

# URGENT ACTION

## EXECUTION DATE SET FOR MALAYSIAN BROTHERS

**Suthar Batumalai and B. Rames Batumalai are scheduled to be executed on Friday, 24 February 2017. The brothers were convicted of murder in 2010 on the basis of circumstantial evidence and sentenced to the mandatory death penalty.**

**Suthar Batumalai and B. Rames Batumalai** are brothers facing execution by hanging in Malaysia on 24 February 2017. They were sentenced to the mandatory death penalty in April 2010 under section 302 of the Penal Code after they were found guilty of a murder committed on 4 February 2006. On 22 February 2017 the pair were moved, from their two separate detention facilities, to Kajang prison, Selangor State, where the executions will take place. A new clemency petition has been submitted for the consideration of the Sultan and Parole Board on 23 February.

The brothers, who were represented at trial by the same lawyer, were convicted on the basis of circumstantial evidence alone. During the trial they claimed that they had intervened to stop two other men from attacking and killing the deceased, claims which were disregarded by the High Court. The Court also failed to call a key witness, the deceased's wife, to testify. Her testimony could have corroborated the brothers' version of the facts, and the involvement of the two other men in the murder. The police had also failed to take blood samples and fingerprint samples to establish a direct link to the accused, as it stated it was not crucial and the identity of the accused had been confirmed. The final sentence was handed out on 30 October 2012 by the Federal Court.

The 1984 UN Safeguards guaranteeing protection of the rights of those facing the death penalty provide that the death penalty be imposed "only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts."

### **Please write immediately in Malay, English or your own language urging the authorities to:**

- Immediately take all the necessary steps to halt the execution of Suthar and B. Rames Batumalai, and to accept their new clemency appeal;
- Immediately establish a moratorium on executions and commute all death sentence as a first step towards abolition of the death penalty;
- Move forward with legislative reforms on the mandatory death penalty and abolish this punishment from national legislation.

### **PLEASE SEND APPEALS BEFORE 6 APRIL 2017 TO:**

Prime Minister of Malaysia  
 Mohd Najib Razak  
 Office of The Prime Minister of Malaysia  
 Main Block, Perdana Putra Building  
 Federal Government Administrative  
 Centre, 62502 Putrajaya,  
 Malaysia  
 Fax: +603-88883444 or +603-88883904  
 Email: ppm@pmo.gov.my  
**Salutation: Dear Prime Minister**

Minister in the Prime Minister's  
 Department  
 Azalina Othman Said  
 Pejabat Menteri, Tingkat 15  
 Bangunan Parlimen  
 50680 Kuala Lumpur, Malaysia  
 Fax: +603-20781719  
 Email: through this website:  
[http://azalinaothmansaid.com/?page\\_id=57](http://azalinaothmansaid.com/?page_id=57)  
**Salutation: Dear Minister**

**And copies to:**  
Director of Kajang Prison  
 Narander Singh Chand Singh  
 Malaysia Prisons Department  
 Prisons Complex, 43000 Kajang,  
 Selangor  
 Fax: +603-87367449  
 Email: narander@prison.gov.my

### **Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:**

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY  
 INTERNATIONAL**



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### ADDITIONAL INFORMATION

There is very limited public information on Malaysia's use of the death penalty. The authorities usually do not provide public notification of any scheduled executions, either before or after these are carried out. Detailed information –including names of prisoners, the offences of which they were convicted, legal and clemency appeal status and dates of scheduled executions– is publicly available only for the extremely limited number of cases in which the families contacted Amnesty International or other human rights monitors, often seeking publicity against the imminent executions.

International law and standards require countries which have not yet abolished the death penalty to make publicly available information on their use of the death penalty, as well as ensure that prisoners under sentence of death and their families are given reasonable advance notice of the scheduled date and time of the executions. The laws and prison regulations of Malaysia, however, do not establish procedures for the notification of the implementation of death sentences.

In Malaysia the death penalty is the mandatory punishment for 12 offences, including murder, drug trafficking, terrorism-related offences when these result in death, and some firearms offences. Judges have discretion to apply the death penalty for 10 other offences, including treason, kidnapping and rape when these result in death, and trafficking of firearms. The majority of death sentences are imposed for murder and drug trafficking. International law prohibits the mandatory death penalty and requires that the use of the death penalty be restricted to the "most serious crimes".

On 20 October 2012, the then Minister of Law, Nazri Aziz, announced that the government was considering replacing the mandatory death penalty for drug-related offences with prison sentences. He also stated that as part of this legislative review, the government would implement a moratorium on executions for drug-related offences. In November 2015 Attorney General Tan Sri Apandi Ali, and the then Minister in the Prime Minister's Department, Nancy Shukri, declared that legislative reforms to review the country's mandatory death penalty would be introduced in Parliament by the end of March 2016. In June 2016 Minister Shukri said that the office of the Attorney General was going to submit recommendations to the cabinet with regard to the reforms, following the completion of a comprehensive study on the death penalty in Malaysia, which the government had commissioned. Draft legislation to that effect has not been introduced as yet and mandatory death sentences continue to be imposed and implemented, both for murder and drug trafficking.

Amnesty International opposes the death penalty in all cases without exception regardless of the nature or circumstances of the crime, the guilt, innocence or other characteristics of the individual, or the method used by the state to carry out the execution. As of today, 141 countries have abolished the death penalty in law or practice; in the Asia Pacific region, 19 countries have abolished the death penalty for all crimes and a further eight are abolitionist in practice. Mongolia is poised to give effect to its new Criminal Code abolishing this punishment in July 2017.

Name: Suthar Batumalai and B. Rames Batumalai

Gender: both m

UA: 53/17 Index: ASA 28/5768/2017 Index Date: 23 February 2017