SDG 16: The Global War on Drugs vs. Rule of Law and Human Rights
Parallel event to the UN High-Level Political Forum on Sustainable Development 2021

War on Drugs, Death Penalty, and Fair Trial in Indonesia

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July 13th, 2021
War on Drugs in Indonesia

• Extrajudicial killings of drug-related offenders

• Judicial killings: death penalty for drug-related crimes
  ➢ Trend of execution
  ➢ Trend of indictment and sentence
  ➢ Violations of the right to a fair trial
Jakarta. President Joko Widodo opened the 2015 National Coordination Meeting on Drugs on Wednesday promising a renewed commitment to fighting the war on drugs in Indonesia.
War on Drugs in Indonesia: Judicial and Extrajudicial Killings

Apriadi Gunawan (The Jakarta Post)
Medan • Thu, October 19, 2017

National Narcotics Agency (BNN) chief Comr. Gen. Budi Waseso said that investigators would continue to shoot on site suspected drug dealers who refused to surrender.

“People said that the BNN cannot shoot on the spot. Why not?” he said at Merdeka Square in Medan, North Sumatra, on Thursday.

News Desk (The Jakarta Post)
Jakarta • Fri, July 21, 2017

National Police chief Gen. Tito Karnavian said on Thursday that the example of the Philippines illustrated that capital punishment was an effective way to combat drug dealers.
Extrajudicial killings: Excessive use of force by police

The numbers of police shootings in Indonesia:

- **July 2020 – May 2021** → 390 incidents (KontraS, 2021)
- **July 2019 – June 2020** → 543 incidents (victims: 41 drug mules and 38 drug dealers/kingpin), killing 287 people (KontraS, 2020)
- **2018** (only drug-related offenders) → 159 incidents killing 68 people (LBHM, 2020)
- **2017** (only drug-related offenders) → 215 incidents killing 99 people (LBHM, 2018)
Extrajudicial killings: Excessive use of force by police

In 2018, Amnesty International published a new report with the title, “Don’t bother, just let him die.” Amnesty International has analysed 69 cases of suspected unlawful killings by security forces in Papua between January 2010 and February 2018.

PRESS RELEASE — STOP EXTRA-JUDICIAL KILLINGS IN NARCOTICS CASES NOW!

LBH Masyarakat is strongly urging the Indonesia Government to immediately cease extra-judicial killings in the handling of narcotics cases. Monitoring of online media carried out by LBH Masyarakat has shown there were at least 215 shootings in the enforcement of narcotics law in 2017. Of these 215 cases, 116 people were wounded and 99 were killed.
President Joko “Jokowi” Widodo has instructed law enforcement officers to impose the sternest sanctions on drug dealers operating in Indonesia, including gunning them down if necessary.

“I have told you, just be firm, especially with foreign drug dealers who enter the country and resist [upon arrest]. Gun them down. Give no mercy.” he said in a speech on the United Development Party (PPP) national working meeting (Mukernas) in Jakarta on Friday.

**Trend of execution: death-row inmates of drug-related cases**

**First Batch execution (18 January 2015)**
1) Marco Archer Cardoso Moreira (Brazilian)
2) Namaona Denis (Malawian)
3) Daniel Enemuo a.k.a Diarrassouba Mamadou (Nigerian)
4) Ang Kiem Soei a.k.a Kim Ho a.k.a Ance Tahir a.k.a Tommi Wijaya (Dutch)
5) Tran Thi Bich Hanh (Vietnamese)
6) Rani Andriani a.k.a Melisa Aprilia (Indonesian)

**Second Batch execution (29 April 2015)**
1) Myuran Sukumaran (Australian)
2) Andrew Chan (Australian)
3) Martin Anderson (Ghanaian)
4) Zainal Abidin bin Ms Mahmud Badarudin (Indonesian)
5) Raheem Aghaje Salami (Spanish)
6) Rodrigo Gularte (Brazilian)
7) Sylvester Obiekwe Nwolise (Nigerian)
8) Okwudili Oyatanze (Nigerian)

**Third Batch execution (29 July 2016)**
1) Seck Osmane (Nigerian)
2) Michael Titus Igweh (Nigerian)
3) Humphrey Ejike (Nigerian)
4) Freddy Budiman (Indonesian)

Source: various media coverage
Trend of the death penalty cases on drug-related crimes in Indonesia (indictment and/or sentence)

Source: ICJR’s annual reports on the death penalty in Indonesia published from the year of 2016 - 2020
Drug-related crimes: The majority of death penalty cases in Indonesia

Source: ICJR’s annual reports on the death penalty in Indonesia published from the year of 2016 - 2020
ICJR’s Research: Death Penalty and Fair Trial in Indonesia (2019)

Sample data:
• 306 court decisions on the death penalty cases
• 100 death penalty cases (1997-2016)
• 118 defendants charged with and/or sentenced to death (75 drug-related offenders, 43 offenders of premeditated murders)
• 35 districts in 19 provinces
ICJR’s Research: Death Penalty and Fair Trial in Indonesia (2019)

Trend of death penalty cases (drug-related crimes)

Trend of death penalty cases (non drug-related crimes)
ICJR’s Research: Death Penalty and Fair Trial in Indonesia (2019)

Judges’ Reasoning in Imposing the Death Penalty as stated in Court Decisions

- Death penalty provided in positive law: 22 cases
- War on drugs: 21 cases
- Proportional punishment: 20 cases
- The amount of drugs as evidence: 17 cases
- Deterrent effect: 14 cases

Number of cases
ICJR’s Research: Death Penalty and Fair Trial in Indonesia (2019)

Violation of Fair Trial Rights During Pre-Trial

<table>
<thead>
<tr>
<th>Right to free from torture and other inhuman, degrading treatment</th>
<th>Right to be not arbitrarily arrested and detained</th>
<th>Access to legal counsel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug-related offenses</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Non Drug-related offenses</td>
<td>11</td>
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<td>2</td>
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<tr>
<td>Non Drug-related offenses</td>
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</tbody>
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Violation of Fair Trial Rights During Trial

<table>
<thead>
<tr>
<th>Right to conduct cross-examination</th>
<th>Non self incrimination</th>
<th>Trial without undue delay</th>
<th>Access to interpreter</th>
<th>Competent, impartial, and independent tribunal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug-related offenses</td>
<td>10</td>
<td>9</td>
<td>6</td>
<td>5</td>
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<tr>
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ICJR’s Research: Death Penalty and Fair Trial in Indonesia (2019)

Some drug-related cases where the defendants were sentenced to death based on their incriminating statements during police investigation. The defendants were coerced, intimidated, and physically tortured to make such statements.
Conclusion

• The Indonesian Government has been continuously denouncing “war on drugs” for the past 5 years despite undermining the rule of law and human rights protection

• EJKs are still frequently occurring, accountability?

• The numbers of people sentenced to death particularly for drug-related crimes are raising while the Indonesian criminal justice system fails to guarantee the right to a fair trial
Thank You!

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