

The Conversation.com, April 29 2015     Amid international calls for mercy, the Indonesian government has executed eight people, including Bali Nine duo Andrew Chan and Myuran Sukumaran.     This is the second round of executions under President Joko Widodo, popularly known as Jokowi. He justified the killings as a “shock therapy” to solve Indonesia’s drug crisis.

Indonesian experts respond below.

Nonsensical executions

Tobias Basuki, Researcher at the Department of Politics and International Relations Centre for Strategic and International Studies

Indonesia has lost its moral standing internationally given it is also attempting to save the lives of its own citizens on death row abroad – some of whom have been convicted of drug-related crimes as well. But, more importantly, it has twisted and jumbled its own legal system.

Eight more lives have been lost. Among them are reformed Australians Andrew Chan and Myuran Sukumaran, Ghanaian Martin Anderson and Brazilian Rodrigo Gularte – who was reportedly diagnosed with paranoid schizophrenia.

The Indonesian Constitution maintains the right to life. However, beyond normative ideas of human rights and the rule of law, the sense of justice in Indonesia has been turned upside-down.

The Indonesian government has taken the lives of rehabilitated criminals, a “petty” criminal, who was caught with 50 grams of drugs, and a reportedly mentally ill person. However, it practically released killers hailed as “heroes” who butchered fellow Indonesians in cold blood in the 2011 Cikeusik massacre.

It is tragic to have already lost 14 lives to executions since Jokowi took office. Australia and other countries that objected to the death penalty to save the lives of their citizens should continue the campaign to abolish it.

The indignant reactions by foreign leaders and some aggressive statements and actions in response to the previously planned executions have been counter-productive. They have all but nailed their own citizens' coffins by arousing a backlash of nationalistic sentiment from within

Indonesia. That left no room for Jokowi to backflip on his refusal to grant clemency, no matter how small the possibility was.

Australia in particular would do well to stay on the campaign constructively, not by threats of boycotts and belligerent statements. Maintaining advocacy efforts against the death penalty will vindicate Australia's position and shield it from accusations it is merely serving its national interest. It would prove that Australia's objection to the death penalty was not mere self-interest, but that it is genuine in wanting a greater value placed on the right to life and a better legal system in Indonesia.

Death penalty derails Indonesia's legal reform efforts

Asmin Fransiska, Lecturer in Human Rights at Atma Jaya Catholic University

The Indonesian government is wrong for arguing that upholding the death penalty is a matter of "law enforcement". The death penalty actually derails efforts to reform the country's legal system.

Law enforcement institutions in Indonesia are tainted by a corrupt bureaucracy and dirty legal apparatus. Cases of torture are not hard to find. Under these circumstances, it is possible that the death penalty is imposed as a result of a mistaken legal process.

Death penalty sentencing is also laden with discrimination. It is used disproportionately for certain groups of people. The death penalty never touches perpetrators from the elite, rich and powerful.

The use of the death penalty derails legal reform objectives. One of the goals in criminal law reform is to change perspectives on punishment. The purpose of punishment is not only deterrence or condemnation, but also restorative justice.

The Office of the UN High Commissioner for Human Rights and UNAIDS have said:

States should review and reform criminal laws and correctional systems to ensure that they are consistent with international human rights obligations and are not misused in the context of HIV or targeted against vulnerable groups.

The issues of drugs are mostly not only related to the user or seller, but most of the time it deals

with the range of people who help or merely associate with those who sell drugs.

All crimes should be viewed in a legal context as a social, cultural and economic problem. To carry out the death penalty by claiming it deters drug crimes without addressing the three issues is a misguided policy.

The death penalty has become one of the biggest obstacles in applying international human rights principles in Indonesia's legal reforms. Indonesia ratified the International Convention on Civil and Political Rights (ICCPR) in 2005. Article 6 of the ICCPR stipulates that defendants should be guaranteed fair trials that are non-discriminatory and free from torture and degrading punishment. In Indonesia, these guarantees have been violated as shown in the examples above.

Finally, there is no significant proof that the death penalty deters crime. Death sentences for drug traffickers have not stopped illegal sales of narcotics.

The increase in drug trafficking, terrorism or other crimes should not be seen as a result of weak implementation of the death penalty. We must look at the issue as a structural problem. Misconduct by law enforcers, a corrupt bureaucracy, poverty and the government's inability to provide a solution is evidence of a structural problem that needs to be tackled without reverting to the death penalty as an answer.

'Shoot first, ask later'

Yohanes Sulaiman, Lecturer in International Relations at Indonesian Defence University

Jokowi's administration seems to be a "shoot first, ask later" government. I think the president did not spend a long time thinking about the long-term implications of his policy of executing drug convicts on death row. He seems to think everybody must hate drug traffickers, so therefore it is okay to shoot them.

Jokowi was caught off guard by the international reaction to his policy to execute foreign nationals convicted of drug trafficking. At the same time, he used this international pressure against Indonesia as an opportunity to look strong in front of the Indonesian people.

Jokowi's reaction to calls from foreign leaders to spare the lives of the death-row convicts differs from the attitude of his predecessor, Susilo Bambang Yudhoyono (SBY). If this international

backlash against Indonesia had happened in SBY's term, the then president would have been very unhappy.

However, Jokowi just shrugged it off. He is not concerned about being seen negatively by the international community. He is more inclined to show himself as a strong father figure and leader who would defend Indonesians from the drug scourge and international pressures.

The more the international community fought the president's decision on executions, the more Jokowi gained from it. Still, it is doubtful whether the political points scored from standing up to international pressure will have a long-term effect – or even that the gain would be that high. The reason is that, domestically, most people do not really care about the executions and most of the attention is on the undermining of the corruption eradication commission.

Australia-Indonesia relations will not be disrupted too much. For Australia, in the long run, maintaining a good relationship with Indonesia is worth more than the lives of Andrew Chan and Myuran Sukumaran. However, Jokowi could have used this opportunity to form an alliance and win Australia's support for Indonesia in saving its citizens on death row abroad, such as in Saudi Arabia.

Human rights groups are very disappointed with Jokowi's policy on executions as it does not uphold human rights principles. Some supporters have become disillusioned with him. However, it is not fair to blame Jokowi for their disappointment. He did not base his presidential campaign on human rights issues, even though it was included in his campaign manifesto.

Jokowi was more of a blank canvas. Supporters painted what they wanted him to be during the presidential campaign. As he was going up against ex-military general Prabowo Subianto – who had a bad human rights record – people assumed that Jokowi would be better on human rights issues.

People had expected too much of Jokowi. When it turns out that he is just another politician, naturally they will be disappointed.

Crowd versus public

Andina Dwifatma, Lecturer in the School of Communication at Atma Jaya Catholic University of Indonesia

On March 2, Kompas – one of Indonesia’s biggest daily newspapers – published an opinion poll about how people saw Jokowi’s foreign policy. One of the questions asked was about Andrew Chan and Myuran Sukumaran’s executions.

Some 86% of respondents agreed that Chan and Sukumaran should be executed regardless of the Australian government’s protests. To these people, Jokowi’s move represents strength – a character that leaders must possess.

A question lingers amid talk of being firm on drug traffickers. Is the death penalty necessary to show strength in the war against drugs? Or is it merely the president’s desperate way to prove that he possesses that quality, especially after he could not be firm in stopping the Indonesian police from undermining the country’s anti-graft agency?

In the same opinion poll, 57.8% respondents were willing to cut off diplomatic relations with any country that failed to show respect for Indonesia’s law, including Australia. This noticeably high percentage shows that, for most Indonesians, national pride is something important to hold on to.

To understand the high percentage of people supporting the death penalty and having nationalistic attitudes, it is important to distinguish between the concepts of the “public” and the “crowd”.

A crowd is moved by a unity of emotional experience. Crowd members tend to be reactive rather than deliberative. In the crowd, individuals easily lose their own identity, and act only according to collective desire.

This is why some people approve of killing other people in the name of national pride. This is also why people in Aceh gathered coins to repay Australia after Australian Prime Minister Tony Abbott’s comments linking tsunami aid and the lives of Chan and Sukumaran.

Meanwhile, the “public” means individuals gather not only in the name of empathy, but also for the ability to think and to argue. A group of people can be called “public” when faced with common problems; they express point of views regarding the problem and are willing to be involved in discussions to find a solution.

Take Filipino Mary Jane Veloso’s case. From Twitter hashtags and online petitions to community actions and discussions, people examined Veloso’s story as a human trafficking case. People, including Indonesians, used chronological data of Veloso’s case to argue that

Jokowi should have granted clemency for her. The public did not only shout angrily at the Indonesian government; they argued with reason. Veloso was spared from the firing squad at the 11th hour.

Being part of the crowd will only prevent Indonesians – and also Australians – from seeing the larger picture of the debate about the death penalty. It will also rule out any chance of dialogue between the two countries.

The best thing we can do now is to make sure we stay together as “public”. Hate speech, and reactive and violent actions, should be avoided. The public does not, and need not, always agree. Combining differences of opinion with a desire to solve problems together is a prerequisite of public existence.

<http://theconversation.com/bali-nine-duo-executed-the-view-from-indonesia-38392>