

ASA 36/2012.002
AI index: ASA 36/005/2012
8 May 2012

Mr. K. Shanmugam
Law Minister and Minister of Foreign Affairs
The Treasury
100 High Street, #08-02
Singapore 179434

Dear Minister

OPEN LETTER: CLEMENCY FOR YONG VUI KONG URGENTLY REQUESTED

Amnesty International and the Anti-Death Penalty Asia Network (ADPAN) urge Singapore's Cabinet to advise the President to grant clemency to Yong Vui Kong, a young Malaysian who faces imminent execution for drug trafficking. Clemency granted by the President, following advice from the Cabinet, is Yong's last hope.

On 4 April, Singapore's Supreme Court rejected Yong Vui Kong's third and final appeal submitted by his lawyer, M. Ravi. The appeal argued that Yong Vui Kong was subjected to unequal treatment before the law when the Attorney-General's Chamber decided not to prosecute the alleged mastermind of the drug operation, a Singaporean who was Yong Vui Kong's former boss. He remains free from prosecution now that all 26 charges against him were withdrawn by the Attorney-General's office. Yet his former employee, Yong Vui Kong, has spent almost four years on death row and now faces imminent execution.

Yong Vui Kong was 19 when first arrested in 2007 for possessing 47g of heroin. In 2008 Singapore's High Court sentenced him to death under the Misuse of Drugs Act - which provides a mandatory death sentence for anyone caught with over 15g of heroin. The law strips the judiciary of discretion to pass a lesser sentence, or to individualize the sentence in conformity with the degree of culpability of the accused.

In 2005 the UN Special Rapporteur on extrajudicial, summary or arbitrary executions said that Singapore's execution of another prisoner sentenced to death for trafficking heroin, Nguyen Tuong Van, would violate international legal standards relating to the imposition of the death penalty. "No international human rights tribunal anywhere in the world has ever found a mandatory death penalty regime compatible with international human rights norms," the Special Rapporteur stated.

In resolution 2005/59, adopted on 20 April 2005, the UN Commission on Human Rights urged all states that still maintain the death penalty "to ensure... that the death penalty is not imposed... as a mandatory sentence".

Amnesty International and ADPAN urge Singapore to follow the worldwide trend among common-law countries to ban the use of the mandatory death penalty. The US Supreme Court struck down mandatory penalty in 1976, ruling in *Woodson v. North Carolina* that "fundamental respect for humanity ... requires consideration of the character and record of the individual offender and the circumstances of the particular offense." In 1983, the Indian Supreme Court ruled that the

penalty was unconstitutional in *Mithu v. Punjab*, stating that “[t]he legislature cannot make relevant circumstances irrelevant, deprive the courts of their legitimate jurisdiction to exercise their discretion.” More recently, in *Attorney-General vs Kagula*, the Supreme Court of Uganda in 2009 struck down the mandatory death penalty because it prevented courts from considering all specific circumstances of the defendant and of the crime.

Yong Vui Kong’s case has sparked widespread concern around the world. In his own country, Malaysia, Foreign Minister Anifah Aman and Malaysian legislators requested the Singaporean authorities to grant clemency in 2010.

The President of Singapore can only grant a presidential pardon upon the advice of the Cabinet. Clemency for a death sentence has only been granted six times since independence in 1965. Amnesty International and the Anti-Death Penalty Asia Network call on you and other members of the Cabinet to ensure respect for international legal standards by recommending the commutation of Yong Vui Kong’s death sentence.

Amnesty International opposes the death penalty in all cases and without reservation. ADPAN is an independent regional network comprising lawyers, NGOs and civil society groups from 24 countries including Singapore. It campaigns for an end to the death penalty across the Asia-Pacific region.

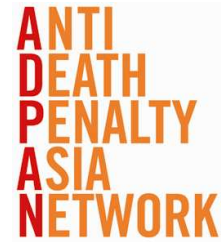
More than two-thirds of states have abolished the death penalty in law or in practice. Death sentences and executions are decreasing globally and in Asia. Out of 41 countries in the Asia-Pacific, 28 have abolished it in law or in practice. Five out of the 10 ASEAN-member states have also abolished the death penalty in law or in practice. Singapore is one of the few remaining countries in the region that still carries out executions.

Amnesty International and the Anti-Death Penalty Asia Network are appealing to the Singapore authorities to stop the execution of Yong Vui Kong, to establish a moratorium on the death penalty and to suspend executions.

Sincerely yours,

Donna Guest
Asia Deputy Director International Secretariat
Amnesty International

M. Ravi
Counsel for Yong Vui Kong
ADPAN member



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