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Malaysia should broaden its proposal to scrap the death penalty

The Malaysian government's proposed review of the death penalty should extend to all capital offences, and it should be accompanied by an immediate moratorium on all executions, Amnesty International said today.

On 20 October 2012, Malaysian Law Minister Nazri Aziz announced that the government would consider replacing the mandatory death penalty for drug offences with prison sentences. He also said that such a review would entail a moratorium on executions for drug offences.

Amnesty International welcomes this proposal and hopes that it will lead to the quick abolition of the death penalty for drug offences. Amnesty International added, however, that the government should go further and conduct a review of all death penalty provisions. The government should immediately extend a moratorium on executions with a view to abolishing the death penalty for all crimes.

Under Malaysian law, the death penalty applies to a host of crimes ranging from treason to assisting in suicide. For murder and drug trafficking, the death penalty is mandatory. Mandatory death sentences prevent judges from exercising their discretion and from considering all factors in a case, including extenuating circumstances, thus adding arbitrariness to the already unacceptably cruel and harsh penalty. Mandatory death sentences are contrary under international human rights standards.

Nazri said that most of the estimated 900 death row prisoners in Malaysia were sentenced for drug offences. Under the Dangerous Drugs Act, suspects are automatically presumed guilty of drug trafficking if found in possession of illegal drugs over specified weights. This provision reverses the right to be presumed innocent until proven guilty, which is essential to a fair trial.

The Malaysian government has urged clemency for Malaysians facing the death penalty for similar offences, the Law Minister noted. In 2010, for example, Malaysia's Foreign Minister requested clemency for Yong Vui Kong, a young Malaysian sentenced to hang under Singapore's mandatory death penalty for drug offences.

Malaysia's national human rights institution, SUHAKAM, welcomed the government's "proposal to review and ultimately to abolish the mandatory death penalty for drug offenders". In March 2012, the Malaysian Bar called for an immediate moratorium on the death penalty and the repeal of death penalty laws.

Malaysia should take the opportunity of this review to join a trend among ASEAN members in taking positive steps away from the death penalty, Amnesty International said.

On 15 October 2012, the Singapore government proposed amendments to replace mandatory death penalty with discretionary sentencing in some cases. It said that it had deferred executions while the mandatory death penalty was under review.

Moreover, in its 2009-2013 National Human Rights Action Plan, the Thai government has pledged to review its death penalty laws.