

EXTERNAL

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EXTRA 39/97

Fear of Imminent Execution

21 March 1997

**MALAYSIA** Lim Meng Kui, aged 34, driver  
Teh Chai Huat, aged 36, welder  
Ooi Teck Chye, aged 46, fishmonger  
Ismail Samsuddin, aged 44, farmer  
Mustafa Yop Samsuddin, aged 50, rubber tapper

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The five men named above are facing imminent execution following the rejection of their appeals by the Federal Court in Kuala Lumpur on 5 March 1997. Their only hope for commutation now lies with the *Yang di-Pertuan Agong* (the King of Malaysia and the Supreme Head of State).

Lim Meng Kui was sentenced to death on 28 September 1988 after being convicted by the Kuala Lumpur High Court of possession of firearms. He was charged under section 57(1)(a) of the Internal Security Act 1960. Teh Chai Huat was sentenced to death on 9 December 1988 by the Kuala Lumpur High Court after also being under charged under the Internal Security Act with possession of firearms. Ooi Teck Chye was sentenced to death on 11 September 1991 after being convicted by the Kuala Lumpur High Court of possession of heroin. Ismail Samsuddin and Mustafa Yop Samsuddin were both sentenced to death on 21 March 1987 after being convicted by the Ipoh High Court of possession of cannabis.

A sixth man had his death sentence reduced to a five-year term of imprisonment by the Federal Court. He had been convicted by the Kuala Lumpur High Court on 25 August 1989 of possession of cannabis.

#### **BACKGROUND INFORMATION**

Until recently Amnesty International was unaware of the true number of executions in Malaysia as official statistics were not made public. However, the authorities revealed recently that between 1970 and March 1996, a total of 349 people were executed. Since 1993 Amnesty International has recorded at least 43 new death sentences, although the real figure may be higher. The number of people under sentence of death in July 1996 was 245.

Under Malaysia's strict anti-drug laws the death penalty is mandatory for trafficking in a number of specified drugs. According to the Dangerous Drugs Act, 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 proven, 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.

The death penalty is also mandatory in Malaysia for murder and certain firearms offences.

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 fundamental of human rights, the right to life. The death penalty is inherently unjust and arbitrary, however heinous the crime for which it is provided. It 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 of error in applying the death penalty is inescapable, yet the penalty is irrevocable. Moreover, studies have overwhelmingly concluded that there is no reliable evidence that the death penalty has a deterrent effect on crime.

**RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English or your own language:**

- urging the King to commute the sentences passed on Lim Meng Kuui, Teh Chai Huat, Ooi Teck Chye, Ismail Samsuddin and Mustafa Yop Samsuddin;
- expressing unconditional opposition to the death penalty as a violation of the most fundamental of human rights, the right to life;
- calling for all other death sentences to be commuted;
- recognizing the need to combat drug abuse and firearms offences, but emphasizing that the death penalty has not been proved to have a greater deterrent effect than other punishments and appealing to the authorities to find a more humane way of tackling these crimes.

**APPEALS TO:**

Yang di-Pertuan Agong [King of Malaysia]  
DYMM Tuanku Jaafar Ibni  
Al-Marhum Tuanku Abdul Rahman  
Istana Negara  
50500 Kuala Lumpur  
Malaysia

**Faxes: +603 230 4646**

**Telegrams: Yang di-Pertuan Agong, Kuala Lumpur, Malaysia**

**Salutation: Your Majesty**

**COPIES TO:**

Prime Minister:

Dato' Seri Dr Mahatir bin Mohamad  
Prime Minister's Department  
Jalan Dato' Onn  
50502 Kuala Lumpur  
Malaysia

**Faxes: +603 298 4172**

and to diplomatic representatives of Malaysia accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 18 April 1997.