

The Death Penalty For Drug Offences: The Impact on Women

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Although often overlooked, women are significantly affected by the death penalty for drug offences. Cornell Law School's recent publication, *Judged for More Than Her Crime*, on women sentenced to death worldwide, highlighted that drug offences are the second most common crime for which women are sentenced to death, after murder, especially in the Middle East and Asia.ⁱ

This is especially the case for the most marginalised women, who may resort to working as drug couriers as a consequence of the multiple, intersecting forms of gendered vulnerability they face. Whilst not all women engage in the drug trade due to exploitation, and some do so through their own volition, it is important to highlight the most desperate situations.

Harm Reduction International's report *The Death Penalty for Drug Offences: Global Overview 2018* found that:

- At the end of 2018, there were four women on death row for drug offences in Indonesia;
- Since 2008, six women have been sentenced to death in Sri Lanka for drug offences;
- 76 out of the 83 women on death row in Thailand are sentenced for drug offences;
- A significant proportion of the 143 women on death row in Malaysia have been convicted for drug trafficking.

Jennifer Fleetwood and Lizzie Seal identified that many of the women who have been sentenced to death for drug offences are 'mules', from foreign countries, with low socio-economic status and from ethnic minority backgrounds.ⁱⁱ These women operate at the lowest level of the drug trade, yet receive the harshest punishment.

Significantly, the Penang Institute in Malaysia found that women convicted of drug trafficking have a significantly lower chance than their male counterparts of having their cases reviewed and overruled, suggesting possible gender-bias in capital appeals.ⁱⁱⁱ

A 2013 public opinion survey in Malaysia found that support for the death penalty drastically reduced from 74-80% to 9% when respondents were presented with the case of a female drug courier.^{iv}

PROVIDING FOR AND PROTECTING DEPENDENTS

In many instances, women engage in the drug trade in order to provide for or protect their family and/or dependents. Jennifer Fleetwood, in her work on women sentenced for drug offences in Ecuador, refers to the concept of 'provisioning', to portray how women may work as drug couriers in order to 'meet the demands of parenthood':^v

By way of example, at least 43 women were hanged for drug offences in Iran between 2001 and 2017, including the executions in 2001 of Hourieh Sabahi, Leila Hayati and Roghieh Khalaji, who were single mothers, from low socio-economic backgrounds.^{vi} Additionally, the British national, Lindsay Sandiford, who is on death row in Indonesia for smuggling cocaine, alleges that she was forced to do so by a drugs syndicate that threatened to harm her son.^{vii}

UNDER DURESS

Another related pathway involves women trafficking drugs under duress. This scenario is highlighted by the case of Mary Jane Veloso, a Filipina mother of two on death row in Indonesia for smuggling heroin, who was formerly a migrant domestic worker in Dubai. Veloso claims she left this employment following an experience of sexual violence (an attempted rape), and was subsequently a victim of human trafficking, and coerced into smuggling drugs.^{viii}

The Cornell Report details that migrant domestic workers are 'easy targets' for drug trafficking syndicates because they are often from low-socio-economic backgrounds and have had poor access to education.^{ix} Moreover, a leading Indonesian human rights organisation, LBH Masyarakat (Community Legal Aid Institute), has warned of the dangers of women, under financial stress, being 'lured by the false promises of a drug syndicate'.^x

Other research illustrates it is not just drug syndicates that may coerce women into drug trafficking; threats and pressures may arise from an intimate partner.^{xi}

ROMANTIC RELATIONSHIPS

Research indicates that some women become involved in trafficking drugs via relationships with intimate partners.^{xii} Online romance scams are an example of this, as typified by the case of the Australian woman, Maria Elvira Pinto Exposto, who is on death row in Malaysia. Exposto alleges that she was groomed online for two years by a man who claimed to have been in the US military; he requested she transport a bag for him from Shanghai to Melbourne, and was intercepted in Malaysia where crystal methamphetamine was found within the bag.^{xiii}

Similarly, there is the case of Merry Utami, an Indonesian woman who is on death row in Indonesia: she is a grandmother and former migrant worker in Taiwan, who left her abusive partner; subsequently, she met and fell in love with a Canadian man, who reportedly groomed her for three months before inviting her on a trip to Nepal with him, where he gave her a new suitcase (lined with heroin) to take home with her, on a separate flight to his own.^{xiv} Significantly, this is an especially gendered pathway towards drug courier work, as the role of romantic love does not feature in the accounts of male drug traffickers.^{xv}

RECOMMENDATIONS

- 1. States retaining the death penalty** for drug offences must abolish this form of punishment – which is a violation of international law - as a step towards total abolition.
- 2. The EU and UN agencies** should exert greater pressure upon states which retain the mandatory death penalty for drug offences, to amend law or procedure to allow judges to consider mitigating factors in their sentencing.
- 3. States should prioritise** a protective – rather than punitive – stance towards women who are coerced into the drug trade.

i. Cornell Law School, 'Judged For More Than Her Crime: A Global Overview of Women Facing the Death Penalty' (September 2018) <<https://www.deathpenaltyworldwide.org/pdf/judged-for-more-than-her-crime.pdf>>

ii. Fleetwood, J. & Seal, L. (2017) 'Women, Drugs and the Death Penalty', *The Howard Journal*, 56 (3) pp.360,364.

iii. Penang Institute, 'High Incidence of Judicial Errors in Capital Punishment Cases in Malaysia' (30 October 2018) <<https://penanginstitute.org/publications/issues/high-incidence-of-judicial-errors-in-capital-punishment-cases-in-malaysia/>>

iv. The Death Penalty Project, 'The Death Penalty in Malaysia' (2013) <<https://www.deathpenaltyproject.org/wp-content/uploads/2018/02/Malaysia-report.pdf>>

v. Fleetwood, J. (2014) *Women in the International Cocaine Trade*, p.98.

vi. Cornell Law School, 'Judged For More Than Her Crime: A Global Overview of Women Facing the Death Penalty'

vii. Fleetwood, J. & Seal, L. (2017) 'Women, Drugs and the Death Penalty', *The Howard Journal*, 56 (3) p.366.

viii. Cornell Law School, 'Judged For More Than Her Crime: A Global Overview of Women Facing the Death Penalty'

ix. Cornell Law School, 'Judged For More Than Her Crime: A Global Overview of Women Facing the Death Penalty'

x. LBH Masyarakat, 'For Women Swept Up in the Drug Trade, Legal Help that Starts Early' (15 September 2016) <<https://lbhmasyarakat.org/en/for-women-swept-up-in-the-drug-trade-legal-help-that-starts-early/>>

xi. Cf. Bailey, C. (2013) 'Exploring Female Motivations for Drug Smuggling on the Island of Barbados: Evidence From Her Majesty's Prison, Barbados', *Feminist Criminology*, 8 (2) pp.117-141.

xii. Ibid.

xiii. Cross, C., 'More than just money: getting caught in a romance scam could cost you your life' (30 May 2018) <<https://theconversation.com/more-than-just-money-getting-caught-in-a-romance-scam-could-cost-you-your-life-97258>> accessed 21 February 2019.

xiv. Dunlevy, G., 'Heroin Queen? Merry Utami's Life Tells a Different Story' (28 July 2016) <<https://www.madalene.co/news-877-heroin-queen-merry-utamis-life-tells-a-different-story.html>> accessed on 21 February 2019.

xv. Fleetwood, J. (2014) *Women in the International Cocaine Trade*, p.108.