularly those from poor and marginalised communities—just one reason for the wholly ineffective use of the death penalty in deterring drug-related activities.<sup>vi</sup>

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Indeed, there is no evidence of the effectiveness of the death penalty in deterring the use, cultivation, manufacturing and trafficking of drugs—a fact emphasised by United Nations Office on Drugs and Crime (UNODC) data predominantly showing expanding and diversifying drug markets in all regions of the world.<sup>vii</sup> Use of the death penalty for drug offences is declining around the world. It remains in routine use by only seven countries (6 of which are in Asia, the other being Saudi Arabia).<sup>viii</sup> However even in Singapore, despite ongoing implementation of the death penalty for drug offences, available data on drug use and supply trends portray an expanding drug market,<sup>ix</sup> especially in relation to the supply of methamphetamine as indicated by increasing volumes of seizures in recent years.<sup>x</sup> Use of the death penalty is also problematic in that the finality of execution does not allow for any redress in the event of wrongful execution. There is no perfect criminal justice system, and wrongful executions resulting from human mistakes, discrimination, biases and abuse during the sentencing process have been documented in jurisdictions including the US.<sup>xi</sup>

Imposing the death penalty for drug offences is a violation of international human rights law. Drug offences do not meet the threshold of “most serious crimes” for which the death penalty may apply under Article 6 of the ICCPR, according to the UN Human Rights Committee.<sup>xii</sup> The Philippines will also be breaking its legal obligations under the Second Optional Protocol to the ICCPR, thereby seriously undermining the value of its promises.

Moreover, the International Drug Control Conventions<sup>xiii</sup> contain no requirement for the Philippines to impose the death penalty in order to improve the health and welfare of its citizens (the primary objective of the conventions). Accordingly the International Narcotics Control Board (INCB), the institution established by the conventions to monitor member state implementation of its provisions, encourages “those States which retain and continue to impose the death penalty for drug-related offences to consider abolishing the death penalty for such offences.”<sup>xiv</sup>

The INCB further calls on member states to institute proportionate sentencing for drug offences, which is relevant to the range of penalties proposed in *House Bill No. 1*.<sup>xv</sup> It is especially concerning to note the severely disproportionate application of penalties to drug offences “regardless of the quantity and purity involved” as stated in the proposed amendments to sections 4 and 5 of *Republic Act No. 9165* in *House Bill No. 1*. Additional factors including the circumstances and role of the offender in a drug-related activity must be considered during sentencing in order to ensure proportionality. More recently as encouraged by the INCB President in November 2016, we urge your consideration of the application of alternatives to conviction or punishment for minor drug-related crimes, particularly for the use of drugs and possession of drugs for personal use.<sup>xvi</sup>

To conclude, we call on you to value the life of each and every individual, and to uphold the principles of justice and human rights. Along with the ASEAN Parliamentarians for Human Rights,<sup>xvii</sup> we call on you to ensure that *House Bill No. 1* does not pass. The death penalty may kill the person, but it will only exacerbate and not solve the drug-related problems you seek to address. It will drive the poor and vulnerable further underground, away from interventions that

seek to protect them. We urge you to instead explore proportionate sentencing and harm reduction measures to improve the health and safety of the Filipino community.

Sincerely,



Richard Elliott  
Executive Director

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- <sup>i</sup> House Bill No. 1 is available at: [http://www.congress.gov.ph/legisdocs/basic\\_17/HB00001.pdf](http://www.congress.gov.ph/legisdocs/basic_17/HB00001.pdf)
- <sup>ii</sup> Article III, Section 1 of the 1987 Philippine Constitution, <http://www.gov.ph/constitutions/1987-constitution/>
- <sup>iii</sup> Article III: Bill of Rights, SECTION 19. (1) of the 1987 Philippine Constitution states that “Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to reclusion perpetua.”
- <sup>iv</sup> Harm reduction refers to policies, programmes and practices that aim primarily to reduce the adverse health, social and economic consequences of the use of legal and illegal psychoactive drugs without necessarily reducing drug consumption: <https://www.hri.global/what-is-harm-reduction>
- <sup>v</sup> Free Legal Assistance Group (2006). *Socio-Economic Profile of Capital Offenders in the Philippines*.
- <sup>vi</sup> Gallahue, P. et al., *The Death Penalty for Drug Offences: Global Overview 2012 - Tipping the scales for abolition*, International Harm Reduction Association (now known as Harm Reduction International), (2012), pp. 21 – 22, <http://www.ihra.net/files/2012/11/27/HRI - 2012 Death Penalty Report - FINAL.pdf>
- <sup>vii</sup> UNODC, *World Drug Report 2015*, (2015), <http://www.unodc.org/unodc/en/frontpage/2015/June/2015-world-drug-report-finds-drug-use-stable--access-to-drug-and-hiv-treatment-still-low.html?ref=fs1>
- <sup>viii</sup> The six countries in Asia which routinely execute people for drug offences are: China, Iran, Vietnam, Malaysia, Singapore, and Indonesia. See: [https://www.fidh.org/IMG/pdf/asia\\_death\\_penalty\\_drug\\_crimes\\_fidh\\_wcadp\\_report\\_oct\\_2015\\_pdf.pdf](https://www.fidh.org/IMG/pdf/asia_death_penalty_drug_crimes_fidh_wcadp_report_oct_2015_pdf.pdf)
- <sup>ix</sup> Singapore Government Central Narcotics Bureau, ‘Drug Situation Report,’ [https://www.cnb.gov.sg/drugsituationreport/drugsituationreport2015\\_copy1.aspx](https://www.cnb.gov.sg/drugsituationreport/drugsituationreport2015_copy1.aspx)
- <sup>x</sup> Asia-Pacific Amphetamine-Type Stimulants Information Centre, ‘Synthetic Drugs National Trends – Singapore,’ [http://www.apaic.org/index.php?option=com\\_content&view=article&id=382&Itemid=813](http://www.apaic.org/index.php?option=com_content&view=article&id=382&Itemid=813)
- <sup>xi</sup> Death Penalty Information Center, ‘Executed but Possibly Innocent,’ <http://www.deathpenaltyinfo.org/executed-possibly-innocent>
- <sup>xii</sup> UN High Commissioner for Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights: Report of the UN High Commissioner for Human Rights*, 4 September 2015, at para. 38, [www.ohchr.org/EN/HRBodies/.../Session30/Documents/A\\_HRC\\_30\\_65\\_E.docx](http://www.ohchr.org/EN/HRBodies/.../Session30/Documents/A_HRC_30_65_E.docx)
- <sup>xiii</sup> *Single Convention on Narcotic Drugs, 1954; Convention on Psychotropic Substances, 1971*, and; *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988*.
- <sup>xiv</sup> International Narcotics Control Board, *Report of the International Narcotics Control Board for 2014*, (2015), at p. iii, <http://www.incb.org/incb/en/publications/annual-reports/annual-report-2014.html>. See also UNODC, *Contribution of the Executive Director of the United Nations Office on Drugs and Crime to the high-level review of the implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, to be conducted by the Commission on Narcotic Drugs in 2014*, (2014), at para. 52(c), [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_57/\\_UNODC-ED-2014-1/UNODC-ED-2014-1\\_V1388514\\_E.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_57/_UNODC-ED-2014-1/UNODC-ED-2014-1_V1388514_E.pdf)
- <sup>xv</sup> International Narcotics Control Board, *Report of the International Narcotics Control Board for 2007*, (2008), at pp. 1 – 14, [http://www.incb.org/documents/Publications/AnnualReports/Thematic\\_chapters/English/AR\\_2007\\_E\\_Chapter\\_I.pdf](http://www.incb.org/documents/Publications/AnnualReports/Thematic_chapters/English/AR_2007_E_Chapter_I.pdf)
- <sup>xvi</sup> [http://www.incb.org/incb/en/news/press-releases/2016/press\\_release181116.html](http://www.incb.org/incb/en/news/press-releases/2016/press_release181116.html)
- <sup>xvii</sup> ASEAN Parliamentarians for Human Rights, ‘Regional MPs call on Philippine Counterparts to reject death penalty bill,’ 1 December 2016, <http://aseanmp.org/2016/12/01/regional-mps-call-on-philippine-counterparts-to-reject-death-penalty-bill/>