

# MYANMAR

## 23rd Session of the Working Group on the Universal Periodic Review Human Rights Council

6 November 2015

Joint submission prepared by FIDH (International Federation for Human Rights) in collaboration with the World Coalition against the Death Penalty (WCADP), an alliance of NGOs, bar associations, local authorities, and unions.



1. FIDH (International Federation for Human Rights), a founding member of the World Coalition against the Death Penalty (WCADP), is an international human rights NGO with 178 member organizations from close to 120 countries. Since 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration for Human Rights.
2. WCADP, an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of WCADP is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, WCADP advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.
3. The FIDH-WCADP joint Universal Periodic Review (UPR) submission focuses on developments related to the death penalty in Myanmar over the past four years and makes recommendations geared towards the abolition of the death penalty. Information presented in this submission has been collected from official documents and verified media reports. Other second-hand information is specifically referenced in footnotes.

### Legal framework

4. The Criminal Code prescribes the death penalty for various criminal offenses, including: treason (Article 122); abetting of mutiny (Article 132); giving or fabricating false evidence with intent to procure a conviction for a capital offense (Article 194); and premeditated murder (Article 302).
5. Article 20 of the Narcotic Drugs and Psychotropic Substances Law, enacted on 27 January 1993, prescribes capital punishment as the maximum penalty for the production, distribution, sale, import, and export of narcotic drugs or psychotropic substances. The death penalty is mandatory if the offender is a member of a criminal organization, uses arms or explosives, uses children under the age of 16, or uses the influence of a public servant in carrying out the offense.
6. According to Article 382 of the Criminal Procedure Code, women cannot be executed during pregnancy. Under such circumstances, the court shall postpone the death sentence until the end of the pregnancy or may commute the sentence to life imprisonment.

7. Myanmar is a state party to the Convention on the Rights of the Child (CRC), which prohibits the execution of juvenile offenders. Article 71 of the Child Law, enacted on 14 July 1993, prohibits the imposition of the death penalty on children under the age of 18.

### **Very little progress towards abolition**

8. Since its last UPR in January 2011, Myanmar has made very little progress towards the abolition of the death penalty. Capital punishment remains on the books and courts have continued to impose death sentences. However, no one has been executed since 1988.
9. At its last UPR, Myanmar noted the recommendations made by Belgium, Greece, and Italy to abolish the death penalty. In May 2011, in its reply to the report of the Working Group on the Myanmar UPR, the government claimed that its status as a *de facto* abolitionist country was “in line with the international law.”

### **Death sentences continue to be imposed**

10. On 16 May 2011, 2 January 2012, and 2 January 2014, President Thein Sein issued three presidential amnesties that commuted death sentences to life imprisonment. However, courts continued to impose death sentences. Between January 2011 and March 2015, at least 67 people have been sentenced to death in Myanmar.
11. In 2011, courts imposed at least 33 death sentences.<sup>1</sup> They included the death sentences that a court in Yangon imposed on 7 March on 10 people on charges of murder related to a robbery in Yangon’s Kungyangon Township in May 2010.
12. In 2012, at least 17 people were sentenced to death.<sup>2</sup> They included the death sentences that the Kyaukpysu District Court, Rakhine State, imposed on 18 June on two Rohingya men who were found guilty of the 28 May rape and murder of a 27-year-old Rakhine woman in Rambree Township, Rakhine State. In addition, on 8 May, a court in Yangon’s Insein prison sentenced Phyo Wai Aung, 33, to death over a deadly bombing in Yangon in April 2010. Phyo Wai Aung’s conviction was based on evidence obtained through torture. On 4 August, President Thein Sein pardoned Phyo Wai Aung.
13. In 2013, there were no reported death sentences.<sup>3</sup> On 21 October, the Parliament’s Lower House rejected, by a vote of 330 to 19, a proposal introduced by New National Democratic Party (NNDP) MP Thein Nyunt to amend the 1993 Child Law and prescribe the death penalty for child rape.
14. In 2014, there was one reported death sentence. On 22 July, the Yangon’s Eastern District Court sentenced a 22-year-old man to death for the murder of a man on 15 March 2014 in Yangon’s Yankin Township.
15. Since the start of 2015, 16 people have been sentenced to death. On 7 January, a court in Bago Region sentenced an ethnic Karen man to death for the bombing of a guesthouse in Taungoo on 11 October 2013, which resulted in the death of two people. On 5 March, the Yangon’s Northern District Court sentenced 15 people to death for murdering a man in North Okkalapa Township on 17 November 2011.

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<sup>1</sup> Amnesty International, *Death Sentences and Executions 2011*, 26 March 2012

<sup>2</sup> Amnesty International, *Death Sentences and Executions 2012*, 9 April 2013

<sup>3</sup> Amnesty International, *Death Sentences and Executions 2013*, 26 March 2014

### **Myanmar abstains on UN General Assembly's resolution vote**

16. On 18 December 2014, Myanmar abstained during the vote on the resolution for a moratorium on the use of the death penalty at the UN General Assembly. It was the first time Myanmar did not vote against such a resolution. On 20 December 2012, Myanmar had voted against the resolution.

### **Recommendations to the government:**

- Establish an official moratorium on executions.
- Commute all death sentences into prison sentences.
- Permanently remove clauses that prescribe the death penalty for criminal offenses, including relevant articles of the Criminal Code as well as Article 20 of the Narcotic Drugs and Psychotropic Substances Law.
- Sign and ratify the International Covenant on Civil and Political Rights (ICCPR) and its second Optional Protocol, which aims at abolishing the death penalty.
- Vote in favor of the next UN General Assembly resolution that calls for a moratorium on the use of the death penalty.