

FOR IMMEDIATE RELEASE ON 17 JANUARY 1996
AI INDEX: ASA 28/01/96

MALAYSIA: AMNESTY INTERNATIONAL DEPLORES RECENT EXECUTIONS

The execution of three prisoners five days ago again highlighted Malaysia's harsh use of the death penalty, according to Amnesty International.

"Suspected drugs traffickers face mandatory death sentences and are presumed guilty until they prove their innocence," the human rights organization said.

The men were hanged at dawn in Malaysia's Kajang Prison despite last-minute appeals to the King for clemency. Mustaffa Kamal Abdul Aziz, 38, and Mohd Radi Abdul Majid, 53, were both previously employed as traders. They were convicted in 1991 of trafficking in just 1.18 kilograms of cannabis. Foo Yun Fan, who was previously unknown to Amnesty International, was also executed on the same day for trafficking in heroin.

"We strongly urge the Malaysian authorities to commute all existing and pending death sentences and to call a halt to further executions," Amnesty International said. "The practice of mandatory death sentencing for drug-trafficking should be stopped."

The lawyer of Mustaffa Kamal Abdul Aziz and Mohd Radi Abdul Majid has expressed concern that the men's families were given insufficient notice of the decision to carry out the hanging on Friday. He had requested a stay of execution, drawing attention to a similar case in October last year in which another man under sentence of death for trafficking in cannabis had his sentence commuted to a prison term. In this case, the Federal Court held that there were doubts about the definition of cannabis in the Dangerous Drugs Act.

Under Malaysia's strict anti-drug laws the death penalty is mandatory for trafficking in a number of named drugs. Any person found in possession of at least 15 grams of heroin, 1,000 grams of opium or 200 grams of cannabis is presumed, unless the contrary can be proved, to be trafficking in the drug.

Amnesty International has criticized the Dangerous Drugs Act because it places the onus on the accused to prove their innocence rather than on the state to prove their guilt. This contravenes a basic principle of Malaysian jurisprudence as well as international legal safeguards which stipulate that the accused has the right to be presumed innocent until proven guilty.

“This presumption of guilt runs completely counter to international legal standards and should be removed from the Dangerous Drugs Act,” Amnesty International said.

“While we recognize the need to combat increasing drug abuse, there is no convincing evidence that the death penalty deters would-be traffickers more effectively than other punishments,” Amnesty International said.

Background

Over 150 people are believed to have been executed for drug offences in recent years. The real figures are not known owing to a lack of official statistics on the use of the death penalty. It is not known how many prisoners are currently on death row.

Amnesty International recorded at least two executions in 1995 -- one for drug-trafficking and one for armed robbery. According to a reliable source, the real figure is higher. In 1995 many death sentences were reportedly commuted on appeal to prison terms. In a number of other cases last year prisoners were reported to have been released after they had spent years on death row, apparently indicating that they had been wrongfully sentenced to death.

“We welcome the trend towards commutations but we are concerned that innocent people may already have been executed,” Amnesty International said.

A recent article in the Malaysian Star newspaper reports that the government has decided that hangings should be publicized to remind the public of the dangers of drug-trafficking. However, despite strict anti-drugs laws, the authorities have conceded that the number of drug addicts continues to grow.

“There is always the risk that minor traffickers or even drug abusers will suffer the death penalty while those behind the crimes escape capture and punishment,” the organization said.

Amnesty International opposes the death penalty in all cases as the ultimate form of cruel, inhuman and degrading punishment and a violation of the most basic of human rights - the right to life. The organization is concerned that the death penalty is often imposed on those with fewer resources available for their defence, or whose social status has made them vulnerable to unfair conviction. The risk or error in applying the death penalty is inescapable, yet the penalty is irrevocable.

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