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# Drug Traffickers' Deaths: Criticisms of Laws not All Fair

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## **Drug traffickers' deaths: Criticisms of laws not all fair**

S. Chandra Mohan

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WITH the dust having settled over Indonesia's recent executions of drug traffickers, it may be opportune to examine some issues that were previously not fully examined. No one, whether in Indonesia or elsewhere, considers the loss of a human life without sadness.

But the reasons for anguish over the executions and subsequent criticisms of Indonesia's laws, justice system and political leaders were not all rational or fair.

It cannot be disputed that every visitor to a foreign country must obey the laws of that country, the violation of which may result in serious consequences to life and liberty.

And no country needs to justify or rationalise any punishment it imposes, whether to foreign offenders, their governments or the media, or defend the integrity of its judicial process.

Unfortunately, the media frenzy over the Indonesian executions of eight drug traffickers dwelt on the severity of their punishment while ignoring the enormity of their crimes. Drug trafficking is a multi-billion-dollar international illicit trade that introduces 450 tonnes of heroin into the market each year. The United Nations Office on Drugs and Crime estimated in 2012 that there were more than 27 million drug addicts worldwide and some 183,000 drug-related deaths each year.

Drug traffickers have been described by a Malaysian judge as "engineers of evil and peddlers of death". The number of countries that impose the death penalty for drug trafficking has increased from 10 in 1979 to 22 in 1985 and 33 by 2012.

Indonesia is not alone in the region in imposing the death penalty, which it believes deters drug trafficking. As every arriving visitor well knows, all of Indonesia's Asean neighbours, with the exception of the Philippines after 2006, have made drug trafficking a capital offence.

The executions of drug traffickers emphasised Indonesia's resolve to deal firmly with its growing drug problem. There are some 5.6 million drug addicts in the country. When President Joko Widodo took office last year, he vowed to deal with his country's colossal drug problem which he described as a "national emergency".

Some 40 young Indonesians die each day from drug abuse, Mr Joko had noted.

Equally alarming was the level of drug addiction among public servants in almost all the state agencies. They are supported in their habit by thousands of tonnes of drugs imported into the country, mostly by foreign drug syndicates.

In January this year, out of 60 convicted traffickers on death row, 34 were foreigners from 15 countries. They had taken advantage of Indonesia's long and porous maritime borders and weak law enforcement.

The nine Australians, dubbed the "Bali Nine" who were convicted in 2006 of trafficking in heroin, mostly received prison terms according to their role in the offence.

There was ample evidence of their guilt from their testimony at the trial, the drugs found on them, evidence gathered during surveillance in Indonesia and from information supplied by the Australian Federal Police (AFP) on their involvement in drug trafficking.

Andrew Chan and Myuran Sukumaran, who were executed, were the masterminds of the group.

One claimed he knew nothing and he would be "lying" if he had said anything in court. The other claimed amnesia for his inability to remember anything until his arrest.

The Australians were convicted of trafficking in 8.5kg of heroin with a street value of US\$3.1 million, sufficient for about 170,000 drug users for a week.

The drugs were destined for Australian cities, where they would have contributed to more deaths from drug overdoses and HIV infections from shared needles. Ironically, the AFP has been accused of "having blood on their hands" for tipping off their Indonesian counterparts.

It is surprising how even the delay in the executions, rather than a rush to carry them out, was the subject of criticism.

Critics ignored the fact that Chan and Sukumaran were permitted to pursue their appellate remedies right up to three weeks before their executions.

The years that followed their convictions saw them fully exhausting a plethora of legal and administrative remedies.

It included a challenge to the constitutionality of the death penalty, appeals to the Bali High Court, the Supreme Court and the Constitutional Court, applications for judicial review to the Bali District Court, petitions for presidential clemency and final appeals to the state administrative court.

What is less known is that, according to a Roy Morgan Research poll taken at the end of January, 62 per cent of Australians felt their government should do nothing more to stop the duo's execution.

The Australian media played up the tirade about the death penalty from human rights activists who do not have the responsibility of running a government or managing law and order in a country like Indonesia.

Even if one were to accept that there is insufficient evidence that capital punishment deters crime, is there any evidence that it will not or has not done so? At any rate, at least for the present, does anyone anticipate Australian traffickers rushing into Indonesia to ply their trade?

Events that followed the executions were equally astonishing in Australia. Prime Minister Tony Abbott joined a number of his countrymen to describe the executions, in accordance with Indonesian law, as "cruel and unnecessary".

But did scores of Australians not cheer and applaud in court when the three Bali bombers were sentenced to death in 2003?

Then Prime Minister John Howard was reported as having said that he found it impossible "as an Australian, as Prime Minister, and as an individual, to argue that those executions should not take place when they have murdered my fellow countrymen and women". The idea of even pleading for the deferral of their executions was "distasteful to the entire community".

The Bali bombers' biggest mistake, perhaps, was that they did not flee to Australia, which refuses to extradite convicted foreign murderers facing capital punishment in their own country.

This entire unfortunate episode is not about the clash of political will or nationalism or of that elusive concept called human rights.

It is about visitors to a foreign country respecting its sovereign and inalienable right to have and enforce its own laws as it thinks fit. For those unwilling to show that respect, the world just does not owe them a living.

The writer is a law professor at the Singapore Management University.