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December 2, 2016

Hon. Pantaleon D. Alvarez

Speaker

House of Representatives, Philippines Congress

speakerpda@congress.gov.ph

Senator Aquilino Pimentel III

President

Senate, Philippines Congress

kokopimenteloffice@yahoo.com

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

Dear Hon. Pantaleon D. Alvarez and Senator Aquilino Pimentel III,

We call on the 17th 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>1</sup> We urge all members of the House of Representatives and Senate to uphold the right to life enshrined in the 1987 Philippines Constitution, and to strengthen compliance with the Philippines' obligations not to impose the death penalty under section 19 of the constitution and the International Covenant on Civil and Political Rights (ICCPR) along with the Second Optional Protocol.<sup>2</sup> We urge the government of the Philippines to ensure proportionate sentencing of drug offenses to protect the vulnerable, and invest in harm reduction approaches to protect the health and well-being of the Filipino people.<sup>3</sup> By doing so, 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 exemplified by the case of Mary Jane Veloso, an overseas Filipina worker on death row in Indonesia, the majority of individuals sentenced

<sup>1</sup> House Bill No. 1, [http://www.congress.gov.ph/legisdocs/basic\\_17/HB0001.pdf](http://www.congress.gov.ph/legisdocs/basic_17/HB0001.pdf).

<sup>2</sup> 1987 Philippine Constitution, art. III, section 1, <http://www.gov.ph/constitutions/1987-constitution/>. Article III, section 19(1) of the 1987 Philippine Constitution states, "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>3</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; see <https://www.hri.global/what-is-harm-reduction>.



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with the death penalty for drug offenses 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 socioeconomic 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 socioeconomic classes—largely undereducated, underemployed, lacking access to sanitation and water, and generally living in poverty.<sup>4</sup> Their involvement in drug-related activities are driven by poverty and socioeconomic marginalization, which can only be effectively addressed with drug policies that prioritize 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 marginalized communities—just one reason for the wholly ineffective use of the death penalty in deterring drug-related activities.<sup>5</sup>

Indeed, there is no evidence of the effectiveness of the death penalty in deterring the use, cultivation, manufacturing and trafficking of drugs—a fact emphasized by United Nations Office on Drugs and Crime (UNODC) data predominantly showing expanding and diversifying drug markets in all regions of the world.<sup>6</sup> Use of the death penalty for drug offenses is declining around the world. It remains in routine use by only seven countries (six of which are in Asia, the other being Saudi Arabia).<sup>7</sup> However even in Singapore, despite ongoing implementation of the death penalty for drug offenses, available data on drug use and supply trends portray an expanding drug market, especially in relation to the supply of methamphetamine as indicated by increasing volumes of seizures in recent years.<sup>8</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 United States.<sup>9</sup>

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<sup>4</sup> Free Legal Assistance Group, *Socio-Economic Profile of Capital Offenders in the Philippines* (2006).

<sup>5</sup> P. Gallahue, et al., *The Death Penalty for Drug Offences: Global Overview 2012 - Tipping the scales for abolition*, International Harm Reduction Association (2012), pp. 21 – 22, [http://www.ihra.net/files/2012/11/27/HRI\\_-\\_2012\\_Death\\_Penalty\\_Report\\_-\\_FINAL.pdf](http://www.ihra.net/files/2012/11/27/HRI_-_2012_Death_Penalty_Report_-_FINAL.pdf).

<sup>6</sup> UNODC, *World Drug Report 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>7</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>8</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); 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>9</sup> Death Penalty Information Center, “Executed but Possibly Innocent,” <http://www.deathpenaltyinfo.org/executed-possibly-innocent>.

Imposing the death penalty for drug offenses is a violation of international human rights law. Drug offenses 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>10</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 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).<sup>11</sup> 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>12</sup>

The INCB further calls on member states to institute proportionate sentencing for drug offenses, which is relevant to the range of penalties proposed in House Bill No. 1.<sup>13</sup> It is especially concerning to note the severely disproportionate application of penalties to drug offenses “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>14</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

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<sup>10</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*, September 4, 2015, para. 38, [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A\\_HRC\\_30\\_65\\_E.docx](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_65_E.docx).

<sup>11</sup> Single Convention on Narcotic Drugs, 1954; Convention on Psychotropic Substances, 1971; United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

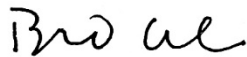
<sup>12</sup> International Narcotics Control Board, *Report of the International Narcotics Control Board for 2014* (2015), p. iii, <http://www.incb.org/incb/en/publications/annual-reports/annual-report-2014.html>; *Contribution of the Executive Director of the United Nations Office on Drugs and Crime 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), 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>13</sup> International Narcotics Control Board, *Report of the International Narcotics Control Board for 2007* (2008), 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>14</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).

Human Rights, we call on you to ensure that House Bill No. 1 does not pass.<sup>15</sup> 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,



Brad Adams  
Asia Director  
Human Rights Watch

CC:

Cong. Reynaldo Umali  
Chairperson, Committee on Justice  
House of Representatives, Philippines Congress  
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<sup>15</sup> ASEAN Parliamentarians for Human Rights, "Regional MPs call on Philippine Counterparts to reject death penalty bill," December 1, 2016, <http://aseanmp.org/2016/12/01/regional-mps-call-on-philippine-counterparts-to-reject-death-penalty-bill/>.