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Malaysia: Decisive action against death penalty needed after second pardon announced in a month

Amnesty International has today urged the Malaysian authorities to take prompt action to halt all executions and to abolish the death penalty, following the announcement – the second in less than a month – that a man on death row has been pardoned. News of the commutation of the death sentence imposed on Shahrul Izani bin Suparman is welcome, but is in stark contrast with brothers Suthar Batumalai and B. Rames Batumalai, who remain at imminent risk of execution.

In December 2016 the Sultan of Selangor granted the pardon request of Shahrul Izani bin Suparman, commuting his death sentence to life imprisonment. He had been sentenced to the mandatory death penalty on 8 December 2009, having been found guilty of drug trafficking after he was caught in possession of 622 grams of cannabis six years earlier. This offence, which was his first, does not meet the threshold of the “most serious crimes” to which the use of the death penalty must be restricted under international law. His family, who campaigned tirelessly with the support of [Amnesty International](#) to save him from the gallows, were only told about the commutation last week.

News of the commutation follows closely the [announcement](#) in early February 2017 that the King of Malaysia commuted the death sentence imposed on Nigerian national Osariakhi Ernest Obayangbon, whose execution had been scheduled for the early hours of 14 March 2014. He had been diagnosed as having schizophrenia before his appeal in 2007 and has been receiving treatment since then.

The two cases have highlighted the deep flaws in Malaysia’s criminal justice system, where judges are not even able to consider the circumstances of the crime or of the defendants as mitigating factors before imposing the ultimate sentence of death. The authorities have repeatedly announced plans to reform to the country’s mandatory death penalty laws, but these are yet to be unveiled. International law prohibits the use of the mandatory death penalty.

Amnesty International is urging the Malaysian authorities to take immediate action to halt the imminent executions of brothers Suthar Batumalai and B. Rames Batumalai, initially scheduled for 24 February and stayed only hours before they were due to take place. The two men were sentenced to the mandatory death penalty in April 2010 after they were found guilty of a murder committed on 4 February 2006. 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, a testimony which could have corroborated both the brothers’ version of events, including the involvement of the two other

men in the murder. The police had also failed to take blood samples and fingerprint samples from the two brothers, stating that this was not crucial to the case and that the identity of the accused had been confirmed.

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.” On 23 February lawyers for the brothers submitted a new petition for the consideration of the Sultan and Parole Board on 23 February.

Amnesty International is further dismayed at comments reported yesterday by the Malaysian High Commissioner to Singapore suggesting that the Malaysian government would not intervene to help two Malaysian nationals –Prabakaran Srivijayan and Datchinamurthy Kataiah– who face execution in neighbouring Singapore for drug-related offences. The organization renews its call on the Malaysian authorities to do everything in their power to advocate for the commutation of their death sentences and support their families.

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. The organization encourages the Malaysian government to build on the positive recent news of the commutation of death sentences and immediately establish a moratorium on all executions; commute existing death sentences; and swiftly reform the country’s death penalty laws as critical steps towards full abolition of this punishment.

Amnesty International opposes the death penalty unconditionally as a violation of the right to life as proclaimed in the Universal Declaration of Human Rights and the ultimate cruel, inhuman and degrading punishment.