

# URGENT ACTION

## EXECUTION LOOMING IF APPEALS REJECTED

**On 5 November the Court of Appeal of Singapore granted Malaysian national Kho Jabing a temporary stay of execution to allow for the consideration of two last-minute legal challenges. However, the President can reconsider his clemency decision and halt the execution at any time.**

After exhausting all legal avenues, **Kho Jabing**, a 31-year-old Malaysian national, applied for clemency from Singapore's President on 27 April. This followed the Court of Appeal's decision to convert his sentence from life imprisonment to death in January 2015, with a close three-to-two majority decision. On 19 October the President rejected the clemency petition and his execution was initially set for 6 November. On 5 November, however, the Court of Appeal granted a temporary stay of execution to allow for the consideration of two separate legal challenges put forward on his behalf. The appeals will be heard on 23 November, and if rejected, he could be executed at any time.

Kho Jabing and a co-defendant were convicted of murder on 30 July 2010. At the time of his conviction, the death penalty was the mandatory punishment for murder, and both were sentenced to death. On 24 May 2011, the Court of Appeal substituted his co-defendant's conviction to "robbery with hurt" and confirmed Kho Jabing's conviction and death sentence for murder. In 2012 Singapore's mandatory death penalty laws were reviewed and some discretion in the sentencing of cases involving drug trafficking and murder was introduced.

On 30 April 2013 the Court of Appeal confirmed that Kho Jabing's case fell within the definition of murder under Section 300(c) of the Penal Code, for instances when there is no intention to cause death and judges can impose at their discretion either the death penalty or life imprisonment and caning. In 2013, the High Court resented Kho Jabing to life imprisonment and 24 strokes of the cane, but this was appealed by the prosecution. On 14 January 2015, the Court of Appeal re-imposed the death sentence against Kho Jabing in a three-to-two decision.

### Please write immediately in English or your own language:

- Urging the President to immediately halt Kho Jabing's execution and reconsider the clemency application;
- Noting that, while you are not seeking to downplay the seriousness of the crime or its consequences, Kho Jabing did not intend to cause death and the death sentence was re-imposed by the Court of Appeal in a close three-to-two decision with dissenting judgments, after it had previously been set aside;
- Calling on the authorities to immediately reimpose an official moratorium on executions with a view to abolishing the death penalty, and commute all existing death sentences.

### PLEASE SEND APPEALS BEFORE 21 DECEMBER 2015 TO:

President of Singapore  
His Excellency Tony Tan Keng Yam  
Office of the President of the Republic of  
Singapore  
Orchard Road, Singapore 238823  
Fax: +65 6735 3135  
Email: [istana\\_feedback@istana.gov.sg](mailto:istana_feedback@istana.gov.sg)

Salutation: Your Excellency

Prime Minister of Singapore  
His Excellency Lee Hsien Loong Prime  
Minister's Office  
Istana Annexe, Orchard Road,  
Singapore 238823  
Fax: +65 6332 8983  
Email: [lee\\_hsien\\_loong@pmo.gov.sg](mailto:lee_hsien_loong@pmo.gov.sg)

Salutation: Your Excellency

### And copies to:

Minister of Foreign Affairs of Malaysia  
His Excellency Dato' Sri Anifah Aman  
Ministry of Foreign Affairs of Malaysia  
No. 1, Jalan Wisma Putra Precinct 2,  
Federal Government Administrative  
Centre 62602 Putrajaya, Malaysia  
Fax: +603 8889 1717  
Email: [anifah@kln.gov.my](mailto:anifah@kln.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. This is the third update of UA 103/15. Further information:

<https://www.amnesty.org/en/documents/asa36/2791/2015/en/>

**AMNESTY  
INTERNATIONAL**



# URGENT ACTION

## EXECUTION LOOMING IF APPEALS REJECTED

### ADDITIONAL INFORMATION

On 18 July 2014, Singapore carried out its first two executions since 2012. Tang Hai Liang and Foong Chee Peng were hanged after they had been convicted of and mandatorily sentenced to death for drug trafficking. Their executions ended a moratorium on the implementation of death sentences established in July 2012 to allow the Parliament to review the country's mandatory death penalty laws.

Following the adoption of the Misuse of Drugs (Amendment) Act 2012 and the Penal Code (Amendment) Act 2012 on 14 November 2014, the courts of Singapore are now given the discretion not to impose the death penalty in certain circumstances. In murder cases, defendants may now be spared the death penalty if they are charged with murder under sections 300(b) and 300(c) of the Penal Code and prove that they did not intend to cause death. In drug-related cases, this can happen if the defendant is only involved in transporting, sending or delivering an illicit substance, or only offered to commit these acts. Equally, defendants can be spared the death penalty if they prove that they are suffering from "such abnormality of mind ... [which] substantially impaired his mental responsibility for his acts and omissions...". While these restrictions to the imposition of the mandatory death penalty are a welcome step, the amended legislation still does not conform to human rights law and standards, including in relation to the use of caning as a form of alternative punishment. Furthermore, for defendants to be spared the death penalty in drug trafficking cases, the Public Prosecutor has to be satisfied that the defendants have substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities. The mandatory imposition of the death penalty is against international law. The UN Human Rights Committee has said that "the automatic imposition of the death penalty constitutes an arbitrary deprivation of life, in violation of article 6, paragraph 1, of the [International] Covenant [on Civil and Political Rights], in circumstances where the death penalty is imposed without any possibility of taking into account the defendant's personal circumstances or the circumstances of the particular offence".

Three new death sentences were imposed in 2014. In all three cases, the death sentences were mandatorily imposed for drug trafficking. The last announced execution in Singapore was carried out on 17 April 2015 for intentional murder, an offence which still carries the mandatory death penalty.

For the first time, the Court of Appeal of Singapore had to consider how to determine what punishment to impose in cases of murder for which both the death penalty and life imprisonment with caning are sentencing options in Kho Jabing's case. The five judges' bench unanimously established that the death penalty should be imposed when the manner by which the offender carried out the murder "exhibits viciousness or a blatant disregard for human life". While the five judges agreed that the evidence available in Kho Jabing's case specifically did not allow for a precise reconstruction of the murder, they reached different conclusions as to whether it was possible to prove beyond reasonable doubt that he had inflicted more than two strikes on the victim's head, showing a "blatant disregard for the sanctity of human life". Three judges found that Kho Jabing's actions deserved to be punished by death, while two held that the evidence available did not prove that he had hit the victim more than twice. The death penalty was therefore re-imposed with a close three-to-two majority. Two extraordinary legal challenges were submitted in the lead-up to his scheduled execution and accepted by the Court of Appeal on 5 November.

Amnesty International believes that the death penalty is the ultimate cruel, inhuman and degrading punishment, and a violation of the right to life as proclaimed in the Universal Declaration of Human Rights. Amnesty International supports calls, included in five resolutions adopted by the UN General Assembly since 2007, for the establishment of a moratorium on executions with a view to abolishing the death penalty. As of today, 140 countries have abolished the death penalty in law or practice; in the Asia-Pacific region, 18 countries have abolished the death penalty for all crimes and a further 10 are abolitionist in practice.

Name: Kho Jabing

Gender m/f: m

Further information on UA: 103/15 Index: ASA 36/2841/2015 Issue Date: 10 November 2015