

EXTERNAL

AI Index: ASA 28/08/97

EXTRA 80/97

Death Penalty

4 June 1997

**MALAYSIARaj Mohamed Niyaju Din, aged 40, bus driver
Sapuan Hanin, aged 45**

The two men named above are facing imminent execution following the rejection of their appeals by the Federal Court on 19 May 1997. Raj Mohamed Niyaju Din, a bus driver, was sentenced to death by the Seremban High Court for killing his wife in 1990. Sapuan Hanin was sentenced to death by the Johor Baru High Court in 1992 for trafficking in cannabis.

Their only hope for commutation now lies with the *Yang di-Pertuan Agong* (the King of Malaysia and Supreme Head of State).

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 45 new death sentences, although the real figure may be higher. The number of people under sentence of death in July 1996 was 245. Execution is by hanging.

The death penalty is mandatory in Malaysia for murder, certain firearms offences and 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/faxes/express/airmail letters in English or your own language:

- urging the King to commute the death sentences passed on Raj Mohamed Niyaju Din and Sapuan Hanin;
- 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 serious crime, 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:

King of Malaysia

Yang di-Pertuan Agong

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 Anwar Ibrahim

Acting Prime Minister

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 2 July 1997.