

TRANSCRIPT

"DRUGS AND THE DEATH PENALTY: CAPITAL PUNISHMENT AND GLOBAL DRUG CONTROL"

A conversation with Patrick Gallahue, Elizabeth Zitrin, and Faraz Sanei

Moderator: Scott Bernstein

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ANNOUNCER:

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SCOTT BERNSTEIN:

Hi everybody, welcome. My name is Scott Bernstein. I'm with the Global Drug Policy Program of Open Society Foundations. And I'm really happy to welcome you to this event that we are spo-- sponsoring with the-- co-sponsoring with the World Coalition Against the Death Penalty.

And so tonight's-- event is called "Drugs and Death Penalty: Capital Punishment and Global Drug Control." And so-- we're holding this event-- very close to-- October 10th, which is the 13th World Day Against the Death Penalty. And this year-- specifically, that day is-- is going to be focused on-- death penalty for drug-related offenses.

So this is very-- applicable, and we're really happy to have you all here. So-- tonight's-- I just wanna give a little bit of context before-- I'm gonna introduce our-- excellent panel tonight, and let them do most of the talking. But I wanna talk a little bit about some of the context of why we're talking about the drugs and death penalty, in-- in addition to it being the-- the World-- Day Against the Death Penalty.

So the-- in April of 2016, April of next year, about-- just a little over six months away--

in New York-- there's gonna be a United Nations General Assembly special session. And so this is a-- convening at the highest level-- in the U.N., here in New York. And this particular topic is gonna be around the drug issue.

So we're gonna be talking about the drug control system. Member states are now becoming-- they're learning about it. They're developing positions. They're starting to negotiate. And so that's-- that's gonna be happening-- April 19th to 21st here in New York City. And-- what-- what different parties-- some of our grantees of our programs, our own organizations, are trying to-- expand the dialogue a bit, around some of the impact of the so-called War on Drugs approach to different issues.

For example, public health-- impacts-- mass incarceration-- worldwide corruption-- black market-fueled violence. And also-- what the War on Drugs has actually done to increase the-- the death penalty used as a punishment for drug-related offenses. And so-- just-- just to give you a couple numbers.

So in 1979, there were-- an estimated ten countries in the world that applied-- the death penalty for drug offenses. And in 2012, that number now is tri-- almost triple-- over tripled, to 33 nations, that are using that. And so the result is an increase of-- drug control system in the international system pushing nations to-- some nations to think that they are-- it's an appropriate response to-- drug offenses, is the death penalty. And so-- I think our panelists is go-- are gonna dig in-- quite a bit on some of those issues, and some of the specifics.

But-- I-- I just wanna highlight, you know, this is-- this is pretty-- you know, pretty major stuff happening. And one-- one big issue was, I don't know if you recall, in April. So Indonesia executed, very publicly, like, they-- they-- with a firing-- firing squad, they executed-- eight drug traffickers. And seven of those were foreigners. And-- you know, and this despite condemnation from Australia, Brazil, and the world, who-- who tried to save their nationals.

Indonesia very publicly and very openly went ahead and dealt with this. And then, also, as-- as you'll hear tonight-- you know, China, Iran, Singapore, Saudi Arabia, and Thailand are-- are routinely engaging in execution of people for drug-related offenses. And-- so-- estimates are that-- that-- in some years, as many as 1,000 people are executed. And in over-- it was documented over a two-year period-- Iran had executed 1,000 people just-- just itself, for-- for drug-related offenses.

So-- you'll-- you'll hear-- you'll hear from the panelists a bit how all the-- how these are contrary to-- U.N. treaties. And the U.N. bodies have come out and said that this is not an appropriate response. We don't want to-- countries to execute for drug-related offenses, but it goes on.

So-- the other thing that's happening tonight is we're launching this report that you may have seen outside. It's "Drugs and the Death Penalty." And it was authored by-- Patrick Gallahue, who's-- (LAUGH) in the middle here. And we're grateful for that. And this is part of-- a series of ten briefing papers that Open Society Foundations is producing on topics for the UNGASS. And so this is-- this is the fifth of ten-- other topics that we have out there are-- drug courts, harm reduction-- the impact of drug

policies on children, the impact of drug policies on women, as well.

So please help yourself. Those are outside on the table. And-- I'll-- I'll just finish up. But before I introduce-- the-- the-- the panelists tonight. So this report is actually-- it's not just-- for-- for your information-- U.N. missions. It's-- it's actually-- there are some recommendations that we're making-- f-- around the death penalty.

And so those-- those three recommendations are-- the first one is, the governments should commit to abolishing the death penalty for drug-related offenses. And-- we're looking for unanimous accepta-- acceptance of this commitment as the goal. The second one being, governments should recognize that death penalty for drugs is a violation of human rights. And the third is an increased emphasis by governments for-- generally looking at alternatives to arc-- incarceration for drug use and minor drug offenses.

And so-- the-- and the-- and the outcome of the UNGASS really should be a commitment by member states to make these steps. So if-- if-- if we can get those particular three recommendations around the death penalty-- at the UNGASS, it would be a really-- really good-- success for us.

So-- our panelists. So-- from-- from your right-- on down. So have-- Elizabeth Zitrin, who's formerly a criminal defense attorney in San Francisco. And she is president of the World Coalition Against the Death Penalty, representing Murder Victims' Families for Human Rights, on the WCADP steering committee. And she has pioneered collaborations between the death penalty abolition movement in the U.S., and the international abolition community.

In the middle is-- Patrick Gallahue, who's currently the communications director of the American Civil Liberties Union in Connecticut. And-- we-- we know him very well. He previously worked with Open Society Foundations as the communications officer in-- in my program, the Global Drug Policy Program. But he's also-- he also before then worked with Harm Reduction International, who has-- a lot of investment in the issue of the death penalty for drug-related offenses. And he's gonna talk a bit more about the report that they're issuing-- as well.

And-- his-- Patrick's professional experience is focused on drug policy reform, abolition of the death penalty, criminal justice reform, and-- access to better services for people who use drugs. And-- you may not know this, but prior to his work as-- in advocacy, Patrick was an award-winning journalist-- in New York, where he wrote about crime, development, politics, and transit. And he's-- the author of several reports on capital punishment and drug offenses. And-- is one of the foremost and only experts on the death penalty for drug offenses, so. (LAUGHTER) Did you write this yourself? (LAUGHTER)

(OVERTALK)

SCOTT BERNSTEIN:

And then there's this guy. No-- (LAUGHTER) no. And-- and it-- didn't print off. Here it is. Okay. And so our-- our third-- our third panelists are-- different. So our third panelist is-- Faraz Sanei. Did I get that right?

FARAZ SANEI:

Yeah.

SCOTT BERNSTEIN:

Okay. And he's the director of the Human Rights in Iran unit at City University in New York, Brooklyn College. He's a legal advisor to the U.N. Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. He previously served as the Iran and Gulf researcher with Human Rights Watch's Middle East and North Africa division, and that was from 2010 to 2015.

And he was the interim executive director, program director, and senior human rights lawyer for the Iran Human Rights Documentation Center, which he did from 2008 to 2009. So-- with that, I'm gonna turn it over to our panel. And again, I'm really happy you're all here. En-- enjoy. And-- at the end of this session, we'll have opportunity for you to ask some questions, and have a dialogue with our panelists here. Thank you. (APPLAUSE)

PATRICK GALLAHUE:

So thanks again. That was meant to be a bit of a joke. The world's, you know-- one of the world's foremost and only experts. (LAUGH) You know, you wanna be at the top of a very shallow pool. Anyway, my name is Patrick Gallahue. It's really nice to be here and see so many friends. And like I said, you know, working with the-- formerly with Open Society Foundations, and was a member of the World Coalition Against the Death Penalty, with Harm Reduction International.

And now-- did this for-- for Harm Reduction Inter-- a new report for Harm Reduction International on the death penalty for drugs. So I'll just assume I'm speaking for everyone in this room in my following comments. Again, a joke. (LAUGHTER)

Anyway-- when we started working on the death penalty for drugs, our-- one of the questions we typically got was, "Well, why are you focused on just drugs? If you're opposed to the death penalty for all crimes, wouldn't it be better to just abolish the death penalty?"

And the answer is, of course, yes. However-- a few things happened, as Scott mentioned, in the '70s to '90s, and 2000s-- thanks to the great work of groups like

Amnesty International, Human Rights Watch, and the World Coalition. We're at an unprecedented time in the proportion of countries that apply the death penalty. It's now-- it's now on the decline in a way that's just never been historically.

We've never seen so few countries having the death penalty, in both law and practice. But while that decline was happening, we started to see a-- a-- an inverse rise in the number of countries that were applying the death penalty for drugs. And it occurred on two fronts. It was both countries introducing-- death penalty legislation-- for drug offenses. And it was also in the countries that maintained the death penalty, how they-- how-- the-- the kinds of offenses that they were applying it for.

And drugs started to take a greater share. There's a few different reasons for that. I mean, at the time that-- that this was all happening, it was the evolution of the international drug control system. They were consolidating them into more-- criminal justice-oriented treaties. In addition, the U.S. Drug War was launched. There was probably greater foreign pressure than ever before to have zero tolerance policies.

Many of the human rights treaties that started to put strict limitations on the kinds of things you would-- apply the death penalty for-- hadn't taken effect yet. So there was-- a lot of different things coming together. But the-- the-- at the long-- the end-- the long and short of it is, in the '90s, we started to see an unprecedented number of countries that were applying the death penalty for drugs.

So one important thing we often see is, "Well, why is it Saudi Arabia? Why is the Middle East and Asia? Isn't there some cultural component here?" And generally, the facts don't bear that out. You'll see a lot of countries that introduced these laws in the '70s and '80s and '90s, now saying it's a cultural phenomenon, and that's just not the case. There are-- these-- these countries did-- these laws didn't historically exist in many of the countries that now have the death penalty for drugs.

There's a second reason to focus on the death penalty for drugs as well. And that's that-- drug offenses are not like other crimes. And in the case of-- let's-- a murder. Let's say-- a woman is in-- a terrible relationship. She's abused by her husband. She kills her husband, and is then sentenced to death. That's an offense that's entirely contained within a national criminal justice system.

Drug offenses, though-- is generally linked to the entire drug control system, which is to say that no single actor in the drug control system is completely disconnected from another other actor. So we share resources, we share capacity, we share personnel-- on catching people for drug trafficking. And what often ends up happening is somebody's captured through programs that were implemented by the U.N., which is opposed to the death penalty for drugs. At least-- all of its (LAUGH) agencies and-- and human-- and human rights bodies.

And-- very often funded by abolitionist states, and then that person is executed. And that's actually emblematic of the entire drug control system. You get a lotta people working together, but they're not always to the same ends. So if you take a look at Singapore. Fifteen grams of possession of heroin, and you are presumed to be a

trafficker. And if you're found guilty, you are subject to a mandatory death penalty. Fifteen grams.

Now, meanwhile, some other countries in the world actually prescribe heroin to people, in order to help stabilize them and engage them in services, and do these other-- and-- and-- on a whole lot of other things that use it, it's (LAUGH) a lot more successful than executing people. Or take marijuana, for instance. You know, we now have a number of jurisdictions that have taxed and regulated systems of marijuana.

But in Malaysia, we did review once, two years of death sentences, and found that more than 40 percent of the people who were sentenced to death were sentenced for cannabis trafficking offenses. So, you know, it's not to say that-- all of these things are equal and the same. But it's just to say that we all work together in the drug control system with very little coherence, and very little agreement on what are the shared goals.

And the more you point that out, the-- the-- the more alarming it is. And so there are certain countries-- the-- the-- the good news, probably, about all this, is that not all countries are equal. Over the '90s and 2000s, we saw, actually, the death penalty for drug offenses also go into decline. So fewer and fewer countries repealed those laws. The countries that retained them, fewer and fewer of them actually applied them.

So a lot of countries have-- become more or less abolitionist de facto for all crimes, or abolitionist de facto specifically for drug crimes. The problem is, there is a sort of stubborn, entrenched-- minority, that numbers about six or seven or eight countries-- depending on what the data says. But-- and-- and they are-- a very small minority.

And probably, Iran is generally viewed as being the most extreme right now, in that 50 percent of the people executed are typically 50, 60, sometimes higher for drug offenses. We're talking about hundreds of people, very often in secret. And so the international response has been, "Well, okay, if this is our collective, shared responsibility, drug control, it's been all kind of sporadic and very often ad hoc." So they'll often slap some sort of human rights guidance up and it says, "Oh, well, if we see big human rights abuses occurring, we are going to-- pull outta those countries," but they never actually do.

On the other hand, a handful of donor states have started to draw the line, and say, "All right, you know what? In these worst circumstances, we don't think we can fund drug enforcement." And they've-- subsequently, countries like Iran, U.K., and-- Denmark have pulled their funding from Iranian drug control programs. But if there's some shared responsibility here, there should probably be some more coordinated shared accounting of actually the impacts of the drug control system.

So, you know, one thing that I think Harm Reduction International would like to see done is start to make this part of the international system. Start to look at the shared impacts of drug control here, so that we can debate-- you know, what we're doing in all our names. And-- all-- and in-- and in-- and through the international machinery.

So every year, we have a commission on narcotic drugs, where a bunch of governments get together, and they talk about their drug control systems. And they report things like arrests and seizures and all that. Well, why not report death sentences and executions-- every year? That would at least lay bare some of the issues that we know are simmering under the surface, and that governments will fight about in private, but are reluctant to-- have these discussions in public.

It's part of the drug control system. We-- so sh-- we-- we should discuss it as such. Secondly, the other thing that I think Harm Reduction International is concerned about is, the paradox of Iran is that Iran has all these executions. On the other hand, they have needle exchanges in prisons, or at least, the last time I checked, they did. They've got some decent harm reduction services, and they've got some decent drug services.

Completely disconnecting from Iran may not be the best move for all of our well-being. Within drug policy, it's always the case that we know there's a harsh criminal justice approach, that-- hasn't been as effective as health-based approaches. And so redirecting the funding may actually be a better long-term solution than saying, "Okay, well, we're not going to fund the law enforcement side of things, because we're concerned about how that money's gonna be used. But we could steer that into some of the health services."

But-- in any case, that's-- why I think we're talking about the death penalty for drug offenses today. I mean, it's-- it's become a bigger and bigger-- bigger feature of the death penalty internationally, which is why we're really, really excited that the World Coalition-- devoted the World Day Against the Death Penalty to drug offenses this year. Because it has taken a greater and greater share of death penalty policy internationally. So again, thank you for having me. And-- I think-- is it going to you?

ELIZABETH ZITRIN:

I think it's going to me.

PATRICK GALLAHUE:

All right. Well, thank you, Elizabeth.

ELIZABETH ZITRIN:

Thank you.

PATRICK GALLAHUE:

Elizabeth Zitrin.

ELIZABETH ZITRIN:

Thank you, Patrick. My name is Elizabeth Zitrin. I'm the president of the World Coalition Against the Death Penalty. And as you heard-- our-- our-- World Day Against the Death Penalty this year, World Day is October 10th every year. It's also European Day Against the Death Penalty. It's been widely adopted, widely recognized, and recognized-- spoken about last year by the Secretary General of the U.N. on World Day.

And we have a different theme, a different focus, for each World Day. And this year, it is in fact this, "The death penalty does not stop drug crimes." We have-- a slogan in many languages. This is the one in English. But the-- you've been hearing about this theme, that-- we should not be executing, in our view, for anything, under any circumstances, anywhere in the world.

But that the death penalty for drug crimes is-- rampant-- newly rampant, and-- inappropriate, and ineffective. So this is our 13th World Day Against the Death Penalty. We-- began-- in-- in the year 2002. We now have over 150 member organizations, in-- some 50-plus countries. I should know exactly how many and I don't. We are bar associations, NGOs, NGOs focused on the death penalty, more generally focused NGOs working on human rights issues. We have trade unions, we have some regional governments.

Very broadly based in both-- retentionist and abolitionist countries. So we have-- a tremendous amount of support in Europe, which does not, outside of Belarus-- have the death penalty at all. And we also have strong support in many retentionist nations. We, last year, for-- for World Day, just to give you a little context and background for the way we operate, our World Day last year was on-- mental illness and intellectual disability.

And-- we were engaged in-- discussions about not executing-- why-- the reasons why no state should execute people with-- mental illness or-- or-- intellectual disability. And in a similar-- theme to one that Patrick mentioned, that these are health problems-- or status problems, that are not appropriately death-- dealt with through the criminal justice system-- at all. So last year, 2014, for our 12th World-- World Day, we had some 425 events for World Day in-- 82 countries.

And-- we-- we expect that we'll have similar, maybe higher, numbers this year. So we-- we do have the ability, through our membership all over the world, to disseminate ideas, to connect our members to each other, to connect our members to resources. And-- that's-- that's the way the World Coalition basically-- operates. Of course, we're aware-- we were aware as we-- our membership-- decided on the theme of this year's World Day-- about-- aware of the-- UNGASS-- session coming up next year, with a focus on drugs.

Just briefly, to-- to again, give you a little bit of the context of-- of the World Coalition, again, we-- this is the death penalty world. The blue colors are abolitionist for all crimes, yellow, abolitionist for ordinary crimes, green, abolitionist in practice,

and the bad actors, like the United States, although not every state executes-- in red. Here, for-- the focus of this session, and for the focus of World Day this year, we're looking at the world that executes, or that retains at least in name, the death penalty for-- for drug crimes.

The high application states-- as you've heard, China, which is so opaque that we really don't know-- very much about what's going on there with the death penalty at all. Indonesia, which-- you've heard something about. You'll hear more about. Iran, which has-- had catastrophically high and rising rates of execution for death penalty-- for drug-- offenses.

Malaysia, Saudi Arabia, Singapore, and Vietnam, which are the states that are actually executing. I'm looking at-- charts and numbers. And I-- my-- it's my understanding-- I hope I didn't misunderstand something that-- that-- that Patrick said. But it is my understanding that the majority of executions in Iran have been over the last five years for-- drug crimes.

So it's not-- mere-- it's not half, it's not-- a percentage. They are treating drug crimes more severely than murder. This is over the period of the last five years. For at least the five years-- as I understand, from our-- our colleagues who are focused on Iran, at least the-- last five years, where there are very solid numbers. The majority of executions in Iran have been for drug crimes.

More than 2,500 people executed for drug offenses in Iran. This is-- a statement-- by-- our member and colleague-- Iran Human Rights, who's known to many of you at-- in Geneva-- last week, reporting on the catastrophic-- levels of-- of-- execution in Iran, and you'll hear more about that. But these kinds of numbers, this kind of response-- to what, in many cases, is low-level involvement in drug crimes. And we're not talking about the international traffickers here.

We're mostly-- we're talking, in many cases, about women, about the impoverished, about the enslaved, about-- the poor and the marginalized, who are at the bottom of the food chain of the-- drug world, and are the ones who are caught, and in many cases, executed. And of course-- I'm from Brooklyn. I don't live here now, but I was born in Brooklyn, in Flatbush. Some of you may have heard of it.

And-- the way we were taught as children is that money talks. And-- in fact, money is the most powerful leverage we have in the world. It's the most powerful leverage, pretty much, that anybody has anywhere. And as long as it's possible for-- states that are executing for drug crimes, or doing anything else that meets the disapproval of the rest of the world, or other parts of the world, continuing to reward them by funding what is now broadly understood to be a totally failed international War on Drugs.

To continue to reward them (LAUGH) by giving them more money is not an effective strategy to get them to stop what they're doing. On the other-- the other flipside of that is withholding funds, as we've heard a couple of progressive European states have begun to do, withholding funds is in fact a very effective motivator. If you're not getting money, you're much more likely-- even as-- as-- an outlaw state, illegally,

under-- under international law, executing people for-- drug-related crimes.

If your money's gonna be withheld, you're much more likely to-- give a second thought to the policy that-- that gave rise to that. So-- the strategy that we've-- that we've heard anything about, and that-- is-- continuing to be in-- encouraged at the U.N., and its-- bodies, as well as in governments-- Western governments, particularly in Europe, will have to do with withholding funds from these state-- these states.

Indonesia, again, this is-- a relatively new-- phenomenon. But here we have foreign nationals, this is just in the year-- 2015-- over a dozen foreign nationals executed for drug-related crimes. Including two Australians. And one of the things that-- unfortunate-- unfortunate realities is, honestly, I believe-- speaking for (LAUGH) myself, that if Indonesia or Iran-- but if Indonesia, if these 15 people were Indonesian, there would be much less attention given to it.

Once they start executing-- national-- foreign nationals, people from Australia-- once they have-- they have a French citizen on death row, that gets a lot more attention than if they're just executing their own people, which is-- sad but true. And-- the-- the-- public attention that is brought by having foreign nationals executed by Indonesia is-- a factor that we can use as advocates in getting governments and-- intergovernmental bodies to pay attention.

Again, you have the *Wall Street Journal*, and many other journals, of course, but even the *Wall Street Journal*, with a headline that the-- the Brazilian (LAUGH) president is-- shocked that her-- citizens of her nation have been-- executed in Indonesia. And this headline is a very valuable thing to us.

It's a very valuable tool. It gives this issue a lot more currency in the diplomatic world than it would have if it were just a sort of back page thing, something that was happening in some foreign land. I was gonna ask a question, what was it? Oh. Where can we go to get more information about the death penalty and drugs? I'm gonna tell you. (LAUGHTER) Here's one place. And this is the-- the World Coalition's-- website.

The page where we have all of our materials. We have wonderful materials. Our director, Maria Donatelli, is here today in the house. We have a very small and very able staff. And-- our materials for World Day, which include a leaflet, a poster, we have a few things outside, a fact sheet-- a lot of data are available on our website in a number of languages. And that is Worldcoalition.org/Worldday, for these World Day materials.

I will tell you we don't do this alone. We're a coalition of organizations. We-- we've freely-- make our information freely available, and we freely-- use the information that our wonderful-- members and partners, including-- Harm Reduction International, which has really led the way on this. And-- and so that we can make those connections for our members, between our members, and for our members-- to the resources.

World Day activities-- as I said, we had over 400 last year. We have a map, it's an interactive map. This is not interactive, because I don't know how to do that.

(LAUGHTER) But-- (LAUGH) but it does show as of a couple of days ago, where some of the activities for World Day that have already been reported-- have been. And-- you know, we're-- this is-- as Patrick said, at a time when we've seen reductions in the use of the death penalty over the last 40 years. We've seen a dramatic-- increase from a handful of nations that had abolished in 1976, to-- a significant majority of states in the world-- now, mine, unfortunately, not included.

But-- and this resurgence-- this uptick in the-- in-- death penalty, it's not an uptick. It's a dramatic-- increase in use of the death penalty in an-- I'll repeat, what has been an absolutely failed process of War on Drugs. This process isn't working any better than in many other parts of the War on Drugs. The death penalty is not a deterrent. It's not a deterrent for ordinary crime. It is not a deterrent for these drug crimes.

In places where the death penalty has been abolished for many years, drug use is less than (LAUGH) it is in these states where the-- where death penalty is being used with-- such catastrophic frequency. So if the purpose were to deter drug crimes, it's not working. And if it's not working, we should stop doing it.

They should stop doing it. And we should encourage our intergovernmental and governmental agencies to stop funding it. Stop paying for a failed policy that's a catastrophic human rights violation, in violation of international law. So-- in the face of that sort of very troubling news, and all of the work that we have ahead of us together-- I'd just like to go back to-- what it is that gives us our sort of basis, our legal human rights basis.

And-- the Universal Declaration of Human Rights is a very nice statement of that. Everyone has the right to life, liberty, and security of person. No one shall be subject-- subjected to torture or to cruel, inhuman, or degrading treatment, or punishment. And we believe that, as the World Coalition Against the Death Penalty, that the death penalty is a violation of both of those articles.

And we don't have a lot of heroes in the death penalty abolition fight in the United States, but this is one of them, and one of our first, Eleanor Roosevelt, who of course-- was instrumental in signing and writing and executing and developing-- that Universal Declaration of Human Rights. And we will, of course, win. We will win. Right is on our side. Time is on our side. Justice is on our side. And we will win. I'll tell you that this is-- one of my favorite victory pictures.

That's-- a photograph of Kirk Bloodsworth, who was the first de-- who was the first death row inmate, sentenced to death for something he didn't do, who was exonerated by DNA evidence. He was not the first death row exoneree, but he was the first one exonerated by DNA evidence. And he was-- he had been sentenced to death in his home state of Maryland. And this is Kirk in the gallery of the legislature of the state of Maryland, as they took the vote to abolish the death penalty-- with his help.

Oh, some people don't win. Just saying, (UNINTEL). (LAUGHTER) But we are all in this together. I'm-- I'm-- a great believer in collaboration. I'm a great believer in doing it together. I'm a great believer in sharing information and multiplying, in--

increasing the volume of our individual voices by-- by doing it together. And-- and doing it that way, we will in fact win. And-- I look forward to talk to all of you more. Thank you. (APPLAUSE)

FARAZ SANEI:

So I-- wanted to-- Elizabeth and-- and Patrick kind of gave an overall view-- (BACKGROUND VOICE) of-- the death penalty and drugs. And I wanted to kind of walk you through-- a specific case, which is the case of Iran. And before I do that, I wanted to say, it's a pleasure to finally meet Patrick. After all these years, we've actually been communicating by email back and forth when I was at Human Rights Watch, and this is the first time I'm actually-- meeting him in person.

And also Maria-- who's sitting over there. We've been-- working very closely-- together as well, for the last few years, so it's good to finally meet you as well. And-- and the oth-- the one other thing, before I start-- we're probably not gonna make a lotta friends with that anti-New York Yankees-- sign up there. And my Los Angeles Dodgers are going to be playing the Mets soon. So-- (LAUGHTER) hopefully, we will be victorious, and the New York teams will not be. But-- in any case. Go Mets. (LAUGHTER)

So Iran very much sees itself-- as ground zero, and on the front lines of the war against drug trafficking and drug addiction in the world, right. And the reason why they see that, I think, if you look at a map, and-- I don't have-- any fancy gadgets with me. But you know that Afghanistan is to the east, Pakistan is to the east.

Most of the opium production-- in the world comes from Afghanistan. Iran is a major transit country for drugs. So drug trafficking-- is a huge problem in the country. And as a result, drug addiction-- has skyrocketed in Iran over the past few decades. And that includes, not only for opiates, but also for synthetic drugs. Iran is now actually a huge producer of synthetic drugs in the country as well. So it's-- it's a problem that-- has-- it's been grappling with for quite some time.

And it's been trying to find ways to deal with it. And it feels, in many ways, isolated. It feels that the international community has not supported it enough. It feels that many of its law enforcement agents-- thousands of law enforcement agents in the last 30-some-odd years have lost their lives because of armed drug trafficking-- on the Afghanistan-Iranian border, and also the Iranian-Pakistan border.

So all of these things lead to an interpretation by Iran-- which-- which goes something like this. You know, Article 6 of the ICCPR, related to the Universal Declaration of Human Rights, is the right to life article, right. The main human rights instrument is the ICCPR. Crimes that are not considered to be most serious crimes-- should not get the death penalty. And if you look at the U.N. General Assembly, the U.N. Secretary General, the U.N. Human Rights Committee, the U.N.-- U.N.-- High Commissioner for Human Rights, and several U.N. special rapporteurs. All of them have, without doubt, and with-- without-- with-- with full clarity, stated

that drug crimes that are no-- especially non-violent drug crimes, which are mostly what we're talking about here, do not rise to the level of a most serious crime. Iran, on the other hand, argues that it does rise to the level of most serious crime.

What is their argument? Their argument is, first of all, we've lost all of these individuals to drug trafficking, because many of these drug traffickers are armed. And se-- and secondly, that it is tearing at the fabric of society, that divorce rates are higher in Iran as a result of men and drug use and drug addiction. That families are being torn apart. And that it has a multiplier effect in the country. And not only that. They see themselves as preventing the spread of drugs-- because they have the highest seizures, in terms of tonnage, of drugs in the world, right.

They see themselves as preventing the same calamity happening in Europe and elsewhere. So that's-- that's their argument for why they say, "Actually, no, it is a most serious crime. And these are the reason why it is." In terms of the numbers-- Elizabeth kinda mentioned some of the numbers.

It is absolutely true that since 2011-- and perhaps a little before that, more than half of the executions in Iran, more than 50 percent of the executions in Iran, have been for drug-related offenses. One of the reasons why it has increased so dramatically since 2011 is because there was a change in the law. In 2011, they always had an anti-narcotics law. But in 2011, they-- amended the anti-narcotics law. They added the types of drugs that could-- basically be mandatory death sentences, right.

And so they expanded the list of crimes for drug-related crimes that get you the death penalty. And synthetic drugs were also added-- to that list. Actually, the-- the law was drafted in 2010. It became-- it was implemented in 2011, right. Since then, we have seen a huge, huge increase in the number of executions in Iran, but also the number of drug-related executions in Iran.

So this-- in July of this year, Amnesty International, I don't know if you guys saw, put out a press release, where they said that the numbers that they had-- were 694. From January two thousand-- January 1st of this year, to July, close to 700 executions in Iran. But about 70 percent of those executions are for drug-related crimes. Over the last five years, it's basically averaged anywhere between 50 percent, to as high as 80 percent of executions have been drug-related executions in the country.

That is an astounding number. They are on track to have more than 1,000 executions this year alone. Iran, just one country. And when you bring those numbers up, and-- the Boroumand Foundation-- I know that Roya's here. They have been doing amazing work dr-- tracking drug executions for quite some time. Mahmood Amiry Moghaddam, who is with Iran Human Rights, has been doing amazing work tracking these numbers.

The reality is that tracking these numbers is not very easy. Why is not easy? As Patrick mentioned, some of these executions happen secretly. Or maybe a better way of saying it is that the government doesn't announce executions of everyone in the country, right. There's a list of executions, and it's not entirely clear why they decide some should be announced, and some should not.

But there are some that are clearly announced by the judiciary. And then there's a whole bunch of executions that are never announced at all. And so the work of human rights organizations, Human Rights Watch, Amnesty, Roya Boroumand Founda-- the Boroumand Foundation, is to actually try to track these numbers. There is a lot of-- there's a lack of transparency when it comes to numbers. And when human rights organizations put out these numbers, the response of the Iranian government is, "These numbers are not reliable."

We had, last year, only 200-some-odd executions. I'm just throwing the number out there. The number that you have is three times that number. These are not reliable numbers. So what is the response that human rights organizations have? The response that we have is, frankly, you are one of the biggest executors in the world. And it is incumbent upon you to provide transparency for the numbers of executions that happen in your country. And what the reasons are. What are the charges, and what are the circumstances under which these people get the death penalty and are-- are hanged?

That's the-- the major method in Iran. You don't allow any human rights organizations into the country. The U.N. Special Rapporteur on Iran, whose mandate began in 2011, and has also been working on-- drugs and the death penalty, has not been granted access to Iran-- to this day. And so we are doing our best, on the outside, with limited resources.

But the-- the-- the onus is really on the Iranian government to provide-- to provide transparency. That's plain and simple. So that is one thing that we use-- you-- you know, human rights organizations use an argument we use to counter that. To say these are allegations. It is up to you to actually engage with the international community, and with the human rights organizations, to figure out whether we're wrong on some of these, and where we're right on some of these.

The other thing that the Iranian government often says, and I'm kind of actually-- this is an exercise more to make you guy-- or to allow you to understand what the situation in Iran is. But also, what the arguments are that the Iranian government uses-- to-- to criticize the international community for being critical of its-- record when it comes to human rights, especially for drug-related crimes.

The third argument that they use is, in addition to, "Most serious crimes," and, "Your numbers are off," is that, "Yeah, the law says that there's mandatory death penalty for these types of drug crimes. But in reality, we use our discretion." So then, automatically, the question becomes, "Well, what criteria do you use for that discretion? And what is the information provided by the judiciary to people even inside Iran, but also the international community, as to what criteria are used to decide who is a serious drug trafficker, and who is not?"

Essentially, what they're saying is, "We're not going after the people who are drug pushers. We're not going after people who are drug addicts. We are going after major international drug traffickers, right. You guys don't understand the way our laws work." So then our response is, first of all, if you look at the law, there's a

mandatory death sentence for 17 different categories of crimes under the Anti-Narcotics Law, right.

The threshold for possession of opiates, for possession of synthetic drugs, is very, very low. So that even pushers and individuals who would not be considered international drug traffickers by any means, would still fall under that category. We have documented, human rights organizations have documented cases of individuals who are clearly not drug traffickers, right. They are small time-- folks, who are basically carrying drugs-- and are selling drugs, and are distributing drugs.

And some of them are addicts themselves. So that is-- that is one way to counter that argument, right. The law, it says it's mandatory. It's not clear to us at all that discretion is being used. What are the criteria for discretion? And when you actually look at the people being executed, they are-- they don't seem to be major drug traffickers.

The fourth-- argument that they use is, "Okay, yeah. We do execute drug traffickers. But there's a system in place. There's due process. They have access to lawyers. They have access to several court sessions. And-- you know-- just like in any other country, we have our system. We don't just, you know, put 'em in a court-- they have no access to lawyers, and then they're executed within a few days." Actually, the reality is, that is what happens oftentimes.

You can have a-- an individual in Iran who is arrested as a drug trafficker, who is prosecuted in a revolutionary court, not an ordinary criminal court. Drug-- drug crimes are actually prosecuted in revolutionary courts, right, which have all sorts of procedural problems with them, which I won't go into at the moment, right.

Are prosecuted, don't have access to lawyers oftentimes, because what lawyer's gonna take their case? Many of these individuals are extremely poor. The numbers of prosecutions are so high that the state-appointed-- lawyers just aren't there. They don't have the numbers to be able to take these cases. And-- and are executed. That can all happen within a span of months. That's why the numbers are so high in Iran. The turnover is extremely, extremely high. So this due process argument just doesn't hold water, right.

And it's been documented by human rights organizations, so we're not making this up. The fifth argument they use is that there's a right of appeal. That yes, in revolutionary courts, they may be-- you know, prosecuted for drug crimes. They may get the death penalty, but it's appealable, right?

In fact, in 2011, when there was an amendment to the drug laws, the amendment specifically says the following, that, death penalty, when a death sentence is issued for a drug crime, either the Supreme Court, which is the court that has to actually, under Iranian law, look at every single death sentence, by law. "Either the Supreme Court gets to affirm or reject that sentence, or the Prosecutor General in the country gets to do so." What has happened since 2011? Many cases in Iran, drug cases, because there's so many of them, are actually being fast-tracked.

What does that mean? The Supreme Court is not looking at individual cases. They

are basically going to the Prosecutor General's office, and as you guys know, the Prosecutor General in Iran is actually part of the judiciary, but at the end of the day, he's the Prosecutor General for a reason. He's actually bringing these charges. He's the one who ultimately decides whether these individuals live or die.

So when it comes to due process, and at one point, it comes to the right of appeal, there is no real right of appeal for many of these drug cases. Now, there are some interesting new developments. The criminal procedure code has recently changed in Iran. And the Iran government has actually made quite a big deal out of this, and has said that in fact, under the new criminal procedure code-- drug offenders who get mandatory death sentences do have a right of appeal.

And so we are now trying to track this, to see whether, in fact, this is happening, right. Because in law-- they do actually now have a proper appeal, and Supreme Court should be looking at these sentences, to see whether or not they should be affirmed or rejected. So that's a good development, but we have to actually see how it's implemented on the ground in the country.

And I'll run through a couple of more things very, very quickly. The Iranian government's response is, "Well, human rights organizations criticize us quite a bit, but if you look at the U.N., if you look at UNODC, they don't criticize us." And in fact, what they point to is the head of UNODC, and other individuals who've gone to Iran, and have actually made pretty favorable statements-- referring to Iran's great record at combatting narcotics and drug trafficking. And some of that stuff is true, all right?

We can't deny the fact that Iran is on the front lines. We cannot deny the fact that they are paying a very, very heavy price, right, for what's actually happening on their borders. The problem that we have had, that a lot of human rights organizations have had, is, as Elizabeth and Patrick mentioned, funding. Funding still continues through UNODC-- despite the fact that UNODC, as far as we know, is on record saying that they are against the death penalty, and they are against the de-- death penalty for drug-related crimes.

So there is actually a U-- a UNODC human rights guidance note. And Patrick and the World Coalition, we worked on this quite a bit, with UNODC to try to actually get them to stop some of this funding, right, or-- or at least to condition the funding on human rights improvements in Iran. The guidance note says this, "If, following requests for guarantees in high-level political intervention, executions for drug-related offenses continue, UNODC may have no choice but to employ a temporary freeze, or withdrawal-- withdrawal of all-- of all support."

So there is guidance within UNODC that allows them to actually withdraw the support. And unfortunately, we have not been seeing the type of coop-- cooperation that we have hoped. And I think, last but not least, there is-- there's the deterrence argument that we've talked about. The Iranian government actually claims that-- the harsh punishments have worked.

There's a lot of very interesting debate inside the country, that in fact it hasn't

worked. There have even been debates within-- the Majlis, the Parliament, and others-- saying that we have to-- introduce drug laws that get rid of the death penalty, or at least reduce the number. So that's still an ongoing debate in Iran. That's something the international community should actually kind of latch onto.

And finally, drug prevention and treat-- drug-- drug treatment programs, Patrick mentioned that for many, many years, actually, Iran had very interesting harm reduction, and very progressive harm reduction laws. There was a rollback and a scaleback, under Ahmadinejad's presidency. But we still have some of these pro-- programs in Iran, and even in prisons, as was mentioned.

And that's something the Iranian government actually-- is very proud of. And they say, "Look, we don't actually go after drug addicts. We go after the real drug traffickers." And I think that's another thing that we should be very wary of, when we talk about withdrawing funds, we should-- we should be very sensitive to the fact that there are programs inside Iran on the harm reduction side. We don't want to-- disincentivize the Iranian government to stop those programs.

And there should be international support for these types of programs in the country. You gotta throw 'em a bone at some point, because, frankly, they really, really are, in some ways-- in a difficult position. But hopefully, this will give you a good enough sense of what some of the arguments are that the Iranians are using, what some of the arguments are that human rights organizations use to counter those arguments, and-- I guess we'll take your answers from here. Or, questions, rather. Answers too--

PATRICK GALLAHUE:

I actually just wanted to open with-- with one question to kick-- kick it off. Because there's a few different things happening at once, and the timing of this is really important. October 10th, on Saturday, is the most important day of the year for death penalty abolitionists. It's the World Day Against the Death Penalty.

And this year happens to coincide-- in timing with what is probably the most momentous issue in international-- mo-- mo-- rather, interna-- most important moment in international drug-- in the international drug control system in decades, which is the U.N. General Assembly Special Session on Drugs.

And I won't talk too much about it, but the Special Session on Drugs was essentially spurred by Latin American leaders who said, "We cannot continue doing what we're doing. We've been through the violence. We've been through the drug-fueled civil wars. We've been through failed states. We can't continue to do this. And because it's a shared system, we have to debate it collectively."

So as we put these two things together, I guess I wanted to ask, you know, what are the opportunities to use the-- or what are the opportunities for death penalty abolition within the U.N. General Assembly, and-- how much of a vehicle is death penalty abolition for looking at the drug control system as a whole?

ELIZABETH ZITRIN:

I-- I wish I knew more. And-- because-- but I'm not an expert on-- on the-- UNGASS-- system. I'm-- I-- I can say only that we are hopeful, and-- for opportunities to-- to enter the discussion-- and to provide-- provide data on all of these elements. On the-- the illegality of-- of executions for drug crimes. On the lack of deterrence, on-- and to-- enter the discussion on the to-- on the subject of-- of cost-- of funding.

And to encourage-- constructive use of whatever tools may be available to the U.N. and their member and donor states, to-- to channel the energies of-- of-- of countries that are-- as has been said, afflicted by-- very serious drug problems. To channel-- their energies into more constructive-- corrective means, rather than-- than-- harsh criminal justice and death penalty. So I'm afraid I'm not much help on the-- on the-- the intricacies of UNGASS. But I'm-- I'm eager to find out more, so that we can be a more-- constructive-- partner in the process.

FARAZ SANEI:

Yeah, I mean, I-- I'm actually just kind of learning the ropes on UNGAS myself. But we are at-- at the Human Rights in Iran unit at-- at Brooklyn College, we are tracking-- it relatively closely. There have already been some meetings that have begun-- in terms of the planning-- of what's going-- you know, substantively going to become the UNGASS sessions next year.

And we're doing some tracking of these meetings. Iran is going to be involved-- in-- in these meetings, and will be in-- involved at UNGASS. That will be an interesting development-- to see how they're going to interact, especially on the issue of-- of the death penalty, and most serious crimes. Because of the interpretations and the arguments that they've put forth. But it's something that I'm looking forward to engaging on more. Unfortunately, I don't have-- not an expert on it yet, but I will be this time next year. (LAUGHTER)

SCOTT BERNSTEIN:

So yeah, we welcome any questions or comments from the audience.

NAOMI BURKE-SHYNE:

Hi. My name is Naomi Burke-Shyne. I work with Public Health program here at Open Society, specifically on access to justice for people who use drugs. I wanted to start by just thanking the speakers for-- opening up such-- a rich discussion, and thank you for coming here tonight. I'm going to ask two questions, but if you'll allow me to do it in a roundabout way.

I am fortunate to work with Ricky Gunawan, who is one of the Indonesian lawyers--

supposed to be on the panel tonight-- who defended Rodrigo Gu-- Gularte-- earlier this year-- in the round of-- executions in April by Indonesia. And Indonesia's quite-- quite a unique case we have here.

The former president, Susilo Bambang Yudhoyono had-- an informal moratorium on the death penalty for five years, and it was only when new president, Joko Widodo-- Jokowi, see how they do that? Put 'em together. (LAUGH) Jokowi (UNINTEL)-- that they decided to challenge this-- that he thought, you know, within his power, and within his-- his political platform of protecting the sovereignty of Indonesia, he was gonna push back.

And say, "Well, drug trafficking is an international problem. You're-- this is-- an inter-- international issue, and a sovereign issue." And so when Jokowi experienced this-- this widespread international pushback, when he started executing in January, and then-- then again in April-- he didn't really care. There wasn't space for an international voice.

There was a recall of ambassadors. The Australian government cut its aid budget. There was a strong international reaction. But it didn't dent Jokowi's position, because his position was, "I'm protecting the sovereign borders of my country, and this is a foreign issue that I'm defending my country against."

So what I-- what I wanted to ask Elizabeth was-- what is your experience in supporting civil society to mobilize? The change in Indonesia needs to come from the bar association and the lawyers, and-- and NGOs in Indonesia-- not from the Australian prime minister. I don't know if you watch the news, but he did a terrible job at the time. (LAUGH) My question for Faraz is-- we also see Jokowi using an argument similar to what you just pointed out.

He said, "Oh, but drugs cause such harm in Indonesia." The death pe-- penalty is a proportionate argument. And you were talking about the preventing calamity of-- (UNINTEL). So I was wondering if you could talk a little bit about how we as advocates-- can counter that argument.

ELIZABETH ZITRIN:

Well-- I'll say a little bit about-- about the importance of-- of-- of homegrown-- action. Of course, it's important. And-- from the point of view of the-- of the World Coalition-- I would say that our position is, we're here. And we're available. And we're available to be bar associations and the trade union and the human rights organizations and the religious organizations.

And the regions-- even governmental entities that have declared themselves-- in a state of amnesty-- perhaps-- even in-- in-- in contravention of their government's wishes, their national government's wishes. In-- in the-- in the end-- in the end-- if the people don't want it, it's harder to maintain it.

In-- in the 21st century world, where-- it-- it at least becomes more difficult for-- a

truly dictatorial government to remain in power-- with-- the-- you know, where-- we're a glob-- we're in a global economy. And-- if you don't have trading partners-- you're in trouble. And-- we're in an instant news-- world, where everybody knows what you're doing right now. Anywhere around the world.

So-- what I think is that-- it's an important time, and of course it's-- it's what I do with the World Coalition. It's-- an important time for-- there to be a network, a net of hands joined around the world. It's an important time for-- for working in coalition. It's an important time for-- people of-- in-- in Indonesia, as in-- anywhere other than Iran and China where they won't get killed, you know, for-- for speaking out at-- at all.

To seek the-- the-- the fellowship of people who can help them-- in-- who have worked through di-- similar struggles. I do think that ultimately, the people are-- the voices of the people become loud enough, and annoying enough, they get-- they get hard-- hard to-- to ignore. And of course, the people who know most about the situation are the people in the country.

We can-- we can support them, and we can learn, but we don't know what they know. So I think that it-- it really is a combination of international pressure, some of which is economic, some of which is moral-- and some of which is, did I mention, economic. With the-- the actual true wishes of the people within the country.

FARAZ SANEI:

I guess, just quickly, on-- on-- on my end-- since the question was partly addressed to me as well-- you know, and this-- this argument that, in fact-- you know, it is a serious crime because of the multi-- multiplier effect that it has on society, right.

That addiction-- causes-- you're not only talking about the drug tr-- drug traffickers, you're talking about a reduction in-- economic productivity, you're talking about families being torn apart. I mean, I could put on, you know, my-- my legal hat-- and say that the international law just doesn't support that reading of most serious crime.

So it's actually not very controversial to say that the multi-- yes, it does have a huge effect on-- on society. Yes, there is a multiplier effect. I don't disagree with that. We wouldn't disagree with that. But legally speaking, I think it's relatively clear that these types of-- of drug related crimes should not-- lead to the death penalty. Issuing of a death sentence, and-- the implementation of that death sentence.

On the-- the kinda more practical side-- really, Patrick was just telling me right now that there's sometimes an argument that when-- if the drugs have been seized, they're not going to actually hurt anyone, so it's an inchoate crime. So that's-- that's one way. Maybe that's more of-- a legal argument, in some ways, actually.

But-- but more practically, kind of stepping back-- you know, the-- the deterrence-- and I'm not an expert on, you know, deterrence at all, and-- and-- and criminal justice in that regard. But there certainly is a lot of data to suggest that in fact, it's

just not working. If-- if drug consumption and addiction is a problem in societies, there are other ways of dealing with it, more effective ways of dealing with it, than actually-- you know-- throwing someone in prison, or sentencing them to death.

Because they had 30 grams of-- synthetic drugs on them-- or opiates, right. So the-- the fact is that even the Iranian government will say that, you know, drug consumption has increased in the country, and if anything, they're-- you know, the numbers of executions have also increased in the country. So-- we wouldn't argue that it has a deleterious effect. The question is, how do you effectively-- address that? And it's very clear to many people, I would even argue, inside the Iranian government, that this has not been an effective way to treat that problem.

PATRICK GALLAHUE:

There was once a funny thing-- not funny at all, actually. (LAUGH) But there was once something that happened in-- in Malaysia and Singapore. You know, Malaysia and Singapore have virtually indistinguishable laws. Fifteen grams, mandatory death penalty, presumed trafficking.

And what happened was a lot of kids were caught. I mean, kids and teenagers, 19 and 20 years old, were caught bringing drugs into Singapore and sentenced to death. And-- a lot of them were really sympathetic cases. They were so clearly not kingpins.

I mean, just one example, there was one guy who admits he thought he was up to something no good, but he was like, "I don't wanna know." So he's driving across the border. He's done it a couple times. He gets paid, like, 150 bucks a run. And they stop him at the border one time, and say, "Well, do you have anything to declare?"

And he goes, "Yeah, this box." And inside the box is heroin, and he's sentenced to death. And those kinds of incidents of Malaysian young people really pissed off the Malaysian government. And there was this argument in Malaysia, "Well, if we can do this, the-- the way to go about talking about the death penalty for drug offenses is," what was at one point called the Yong Vui Kong strategy.

Because one of those kids, one of those really sympathetic kids, who was young, vulnerable-- h-- easily-- easy to exploit, and very clearly exploited by a more experienced trafficker, was sentenced to death in Singapore. Now, again, those laws are completely indistinguishable. But the Malaysians had a more robust debate about the death penalty for drugs when they were talking about one of their kids on death row in another country.

And I wouldn't be surprised if a whole bunch of Indonesians are on death row in Malaysia. Or at-- you know-- pick another country. So-- you-- you know, it's not to say-- it's always hard to bring the public along on the-- on the death penalty. And that's true in Europe. I mean, the Europeans are-- are (LAUGH) divided on the death penalty. And it's-- and every state we try to do it in the U.S., it's always been a tough slog. But those-- those cases, and those individuals-- that people, I think, can relate to, is really, really helpful.

MALE AUDIENCE MEMBER:

Hello? Yeah. The-- death penalty. Aren't there some instances in which the dea-- I know you all are gonna say no-- in which the death penalty is suitable, and should be used? For example, in the case of genocide, of a Stalin or a Hitler.

Or how about-- rape, or child abuse, or confirmed terrorists doing what they did at the Westgate-- in Africa, at the mall, and running around killing all those people. Of course, the death penalty is misused, and it does kill innocent people, and many innocent people on death row. And that's the best argument for abolishing the death penalty. Because it does kill innocent people, which is a horrible thing. But aren't there instances? I've mentioned a Stalin or a Hitler-- child abuse, pedophilia, rape-- that-- that deserve the death penalty, clearly?

ELIZABETH ZITRIN:

Well, you're right. I-- I-- I am gonna say no. (LAUGHTER) So you're right about that. (LAUGH) But-- let-- let me give you a few reasons why I-- why I say no. Some of them are my reasons, and some of them are reasons that other people have. And-- and you are also right that-- there are many innocent people on death row. And there have been innocent people-- executed. You know, the-- the United States, arguably, has a pretty good criminal justice system-- compared to other places in the world. And we screw it up all the time. We act-- have innocent people on death row, innocent people in prison, every day.

MALE AUDIENCE MEMBER:

Absolutely.

ELIZABETH ZITRIN:

So-- when you start trying to draw that line, of, "Oh, only if you're really, really, really, really sure." You're sort of on a fool's errand. I can tell you, for example, that-- of people who-- not just on death row, but people who have been exonerated from their prison sentence-- by DNA evidence.

So sort of dead bang, really solid exonerations. This guy, the dude didn't do it, as we say in the trade, right? Of those DNA exonerations, 25 percent of those people confessed to the crime they didn't commit. Twenty-five percent of people exonerated by DNA confessed to the crime they didn't commit--

MALE AUDIENCE MEMBER:

Good--

ELIZABETH ZITRIN:

--and for which they were in prison. So-- you know, you'll hear, "Well, of course he did it. He's confessed."

MALE AUDIENCE MEMBER:

N-- no--

ELIZABETH ZITRIN:

Confession is not a really good measure. We know 75 percent of-- of-- of-- of DNA exonerations, there was a-- misidentification, either intentional or unintentional. Fifty percent, almost, there's some kinda junk science. Even if you say, "Okay, well, only DNA. You're telling me that DNA is the best evidence."

In the state of Oklahoma, over the last couple of decades, a whole bunch of cases were reversed, including death cases, because the chief forensic officer of the state of Oklahoma was lying about the evidence. So even if there's the best evidence, that there's a human being involved, I can promise you it's fallible.

So-- I would say, to begin with, you can't ever be absolutely sure. And that risk of executing innocent people is too much. And I will tell you, also, I mean, I could go on for-- but I'll tell you at least one other thing. That-- or two. One is that-- there are no millionaires on death row, and you know that. Put another way-- one of our great lawyers and great thinkers about criminal justice in the United States-- says, "In many places-- the opposite of-- of-- poverty is-- is not wealth. The opposite of poverty is justice."

And-- and those things are true. And-- and-- my friend, Sister Helen Prejean, who is one of the great-- thinkers and-- and advocates on this subject in the world, would certainly say, "Would you," I don't know you-- but, "Would you want to be judged by the single worst thing you ever did in your life?"

I don't know if you believe in God or some-- some afterlife. But whether you do or not-- is life not-- precious enough, in and of itself, for an individual not to be judged by other flawed people, based on the worst thing they ever did? So-- just a few of the reasons. I'd be happy to talk to you more. I don't wanna take-- too much time.

MALE AUDIENCE MEMBER #2:

Certainly very interesting and impressive presentations, thank you. And I would say you accomplish impossible mission. (UNINTEL) --for the first time, sympathetic and compassionate to Iran government. Now, my question.

Do you have false statistics, international statistics, about consumption of alcohol?

You can compare (UNINTEL) this. You know, alcohol's also very different. Beer, whiskey, vodka. But there is certain way to measure how much country consume alcohol.

I show that something similar can be in the relationship to that. So very different, very-- far is not hetonym (?). But still, probably you can measure consumption. And if we would prove certain liberal countries, like America, like some European countries, there is a way to deal these drugs, that have better results, it would be even convincing.

But I'm afraid that with all billions dollars, what America spend, in American way, European way, every year, you have just increased and consumption per capita. For example, maybe you know, in Saudi Arabia, not Iran. Iran is on front line, as you explained very convincingly. Saudi Arabia, not on front line. How much they consume drugs in comparison with America, per capita, per person? It will be convincing. What works, and what doesn't work. Thank you.

PATRICK GALLAHUE:

Sure. I-- I-- I think, if-- if-- if you're saying, like, do-- what-- what do we know about consumption in each country, and does that essentially tell us what we need to know about drug policies?

MALE AUDIENCE MEMBER #2:

That's it.

PATRICK GALLAHUE:

I mean, you know, in a completely prohibitionist system, it's pretty impossible to measure consumption-- because all consumption is underground. We probably will have a much better understanding of marijuana consumption in a taxed and regulated system than we will have under-- prohibition.

So it-- it's very, very difficult to say, you know, any place in the world. I mean, we have rough ideas, based on departments of health, and other kinds of things. And any country in the world will always claim-- will def-- often defend its policies based on-- on-- on-- if it has-- if it claims to have low consumption.

So, you know, Singapore often says, "Well, we don't really have a serious drug problem." But per capita, they have one of the highest proportions of drug offenders in prisons. So either they're locking up innocent people, or, you know, there's some drug consumption there. You know, there's-- there's a lot of different, you know, ways to measure that. I think I understand the question. The fact is, I just don't think under the current system there's any easy answers.

FEMALE AUDIENCE MEMBER:

Is the mic working? Hi. Now, my-- my-- two questions. First one is-- Faraz, you talking about the-- Iran's neighbors, and so Afghanistan is the leading producer of poppy, manufacturing of heroin in the region. And the reason for that is the push down-pop up effect. Iran, in fact, used to be a leading producer of-- poppy and heroin. So did Pakistan.

So it's really the-- it's prohibition itself that has made Afghanistan the leading producer. And I think Afghanistan gets beat up a lot for that, but it's an incredibly poor country. And poppy is really what keeps that economy alive. And Iran executes a fair amount of Afghans who are trying to-- to make, you know, a living. That-- that's the-- the first thing. So pro-- Afghanistan is an example of why prohibition doesn't work.

You-- you push production out of one country, and it ends up in another country. And then the other thing is-- is, I think stigma is really important. And you can only get away with harsh punishments and the death penalty when you stigmatize people who deal drugs, use drugs. All the people involved in the chain of drug production. And you really have to have that, to have those draconian policies.

And so I'm wondering, in Iran, how-- deep is the-- how-- how intense is the stigma? And is the public in favor of the death penalty for people involved in drug trafficking? And then the last question is-- the-- the-- the deals that have been worked out between the U.S. and Iran, in terms of the high-level stuff, is that gonna have any impact on-- drug policy in Iran, and the death penalty, do you think? Sorry, the mic kinda.

FARAZ SANEI:

Okay--

FEMALE AUDIENCE MEMBER:

But you heard the questions, right?

FARAZ SANEI:

Yeah, yeah, yeah, I did. On the first one-- I guess-- I-- I-- I agree with what you're saying-- in terms of drug production. I guess, the only thing I would have to add is-- is that, you know, when we're talking about the-- the numbers of individuals who are executed in Iran, and are on death row for drug-related crimes, actually, you're absolutely right.

A good number of them are Afghans and Pakistanis. And many of these individuals, I

can guarantee you, have absolutely no access to lawyers. In addition to that-- you know, there are laws and place, that if a foreign national-- is imprisoned or is on death row, is going to be punished, there should actually be notification-- of, you know, consular relations and notification. These things don't happen at all, and-- and in many cases-- we know that they haven't happened.

We've documented-- you know, organizations have documented these cases, where the notification hasn't happened. That's an additional violation of international law. But absolutely. Afghan citizens and nationals are-- on death row, quite a few of them. I think the statistics were that-- that-- somewhere more than 5,000. And I'm sure it's even higher than that, are on death row in Iran.

With regard to-- public support, whether there is public support in Iran for the drug penal-- for-- for the death penalty for drugs. I think it's hard to know. I think that there-- there may have been studies done. I don't actually know, specific studies that have been done on this issue. I can give you a-- an anecdotal experience that I had-- when I was on a show, when I was a researcher with Human Rights Watch.

I was on a Persian language show, where individuals called in from Iran. And-- we had just put out a-- a document basically talking about-- recommending and-- and-- that-- that international organizations and donor countries stop-- funding-- supply-side anti-narcotics efforts in Iran. And-- and I was on a talk show, basically talking about this press release that Human Rights Watch had put out.

And-- quite a few callers from Iran called in. And-- were-- were very unsympathetic to-- to the position. And-- and said many of the same things that the Iranian government-- says. That this really tears at the fabric of our society. The youth, we are losing a whole generation of Iranians because of drug-- consumption and addiction. And that crime rates have skyrocketed in Iran, in part because of drugs. I'm not going to say that that is an indication, or an accurate indication.

It's not a poll, it's not scientific by any means. But I think that there's quite a lot of stigma in Iran for drug addiction, for drug users. There's a mi-- there's a lack of understanding as to what the difference sometimes is between consumption but trafficking. The word "trafficking" is used very loosely-- for individuals who in fact are not traffickers at all.

And I think that there-- you know, the-- the argument the Iranian government uses has a lot of sway-- amongst-- a good segment of the population. Having said that, I do think there's also, and there is evidence, that there's also a very healthy debate inside Iran, that in fact, these policies are not working. And that-- there-- in fact, even if we believe in the death penalty, that we have to find another way. And I think that that's promising.

And finally, whether the-- the deal-- with the United States is going to have much of an impact on-- on drug policies in Iran. Certainly, the deal itself does not address these issues. The deal, as you guys know, does not address human rights at all. It is only a deal that addresses the nuclear issue. Now, whether down the line, that will open up the door diplomatically for the European Union, for-- the P-5 plus one, for

the United States, other countries, to actually start talking about other issues.

Whether it's human rights-- whether it's the death penalty. Sure, that may happen. But there's nothing in the deal itself that guarantees or paves the way for any sort of-- rapprochement on those types of issues, or engagement on those types of issues. It's just not in the cards.

CHRIS ALLEY:

Good evening. Chris Alley, Columbia University Mailman School of Public Health. Thank you again for-- an informative presentation. I, like many of you, I suspect, have high hopes for UNGASS 2016. And more generally, I have great faith in the ability-- in the potential, rather, for multilateralism to achieve social change, and achieve-- social justice goals.

But I want-- my question, my two-part question, reprises the issue of civil society that was raised earlier. The first is-- it's sort of an empirical question. And that is-- if we can bracket for a moment the role of money, that is-- was raised earlier.

Do we have any data on the role, or the-- the influence of provincial level or other sub-national politics blocks in these-- retentionist countries-- and the other intermediate countries-- that-- that-- that-- Elizabeth showed in her slide. And the role that that-- grassroots, or sub-- what-- however form it takes, right? Sub-national-- political force has in influencing change at the top. And that would lead to conversion to-- abolition.

And the second part, the second question, then, is, are-- what ideas exist for marshalling that-- civil society, or-- and/or other sub-national political force-- forces that exist-- in a way that is mutually complementary with any multilateral resolutions that-- do come out of UNGASS, and that in general lead to a synergy that might result in a greater conversion to abolition?

ELIZABETH ZITRIN:

I'm gonna-- I'm gonna leave the-- thank you very much. I-- I'm gonna leave the-- the-- it's great having an academic in the room, it puts together a very long, complicated, and (LAUGHTER) completely comprehensible sentences. I love it. (LAUGHTER) I'll-- I'll-- I'll leave the specifics to-- of-- of-- with respect to Iran, certainly, to Faraz.

But I wanted to say something that also-- I thought about in the-- from the previous question-- about-- part of the previous question, about-- is drug use a terrible stigma, what do the people think. And-- so what people think is-- is important.

What people think is important. And what people think about drug use, what people think-- about the punishment for drug use, what people think about what the role of their society is, whether it should-- there should be a medical intervention, or a criminal justice intervention, and so on.

Finding out what people think, of course, is a very complicated thing. And it's complicated-- from-- from the very beginning of what question are you asking. And-- and what is the-- what's the education that people have. So I-- I don't have-- I'm not gonna answer your question, (LAUGH) 'cause I don't know the answer, about-- what-- what exists in these-- in these-- countries, in terms of those structures.

But I am gonna say that it is, again, very important for people to be educated. If people are told that-- the people who are being punished and executed are terrible drug criminals, who are the same ones who caused the death of your brother, your son, your cousin, your husband-- the-- the-- the devastation of your family, because of drugs, then of course, you're gonna be more inclined to think that-- that-- it's a good idea.

If, in fact, you're educated to understand that-- that woman on death row is a pregnant woman who's enslaved to some drug lord, and she has to mule drugs across the border, and executing her isn't gonna do a goddamn bit of good to anybody. So-- I'll just-- say, from my perspective, educating people, getting the truth to people, getting-- all kinds of organizations, whether they're a church basement or a civic club, or your bakeo (?) game-- to understand better what's going on-- in your own environment, is critically important. And then the answer to that question, what do people think? What the people think, may be a more realistic and-- and more helpful one.

FARAZ SANEI:

I guess, with respect to Iran, and whether some national groups or civil society-- is-- is active in working on this issue-- I guess I wanna give you just a little bit of background, because I think it's relevant to this-- to this-- to the case of drugs in particular.

So in-- in Iran, you know, the-- the Islamic penal code is-- based-- in large part on Sharia law, on Iran's interpretation of Sharia law-- of Islamic law. And there are basically three main types of punishment. It's actually four. But there's Qisas, which is retribution in kind, right. So it's an eye for an eye, right. So if someone is a murder victim, the family of that-- of the murder-- murder victim has the right to ask for the same punishment that happened to their loved one, to that individual, right.

They also have the ability to pardon the-- the murderer-- so to speak, right. There are crimes that are Hudud crimes. These are crimes for which, in Sharia law, there is a specific punishment, right. And there is no way that a judge or anybody else, if that individual is convicted of that crime, there is no way that a judge or anybody else can let the person off the hook.

Because it is clearly litten-- written in Iran's interpretation of Sharia law, that if someone-- engages in adultery, right, the punishment is death, right. As an example, right. That is a Hudud crime. And there's a third category of crimes called Tazir crimes. Tazir crimes are discretionary crimes, for which the state essentially decides

whether or not the person will be punished, and what the punishment will be.

If there is no specific mention of a type of crime in Sharia law, and there are lots of crimes. We have money laundering, right. There is no mention of money laundering in the Quran, or in the Hadiths, the sayings of the Prophet Muhammed, right? Drug trafficking, and drugs in particular, not alcohol, but drugs, fall under Tazir crimes.

So the state essentially decides how to punish them, whether they should be punished, and all of that. This is great in some ways. Because it means that the state can actually abolish the death penalty for-- for drug crimes. There is no religious reason in Iran why the judiciary cannot abolish the death penalty for drugs. That's awesome. Great. We should use that. The problem is that drug crimes, as I mentioned, have a stigma. And that there are many individuals in Iran who really believe that these individuals are traffickers.

And they don't get a lot of sympathy, frankly, from the population at large. So while there are-- there-- there are movements within civil society in Iran to work towards-- they wouldn't say abolishing the death penalty, right. Because if you say abolishing the death penalty, you're already running up against a judiciary who is looking at Sharia law, and under Sharia law, there are certain crimes for which the death penalty should exist, right?

So they don't call themselves abolitionists. What they say is, for instance, in the case of murder, there are charity Islamic organizations. What do they do? They go-- they spend all of their time going to the murder victim's family, and trying to convince them to pardon the murderer. They do not call themselves a human rights organization. They call themselves an Islamic charity, based on forgiveness.

They do amazing work, right. But they are doing it only for Qisas, retribution in crime-- in-- in kind crimes. Not for drug crimes. For Hudud, forget about it. There is no-- you're running against Sharia law. For drug crimes, we have to have some sort of-- but there isn't. As far as I know, it doesn't exist. That type of momentum-- and civil society organization does not exist.

There are some activists who are working on getting rid of the death penalty. But oftentimes, they're doing it on the forgiveness model, which doesn't really work so much for drug crimes. But again, there is no reason why drug crimes cannot be abolished off the books altogether. So I don't know if that answered your question. I think the way that the laws in Iran work actually-- affect the answer to this question, and the types of groups that are coming up to deal with the issue of the death penalty in the country.

CHRIS ALLEY:

Thank you.

PATRICK GALLAHUE:

Just-- one thing to just add on the-- the drug offenses, if I could. Just-- in terms of how civil society influences the multila-- civil society and sub-national structures influences the-- the international game. Which is a lot of what Open Society does here. You know, you-- in the-- there are a number of good examples of moving away from various criminal justice models.

I mean, you have Seattle, where the police departments work on diverting people at the point of arrest from-- from jail, rather than sending them to the precinct or whatever, they're diverted to services. You have other examples. And that includes-- and that was-- is managed by civil society coalitions that-- oversee the implementation of this law enforcement-assisted diversion.

And it's taking off in all kinds of other cities. You know, good ideas don't stay contained for very long, assuming they have, you know, the sales people to push them in other places. Portugal has a fully decriminalized model, where essentially, you know, people who use drugs are not subject to criminal penalties at all, but administrative-- referrals to literally what's called a "dissuasion commission," of (LAUGH) people who-- who-- social workers, and-- and other types of folks, to-- to try to work with whatever needs they're going through.

Now, the U.N. is a two-way system, right? So-- local systems tend to bubble up to the U.N. It goes through that sort of spinner, in-- in New York and Geneva and-- and Vienna, and all those places, and power dynamics are in play. But in a perfect world, it influences some of the U.N. agencies, like UNAIDS and-- and others, who can sort of say, "Well, you know what they did in Portugal that worked really well," the next time they're in, you know, Kuala Lumpur, and they're working with the local police department.

You know, "You have pretty decent services-- you know, some-- some services here in Malaysia. Why don't you divert them to that?" So there is this bubbling up. I mean, every time some new example occurs in policy, whether it's death penalty, or-- or drug policy, you know, it really does have the potential to change the whole system.

CHRIS ALLEY:

Thank you.

FEMALE AUDIENCE MEMBER #2:

I'm a member of civil society working-- on documenting death penalty cases in Iran. The Boroumand Foundation-- is kind-- (UNINTEL). And I was gonna-- I was gonna thank you for bringing up the public opinion issue. Part of the difficulty in documenting-- the cases of drug offenders executed is the opacity of the Iranian justice system.

But a big part of it is also that civil society is not as interested as they could be in other issues. Journalists are not as interested as in other issues. And when we reach out to families, they are ashamed. When we reach out to the drug offenders themselves, because we have a memorial with every person executed having a page. They ha-- they are happy to have someone remember them, but they don't wanna give their names, because they don't want their families to be ashamed.

So it's a very, (SIREN) very difficult problem when we get into this drug. And when you talk to civil society activists, social media people, you know, they are not convinced that this is their fight. So-- so we-- we promote, you know-- human rights, and we-- we try to promote the idea that killing is not good. But information inside Iran does not circulate-- horizontally. Because the fact of organizing, and trying to fight a policy, becomes immediately subversive.

Civil society does work-- civil society does work in rehabilitation. But the scope of the problem is so big that, a few people here, a few people there, is not gonna do it. There need to be political will. And the information and the discussion between lawmakers and people who are actually expert in the matter, does not happen sufficiently, because there is not enough political will.

And so we-- people like us, we can do a little bit. You know, we can do a campaign on social media. We can reach a bunch of people. But we need stories to-- to-- to create emotions. And those stories are difficult to have. And if we have those stories, we can't beat the radio and television in Iran. You know, we can't be-- the Chief Justice goes on the radio, or on television, and says, "They tell us not to execute someone who has dealt 100 kilo of drugs, and destroyed 70 families."

Well, I'm gonna write, no, we are telling you, why are you killing the woman who had two kids, and had 50 grams on her? But that is not gonna get to the larger public. And so I think the international community has to figure out-- and as long as the political situation is that way, the-- we will not reach the mass. And public opinion is key to put pressure on the government.

And we will not be able to mobilize that public opinion, unless there is access to that public opinion. And it's true that Iran has a problem with drugs. But if they lie, if the Chief Justice lies, about who they kill. If they are not giving sentences to people who are sentenced to death, because they don't want them to have any paper about how much drugs they had, then, you know, the-- they know that they do something wrong. They know that it's not working. They know that the population in Iran has doubled, and the population of prisons has been multiplied by 22.

They know that drug addiction has multiplied by four. And so they know that it's not working. How to create that political will needs a lot of thinking and concerted action between academia, you know, the U.N.-- the U.N., and people who know, actually, what's happening. Which are rare to come by, right, because they are-- access to them is not easy.

And so this is the key-- key, important thing. Is that public-- we have to reach this public opinion. Because people have common sense. You know, when you talk to

them reasonably with data and information, they think about it. It's not, like-- people are not crazy. And so that is our main problem for civil society. How to access that public opinion. And, you know, the executions are not only drug-related. The executions are political.

Because this is a low-cost way of scaring people. And telling them that anything can happen to them at any time. They can find 20 grams, 30 grams of drugs in someone's car, and it's in the system, you don't know how to save that person. So it is for drugs, it is a problem, but it is not only for drugs. And we should not forget that. Thanks.

KAITLYN PRITCHARD:

Kaitlyn Pritchard, from the Permanent Mission of Canada to the United Nations. And-- and thank you very much to you all for your presentation. I wanted to ask a question that gets back a little bit to the-- the theme of this year's-- this year's day-- about the death penalty doesn't stop drug crimes.

I think, when we're talking about arguments against the death penalty, and in particular in the context of-- of drug crimes, setting aside moral arguments for the moment, this is a very practical argument, in terms of why you-- why you wouldn't want the death penalty used in certain cases.

But it seems to me that this is an argument that really requires us to have a sufficient amount of information about-- what is actually being-- what's actually being done, and the-- and the effect of-- of using the death penalty in certain cases.

But I noticed, and in Elizabeth, in your presentation, you indicated that there are a number of countries for which we simply don't seem to have enough information about where the death penalty is being used, what types of crimes it's being used in, and what the impact of that has been on kind of-- criminality more broadly. And so I'm wondering, in those particular cases, where we don't have sufficient information, how do we make this argument? Can we make this argument? And if we can't, then what's the argument that we do make?

ELIZABETH ZITRIN:

Well-- for-- for the places where we don't have information-- don't have solid information, don't have good information. I mean, we have problems with information-- even about Iran, where we do have some, we don't know much about what's going on inside of China-- about-- about the death penalty for drugs or otherwise. We do have some information. And-- there are academics-- I mean-- as China gets more-- as China's power in the world increases, I think its ability to modify its conduct also-- to some extent increases.

I think what we are looking for there is for the international community, both at the level of the-- the U.N. and its bodies, intergovernmental bodies, other states, and in civil society-- to be asking for more greater transparency. And-- you know, we have

to, I think, all tailor what our-- what we're asking for, in any situation, to-- what the reality on the ground is. And-- to China, I think we're asking for greater transparency.

And-- I think-- you know, it was less than five years ago, I'm not sure exactly when, that Amnesty stopped trying to estimate the number of-- executions-- in-- in China. Estimated in the thousands, but without hard information. So maybe not a very satisfactory answer, but I-- I guess it's-- it's really that-- to-- we have to look at-- at our-- at each individual situation, and tailor our strategy to where that state is.

And-- I mean, and it's certainly true, in the advocacy-- at-- at the-- at the U.N., with respect to the death penalty, we know what states are-- abolitionist in fact-- but not-- de jure-- abolitionist. We know whether-- what the-- whether we're asking for-- a moratorium, or-- or whether we're asking-- a de facto abolitionist state to-- enact-- to withdraw its-- its-- death penalty in law. So-- those-- that kind of action is very specifically tailored to the situation in each country. And I would-- I would say that-- that's the best I could do on that.

LUIGI:

Good evening. My name is Luigi. I'm coming from the Italian mission at U.N. But two comments in my capacity as a judge, more than a diplomat, now. Looking at-- the UNGASS coming in-- in April 2016, I think that the narrative about death penalty should be included clearly-- within the problem of proportionality.

For ten people that are sentenced to death, maybe there are 100 people, or 1,000 people, sentenced to unproportional, very, very, long sentence-- because of having few grams, or something like that. So maybe the item of proportionality is more attractive to persons, because it's closer to them. In all the countries of the world, because if we think about death penalty, a large number of countries has no death penalty, but probably has long sentence for small crimes.

So it seems to me that the problem-- the most-- terrible items, that is sentenced to death-- is not to be isolated from that context. Much ma-- but should be included in the wider problem of proportionality of sentencing. And a close and fair relation between sen-- the gravity of sentence, and the gravity of fact. That's something we have experience in Italy for some years, because-- the law change it.

And so we have been more proportional sentencing to facts. And maybe 7,000 people were released from prison, just in one year, according to the new law. So the problem of how many people are in jail, how long they stay in jail, is a general problem about the proportionality of-- of sentencing. And in this context, maybe a serious-- a very-- more effective argument about death penalty may be included, and may be more positively accepted by your-- also in some countries, not very sensitive to death penalty. It's just personal evaluation, no, I don't-- you are more aware than me about international policy, but.

ELIZABETH ZITRIN:

Well, thank you. I-- I-- I mean, I think it's an important point. One thing that-- certainly, the death penalty is part of the-- criminal justice continuum. And-- you make a very important point about proportionality. I-- I would say from the-- from a background of-- of-- criminal defense law, and now-- working-- specifically on the death penalty. We say that-- the death penalty is only the lid on the garbage can of the criminal justice system. It is not-- a separate thing. So I appreciate your-- your-- your point.

FEMALE AUDIENCE MEMBER #3:

Hi. Very nice presentation. Thank you to you all. The drug problem is so complex. And all the countries of the world have had their own experience with the drug problem. Certainly, in this country, there was the War on Drugs. Many people were sentenced to life without the possibility of parole.

And they're just starting to commute some of those sentences now. And we realize how grossly unfair that was. Isn't there almost an obligation for the people who are saying, "The death penalty should not be applied to drug users," to offer an alternate-- treatment plan for these people? You know, certainly Mexico, with their drug cartels, there's been enormous violence and kidnappings.

And, you know, the United States has mass incarceration. Most of the people who are incarcerated now are incarcerated for drug problems. It's a massive problem. What suggestions do you have in lieu of the death penalty for handling the drug problem? And also, I wanted to know, is there any kind of twelve-step presence in some of the countries that you're talking about? That might be a way to handle the stigma, certainly, but thank you.

PATRICK GALLAHUE:

Well, that-- I think-- that's really what the U.N. General Assembly Special Session is all about, is trying to figure out how-- where we go from here. And that was the intent of it. You know, the-- the governments that-- that called for this-- this debate at the U.N. were-- were the ones that were-- were saying, "We can't keep doing this anymore. We can't keep going down the same old road."

And we're seeing a lotta different wedge issues emerge, and one of them is the death penalty. Where there was a-- one of these diplomatic papers they tried to put together a couple of years ago. And the death penalty was one of the ones that essentially held up any ability to agree on a consensus document, because a number of governments said, "No, we need to include the fact that the death penalty's unacceptable." A number of governments said, "Absolutely not. You know, we will not agree to any document that condemns the death penalty for drug offenses."

But you're right. I mean, as Elizabeth said, it's the lid on the garbage can. And there's so much more to it, in terms of how-- how-- where we go from here. I'm not sure that there's any grand strategy, in terms of where you go-- where you go from here. I think the general viewpoint is, we need to acknowledge the debate. We need to open up the debate.

Because-- the-- the attempt of the most prohibition-oriented governments, or the most criminal justice-oriented governments, is going to be closing off any debate, and saying, "No, this is just another U.N. event, where we sort of rubber stamp the system, and say everything's working fine." What we need to make sure we do is continue to debate, and look at other systems, and see what can be adopted that works better.

To the issue of-- of-- twelve steps or any other kinds of, you know, treatment alternatives, the U.S. has the death penalty for drugs. So sure. I mean, you know, it ha-- it's never used it. But the U.S. has the death penalty for drugs in law. It's never sentenced anyone to death solely for a drug offense, on that-- on using that-- that-- statute. But it does have it. But really, that's the spirit of the U.N. General Assembly Special Session on Drugs.

And I think that was one of the reasons it was so exciting that the World Coalition decided to make this year's World Day focusing on-- on drugs. Because the fact is, it is going to be a major wed-- wedge issue in the debate, in terms of figuring out, okay, this is the worst extreme, and we need to make sure, at the very least, this is not the kind of thing we accept.

ELIZABETH ZITRIN:

And I-- I wanna say-- one other thing that I-- it's not quite appropriate to-- pertinent to your question. One of the things about the death penalty-- as-- wherever it's applied, is-- for drug crimes, for anything else. But certainly is-- is relevant in this argument-- in this discussion-- is that the death penalty-- when you try to think about, who's served? Is it a deterrent? Is it-- does it help anybody? Descri-- the-- is this the-- because it's the guy who destroyed 75 families, or the mother of two.

I mean, what is served? I think that's-- you know, sort of-- an early question you have to ask in this process. What is served? What purpose is served? What legitimate societal purpose is served by executing these people for these crimes, whether they committed them or not? What societal purpose is-- is served? And-- and-- you know, my position is none. If it's pure retribution, that's not serving a societal purpose.

But the other thing that I think it's impor-- an im-- is an important part of this discussion is that the death penalty creates more victims. It creates-- and-- and-- at-- to begin with, there may not have been any victims. If it's someone who's in possession of drugs, who's the victim? Maybe the-- the-- the criminal, the supposed criminal, is the only victim. But the death penalty, and harsh-- much in the way that

harsh pri-- prison sentences do, creates more victims.

And most of those victims are women and children. And-- and-- and I think-- remembering that the family members of the-- the person convicted and executed become victims of this system. They become victims of this harsh criminal justice system, victims of this harsh punishment, victims of the execution. There are-- are-- are-- women left without their husbands, children left without their fathers. Women who are left to-- bear the burden of-- of supporting families, of supporting perhaps three generations of a family.

And-- it's sort of not quite on point to this question, but is something that I-- I-- I neglected to raise earlier. That I think it's important to remember that one of the most certain outcomes of the death penalty-- for-- for drugs, for something that's not a killing, not a direct person-on-person crime, is that it creates more victims, and most of them are women and children.

MALE AUDIENCE MEMBER #4:

Thank you for this opportunity, and-- this conversation. We could be here all day. And so many layers. We definitely have a respected judicial system in America. And I appreciate-- the comparisons to the other-- other countries, such as Iran and-- your list can go on.

And-- basically, I just wanted to recommend-- a few documentaries-- that kind of-- analyze this subject matter in a dramatic and-- and engaging way. And there was one called *The House Lived In* (SIC) that was at Angelica Film Center a few years ago. I had nothing to do with that film, but I just thought it was-- it was-- it touched on this subject greatly.

And also-- and there's a lot on NetFlix, (LAUGH) but-- but just thanks for this opportunity, and-- keep up the great work, and I know especially in general, beyond the drugs-- the justice system in general-- we-- we definitely have a lotta work to do, especially as-- as an African-American-- I know what I feels like to be at the short end of the stick. But-- thanks a lot. Have a great day.

MALE AUDIENCE MEMBER #5:

This has been a wonderful panel, and I learned so much. And I-- I do wonder aloud, because we talk about public perception of-- and the stigma that takes place. But I sometimes feel like we are dealing with policymakers who draw lines. And though we speak about drug users and victims, we also have to recognize that on the other extreme, we have the traffickers, and those who-- you know, traffic at a level-- not talking about these fluid definitions of what is a trafficker.

But, I mean, clearly, there are people who I think must be brought to some justice. And we're not talking about addicts. So in terms of the criminal justice system, there has to be some sort of dichotomy. Otherwise, to ignore that means that this

fuzziness in your analysis will not be sold to the public well. Or to other governments.

Now, the United States is behind the (LAUGH) War on Drugs. And it has militarized it. And it has forced the Latin American countries, and it has forced-- many policies. And I'm wondering what you know of, in terms of the American government's position on the UNGASS-- convention coming up. And does it-- I mean, is it divided within? Is it going to try to undermine this movement? Are there people who are also on the reform side, who see this as an opportunity to make some difference?

And going to the specific question of the death penalty, you mentioned a number of-- a good number of countries who are-- who are the abolitionist countries. And I'm wondering what-- if any of those have a good model, or experience, in showing the way to addressing, you know-- mass addiction and-- of course, and I don't know if lifelong-- sentences are the answer, but I'm sure that those are part of that spectrum of enforcement, which I don't know is proven to be effective or not, as an alternative.

PATRICK GALLAHUE:

De-- definitely. The-- the-- the-- the U.S.'s position towards the U.N. General Assembly Special Session is complicated, in that you-- you kinda divide drug policy in the U.S. onto a few different layers, right. So you've got-- a domestic drug policy that is sort of involved with-- a lot of different actors.

But-- you know, the Department of Justice is a major player. On the international side, what you have is the State Department and the international narcotics-- the INCER, whatever, it's the International Narcotics and Crime-- something like-- whatever. It's a particular-- you know, bo-- a part of the State Department. And there's not a lot of-- you know, coherence between the two. So I would ima-- the State Department would probably be more conservative and probably doing as much as it can to close off avenues to-- to a robust debate on the-- at the Special Session.

On the other hand, what's being done domestically is absolutely game-changing, right. We-- we are-- we're changing our federal laws. We're-- we're releasing thousands of people this month from federal prison, and maybe tens of thousands in-- in the foreseeable future. We have state level reforms and municipal city-level reforms that are models for the rest of the world. It hasn't quite (LAUGH) made it to D.C. yet.

So there's a kind of a disconnect. And what the U.S. is doing in the multilateral fora is not necessarily consistent with what's being done at the national level on the ground. Fortunately, within these debates, you know, what the U.S. does, it's not lost on other countries. So-- so while-- (LAUGH) while we may be saying, "Ah, we don't need to have that conversation about decriminalization, or alternatives to this, or to that."

You know, the diplomats are smart guys. They're kinda like, "Hey, (LAUGH) well, wait a minute. Well-- you know, (LAUGH) what did you just do in that state, and

that state. And-- and why are you letting all these people out of federal prison?" So there's-- there's-- there-- you know, the debate is occurring whether-- whether the State Department is ready for it or not.

After other models, there are reports out there. I mean, the hard part is we can all sift-- you know-- look at, you know, drug policy models, in the Netherlands, and Portugal, and Switzerland. And-- you know-- Bolivia has an interesting-- regulatory model on the production side. But-- any country, whether you're talking about a U.S. state or another country, will always say, "Well, we can always talk about Norwegian prison system as being the sort of model of progressive reform," and the U.S. will say, "Well, we're not Norway."

You know, (LAUGH) that's their, you know, kneejerk response. So I-- I-- I-- we sort of heard this in different ways. You know, I really do think you kind of have to tailor the mo-- whatever you do, you kind of have to tailor it to local circumstances, local institutions, and local actors. That said, it doesn't mean there aren't a lot of models to draw from.

What-- what we-- what we got now is a kind of a one-size-fits-all criminal justice approach. And if you look at the United States, we've got, you know, unheard of incarceration levels. And, you know, drugs are driving a lot of that. And more so than the statistics indicate. Something like 25 percent of the 2.2 million. It's more than that, because a person's initiation into the criminal justice system is often through drugs.

But, you know, it's an international problem. Something like 50 percent of the prison population in Thailand is for drugs. Twenty-five percent of the Brazilian prison population is for drugs. Like, 45 percent of the Iranian prison population is for drugs, more or less. And none of this takes--

FEMALE AUDIENCE MEMBER:

70-- 70--

PATRICK GALLAHUE:

--how much?

FEMALE AUDIENCE MEMBER:

Seven-zero. Seventy--

PATRICK GALLAHUE:

Seventy percent, wow. That's way higher than I thought it was. 'Cause the-- a report

I've seen from the government was once 40-something percent, but it goes up and down, and--

ELIZABETH ZITRIN:

Yes, but the officials, prison officials, say 70. But they count-- crimes related to drugs.
(OVERTALK)

PATRICK GALLAHUE:

Oh, okay, okay--

ELIZABETH ZITRIN:

Theft, for example.

PATRICK GALLAHUE:

Okay--

ELIZABETH ZITRIN:

But it's still related to drugs--
(OVERTALK)

PATRICK GALLAHUE:

So, you know, absolutely. There's acquisition crimes. You know-- and none of this, by the way, takes into account, for the hundreds of thousands of people, not an exaggeration. Hundreds of thousands of people, in drug detention centers, that are considered, you know, treatment facilities.

They're nothing like treatment (LAUGH) facilities. They're prisons without trials. So, you know, we're talking about-- you know, easily a million-plus people in prison and detention centers, not including pre-trial detention. So, you know, what I think we've got to look at, if you just take the whole system as a whole, is one gigantic, gargantuan failure. And now it's time to sort of at least start to move away to something else.

FEMALE MODERATOR:

We're gonna have one more question. And then we'll wrap. I just wanna thank everyone for coming tonight. Feel free to approach the panel afterwards, but thanks again to everyone.

MARIA DONATELLI:

Hello. I'm Maria Donatelli. I'm the director of the World Coalition Against the Death Penalty. And I have a question for Patrick, 'cause-- we're happy that this year, we could talk about drugs, and World Day-- and World Day, it's very important to mobilize people, to inform people, and also to start discussing with governments.

But now, with UNGASS approaching, we have-- we have a dilemma. On one side, we have the states have encouraged this process, that are-- are our friends. Latin American countries, they are the first countries abolishing the death penalty, and they never told despite all the difficulties, that they are in the research, to reinstate death penalty. On the other side, Faraz was saying, Iran is very much involved, as in not-- and it's not the only retentionist, hardcore retentionist country. That's how the World Coalition called some of these states would be much-- very much involved in the process of-- structuring UNGASS. And, like, leading the discussion there.

So what can we do to really int-- maybe the-- the-- the representative from Italy gave us a good idea, to start talking about the death penalty in this process. So what can we do to bring the death penalty in the discussion, and the abolition of the death penalty for drug crimes, 'cause it seems very hard for us to have a discussion about the death penalty at the U.N. We did it this last year with the U.N.-- U.N.G.A. resolutions. But every time we touched drugs and the death penalty, you know that we hit a wall. So what can we do?

PATRICK GALLAHUE:

We've had this discussion on-- on what we can do. How the U.N. General Assembly Special Session can influence. And I think-- my view, anyway, personally, is that what happens inside the building is so out of our control. It's so member state-driven, that-- the best-- I think the most effective things we can do is to control the spectacle around the event.

I mean, last year's-- climate march was one beautiful example of-- of how to use a U.N. system to-- to-- to at least draw attention of the world to what-- to these decisions that are being made. And I'm not saying, you know, we can get 500,000 people on the death penalty-- or anything else. I mean, it's-- for-- for any issue, getting 500,000 people is-- is a tremendous ask, and requires, usually, (LAUGH) a lotta money.

But there's a lot of things I think we can do to control the image and the perception

and the-- the spectacle of this debate. You know, I would love to see-- a member state who has had one of their citizens executed abroad hold up an article of clothing, or to read a letter from somebody who is on death row, or read their last words. You know, or-- you know-- families and clergy having-- you know-- opening a prayer for-- for-- for the people on death row, for the people who have been executed.

You know, I think, at the end of the day, once it gets to the U.N., it's-- once it gets to that General Assembly, so much has been predetermined on the-- the member state level-- that-- and you know (LAUGH) this so well. I think you've been through it more than me. A lotta that stuff-- we have so li-- little control over it. But the part we do control is-- is the-- is the perception of these events.

MARIA DONATELLI:

Thank you, let's put on a show.

PATRICK GALLAHUE:

Yeah. (LAUGH) (APPLAUSE)

(OFF-MIC CONVERSATION)

* * *END OF TRANSCRIPT* * *