

EXTERNAL

AI Index: ASA 28/07/97

UA 139/97

Death Penalty

12 May 1997

MALAYSIA Chu Tak Fai, aged 26, hairdresser

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Chu Tak Fai, a hairdresser from Hong Kong, is facing imminent execution following the rejection on 16 April 1997 of his appeal by the Court of Appeal in Kuala Lumpur. His only hope for commutation now lies with the *Yang di-Pertuan Agong* (the King of Malaysia) and the Supreme Head of State.

Chu Tak Fai had been sentenced to death by the Alor Star High Court on 11 October 1994 after being convicted of trafficking in heroin.

#### 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.

The death penalty is mandatory in Malaysia for murder, certain firearms offences and trafficking in a number of specified drugs. Execution is by hanging.

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.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment, as proclaimed in the Universal Declaration of Human Rights.

The death penalty is an inherently unjust and arbitrary punishment, however heinous the crime for which it is provided. Studies have shown that it is more likely to be imposed on those who are poorer and less educated than average.

The risk of error in applying the death penalty is inescapable, yet it is irrevocable. Furthermore, there is no convincing evidence that the death penalty deters crime more effectively than other punishments.

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

- urging the King to commute the death sentence passed on Chu Tak Fai;
- expressing unconditional opposition to the death penalty as a violation of one of the most fundamental of human rights - the right to life;
- recognizing the need to combat drugs abuse, but emphasizing that there is no proof that the death penalty deters crime more effectively than other punishments and appealing to the authorities to find a more humane form of punishment for those convicted of serious offences.

#### **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 Mahathir 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 30 June 1997.