

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

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**Questions**

**1. Is there any information which suggests that a person returning to Malaysia could be arrested or charged with drug offences which were committed in Australia and for which they have been convicted in Australia and already served their sentence?**

**RESPONSE**

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Very little information could be located which comments directly on the likelihood of a Malaysian national who has served a sentence for a drug crime committed in Australia being charged with drug offences on his return to Malaysia. One report was located which may be of interest, despite its age; a December 1997 report from the Human Rights Committee of the United Nations' International Covenant on Civil and Political Rights concerns a case in which a Malaysian national appealed against deportation from Australia on the grounds that he would be arrested and tried for drug crimes on his return. He had served his sentence in Australia, but claimed that he could be subject to the death penalty if returned to Malaysia, or to detention without trial under the Malaysian Dangerous Drugs Act. The Committee rejected the appeal in a split decision, stating that deporting the Malaysian national would "not reveal a violation by Australia of any of the provisions of the Covenant", although three members of the Committee provided dissenting reports. Relevant extracts from the report follow:

3.1 The author claims that her husband's deportation to Malaysia, where there is a real chance that he will face the death penalty, will violate Australia's duty to protect his right to life. In this context, the author notes that Australia itself has abolished the death penalty.

3.2 In support of her claim, the author refers to a letter from the Australian Office of Amnesty International, dated 25 March 1996 and addressed to the Minister for Immigration and Ethnic Affairs. In the letter, AI opposes the forcible return of T., as it believes that he will face the death penalty in Malaysia as a result of his conviction in Australia. In this context, AI notes that a person found to have been in possession of more than 15 grams of heroin faces a mandatory death sentence in Malaysia.

3.3 The author further states that the Dangerous Drugs Act provides for elimination of bail, so that persons awaiting trial are always kept in detention. She further states that there is a delay of up to four or five years for the initial trial, and three or four years for an appeal. She therefore argues that her husband would also likely spend seven to nine years in prison before being executed.

...3.5 It is further submitted that persons suspected of drug offences can be detained for up to two years in preventative detention without a possibility of recourse to the courts. She argues that this would be in violation of the right not to be arbitrarily detained.

3.6 The author also claims that the investigation in her husband's case would not be fair, and that he will not receive a fair trial, because of his ethnicity and his lack of full understanding of Malay, in violation of his right to equality before the law.

...4.2 On 3 June 1997, the State party requested the Committee to lift its request under rule 86. In this context, it referred to assurances which it had received from the Malaysian Government that "any Malaysian national who had committed and being sentenced overseas on the charge of any offence committed overseas will not be prosecuted upon his return to Malaysia for a charge or charges relating to his offence committed overseas. As such, the question of double jeopardy will not arise. Nevertheless, a Malaysian national may be charged by the Malaysian authorities due to other offences that he might have committed in Malaysia." The State party added that the contents of the Malaysian assurances had been brought to the attention of T. by letter of 30 May 1995, who replied by letter of 7 June 1995 that the information was "very comforting and reassuring".

...5.7 The State party submits that the author has failed to provide any evidence that T. will be prosecuted, or is likely to be prosecuted, on his return to Malaysia. The State party refers to the assurances given by Malaysia (see paragraph 4.1) and argues that a written assurance from a receiving State should be accepted as conclusive evidence that there is no necessary and foreseeable risk of a violation. The State party submits that further inquiries confirm that there is no risk to T. of prosecution. In this context, it refers to information from the Australian Mission in Kuala Lumpur that: "The Royal Malaysian Police have orally confirmed to us that they do not institute criminal proceedings for trafficking in drugs against a person returned to Malaysia – that is for exporting narcotics – and to our knowledge this has never occurred nor do any of our interlocutors consider it ever likely to occur. We have no reason to doubt that Malaysia will continue to abide by the principles governing double jeopardy as it has in the past." The State party adds that in three previous cases concerning persons convicted and sentenced for drug trafficking offences in Australia, it sought advice on whether that person might be subject to charges in Malaysia relating to the drug trafficking offence. On each occasion, the information confirmed that such a risk would not arise. The State party has no evidence that a person in similar circumstances as T. has been charged and executed on return to Malaysia.

...5.9 In respect to the claim that T. is likely to be subject to corporal punishment or extended periods on death row when sentenced under Malaysian law, the State party refers to its arguments in relation to article 6 of the Covenant and argues that no real risk exists that he will be prosecuted under the Dangerous Drugs Act.

...5.12 According to information received by the Australian Mission in Kuala Lumpur, a Malaysian national convicted of drug trafficking offences overseas would probably be put on a watch-list. The deportee would be met on arrival at the airport by members of the Anti-Narcotics Branch of the Malaysian Police. He would be interviewed to gain insight into his role and, if the police determined that he had limited involvement in trafficking of the drug, was not a member of a criminal syndicate and has little intelligence to offer, preventative detention could well not occur. The State party emphasises that preventative detention is not automatic and depends on the circumstances of each individual case. In the case of T., he had never been sentenced for a drug offence before, and he has claimed that he is not part of a drug network and that he did not know the contents of the bag containing heroin. In those circumstances, it is not likely according to the State party that he would be kept in preventative detention (United Nations 1997, 'Communication No 106/1996 : Australia, 04/12/97', Office of the High Commissioner for Human Rights website, 4 December <http://www.unhchr.ch/tbs/doc.nsf/0/16cadcf75412ec38802566da003df5d1?Opendocument> – Accessed 14 July 2009 – Attachment 1).

Other related information in this response is provided in three sections, providing source material on: 'double jeopardy' and detention without trial in Malaysia; Malaysian law on drug-related offences and offences committed overseas; and recent use of the death penalty for drug-related offences in Malaysia.

### **'Double jeopardy' and detention without trial in Malaysia**

An article in the *Sun2Surf* news website, written by a Professor of Law at the Malaysian MARA University of Technology, provides information on double jeopardy in international and Malaysian law:

International law and most national legal systems mandate a rule against double jeopardy. Article 14(7) of the International Covenant on Civil and Political Rights ordains that "no one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country".

...In Malaysia, the Federal Constitution in Article 7(2) provides that "a person who has been acquitted or convicted of an offence shall not be tried again for the same offence except where the conviction or acquittal has been quashed and a retrial ordered by a court superior to that by which he was acquitted or convicted" (Shad, S. 2006, 'Protection Against Repeated Trials', *Sun2Surf*, 23 November <http://www.sun2surf.com/article.cfm?id=16194> – Accessed 14 July 2009 – Attachment 2).

Nonetheless, a 2005 article by the same author, posted on The Malaysian Bar website, casts doubt on the efficacy of the constitutional protection for Malaysians under the double jeopardy provisions:

### **13. Article 7**

This Article confers two rights – protection against retrospective criminal laws and protection against repeated trials. Courts have been vigilant as to the first. But the rule against double jeopardy has been subjected to so many exceptions that one is left wondering about the real worth of this immunity. Courts have held that sentences imposed by criminal courts do not bar additional sentences imposed by disciplinary tribunals. Acquittal or conviction in a criminal trial does not bar an additional preventive detention order. Acquittal on one charge does not bar a trial for another charge for a separate offence on the same set of facts.

Such a pedantic interpretation of a constitutional guarantee can be defended on strictly analytical terms. But the lay person is unlikely to be convinced that the accused is not being punished twice for the same wrong (Shad, S. 2005, 'Constitutional Interpretation in a Globalised World', The Malaysian Bar website, 17 November [http://www.malaysianbar.org.my/constitutional\\_law/constitutional\\_interpretation\\_in\\_a\\_globalised\\_world.html](http://www.malaysianbar.org.my/constitutional_law/constitutional_interpretation_in_a_globalised_world.html) – Accessed 14 July 2009 – Attachment 3).

An undated article posted on the ASEAN Law Association (described on its website as “a non-government organisation which brings together under one roof all the different branches of the law profession – judges, law teachers, law practitioners and government lawyers”) website states that the Malaysian High Court possesses jurisdiction to try offences committed overseas, but does not specify whether this is the case when a sentence has already been served overseas:

The High Court possesses additional jurisdiction through section 22(1)(b): a “catch-all” clause permitting the exercise of jurisdiction to try offences under Chapter VI of the Penal Code, and under any of the written laws specified in the Schedule to the Extra-territorial Offences Act, 1976 or offences under any written law the commission of which is certified by the Attorney-General to affect the security of the Federation committed, as the case may be,

- (i) on the high seas on board any ship or on any aircraft registered in Malaysia;
- (ii) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft; or
- (iii) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia.

Chapter VI of the Penal Code concerns offences against the state and the offences specified in the Schedule to the Extra-Territorial Offences Act 1976, namely, offences under the Official Secrets Act 1972 and Sedition Act 1948. The Yang di-Pertuan Agong is authorised through the issue of orders to amend or add to the list of offences.

One may well argue that item (iii) is rather extensive, applying to a Malaysian or a permanent resident of Malaysia, who commits a certified act while living in, for instance, the United Kingdom, even though such act does not constitute an offence in that country. Although there are certain procedural requirements, the provision seems to confer far-reaching powers on the Court to try offences committed by citizens and permanent residents outside the country. The Attorney General may also extend the range of offences under any written law by certifying that they affect the security of the country. Much will depend on the judicious exercise of this power by the Attorney General ('The Administration of Justice' 2005, in 'Legal System in Malaysia', ASEAN Law Association website [http://www.aseanlawassociation.org/papers/Malaysia\\_chp2.pdf](http://www.aseanlawassociation.org/papers/Malaysia_chp2.pdf) – Accessed 8 July 2009 – Attachment 4).

The US Department of State's 2008 *Country Report on Human Rights Practices* for Malaysia provides a summary of the four laws which “permit the government to detain suspects without normal judicial review or filing formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act”:

Four preventive detention laws permit the government to detain suspects without normal judicial review or filing formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act.

The ISA empowers police to arrest without a warrant and hold for up to 60 days any person who acts “in a manner prejudicial to the national security or economic life of Malaysia.” During the initial 60 day detention period in special detention centers, the ISA allows for the denial of legal representation and does not require that the case be brought before a court. The home minister may authorize further detention for up to two years, with an unlimited number of two-year periods to follow. In practice the government infrequently authorised ISA detention beyond two two-year terms. However, in one case, the government has detained the longest-held ISA detainee for approximately seven years. Some of those released before the end of their detention period are subject to “imposed restricted conditions.” These conditions limit freedom of speech, association, and travel inside and outside the country.

Even when there are no formal charges, the ISA requires that authorities inform detainees of the accusations against them and permit them to appeal to a nonjudicial advisory board for review every six months. However, advisory board decisions and recommendations are not binding on the home minister, not made public, and often not shown to the detainee.

The Bar Council called for the repeal of the ISA, which does not allow judicial review of ISA decisions in any court, except for issues of compliance with procedural requirements.

...In December the home minister stated that there were approximately 46 persons in detention under the ISA. According to a local NGO, the 46 detainees included 29 suspected of involvement with terrorist groups, five ethnic Indian civil rights activists, and 12 held for falsification of documents or other offenses. According to SUARAM, authorities had not formally charged any of these detainees with a criminal offense.

Under the Emergency Ordinance, the home minister may issue a detention order for up to two years against a person if he deems it necessary for the protection of public order, “the suppression of violence, or the prevention of crimes involving violence.” A local NGO reported that more than 1,000 individuals were detained under the Emergency Ordinance and other preventive measures. The authorities used the Emergency Ordinance on suspected organized crime figures.

Provisions of the Dangerous Drugs Act give the government specific power to detain suspected drug traffickers without trial for up to 39 days before the home minister must issue a detention order. Once the Home Ministry issues the detention order, the detainee is entitled to a hearing before a court, which has the authority to order the detainee’s release. Authorities may hold suspects without charge for successive two-year intervals with periodic review by an advisory board, whose opinion is binding on the minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. Police frequently detained suspected narcotics traffickers under this act after courts acquitted them of formal charges. According to the National Anti-Drug Agency, the government detained 805 persons under the preventive detention provisions of the act during the first eight months of the year, compared with 798 persons during all of 2007 (US Department of State 2009, *Country Report on Human Rights Practices for 2008 – Malaysia*, 25 February – Attachment 5).

An August 2006 article from Human Rights Watch, titled *Convicted Before Trial: Indefinite Detention Under Malaysia’s Emergency Ordinance*, provides further detail and examples of the Malaysian authorities’ use of the Emergency Ordinance to detain individuals without trial for an indefinite period; this article is provided as Attachment 6 (Human Rights Watch 2006, *Convicted Before Trial: Indefinite Detention Under Malaysia’s Emergency Ordinance*, Refworld, (source: Human Rights Watch), 24 August <http://www.unhcr.org/refworld/publisher,HRW,,MYS,4517cda34,0.html> – Accessed 14 July 2009 – Attachment 6).

## **Malaysian law**

The Penal Code of Malaysia provides information on the punishment of offences committed overseas by citizens or permanent residents of Malaysia:

### **Punishment of offences committed beyond, but which by law may be tried within Malaysia**

3. Any person liable by law to be tried for an offence committed beyond the limits of Malaysia, shall be dealt with according to the provisions of this Code for any act committed beyond Malaysia, in the same manner as if such act had been committed within Malaysia.

### **Extension of Code to extraterritorial offences**

4. (1) The provisions of Chapter VI shall apply to any offence committed—

(a) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft whether or not such ship or aircraft is registered in Malaysia;

(b) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia,

as if the offence had been committed in Malaysia.

(2) In this section—

(a) “offence” includes every act done outside Malaysia which, if done in Malaysia, would be an offence punishable under this Code;

(b) “permanent resident” has the meaning assigned by the Courts of Judicature Act 1964 [Act 91] (The Commissioner of Law Revision, Malaysia 2006, ‘Act 574 – Penal Code’, Attorney General’s Chambers website, 1 January <http://www.agc.gov.my/agc/Akta/Vol.%2012/Act%20574.pdf> – Accessed 9 July 2009 – Attachment 8).

These provisions also form part of the ‘Extra-territorial Offences Act 1976’:

### **Extra-territorial effect of offences committed outside Malaysia**

2. (1) (a) Any act contrary to the provisions of any of the written laws specified in the Schedule, being the provisions relating to the creation of, and the punishment for, offences; or

(b) any offence under any other written law the commission of which is certified by the Attorney General to affect the security of the Federation,

shall, if such act is done or such offence is committed, as the case may be, –

(i) on the high seas on board any ship or on any aircraft registered in Malaysia;

(ii) by any citizen or any permanent resident on the high seas on board any ship or on any aircraft;

(iii) by any citizen or any permanent resident in any place without and beyond the limits of Malaysia,

be punishable as an offence under the relevant written law as if such act or offence were done or committed in Malaysia (The Commissioner of Law Revision, Malaysia 2006, ‘Act 163 – Extra-territorial Offences Act 1976’, Attorney General’s Chambers website, 1 January

<http://www.agc.gov.my/agc/Akta/Vol.%204/Act%20163.pdf> – Accessed 9 July 2009 – Attachment 7).

As noted above in the 2008 US Department of State report, the ‘Dangerous Drugs (Special Preventive Measures) Act 1985’ provides for the detention without trial of those suspected of “activity relating to or involving the trafficking in dangerous drugs”:

An Act to provide for the preventive detention of persons associated with any activity relating to or involving the trafficking in dangerous drugs.

**...Power to order detention and restriction of persons**

6. (1) Whenever the Minister, after considering—

- (a) the complete report of investigation submitted under subsection 3(3); and
- (b) the report of the Inquiry Officer submitted under subsection 5(4),

is satisfied with respect to any person that such person has been or is associated with any activity relating to or involving the trafficking in dangerous drugs, the Minister may, if he is satisfied that it is necessary in the interest of public order that such person be detained, by order (hereinafter referred to as a “detention order”) direct that such person be detained for a period not exceeding two years (The Commissioner of Law Revision, Malaysia 2006, ‘Act 316, Dangerous Drugs (Special Preventive Measures) Act 1985’, Attorney General’s Chambers website, 1 January <http://www.agc.gov.my/agc/Akta/Vol.%207/Act%20316.pdf> – Accessed 15 July 2009 – Attachment 9).

The ‘Dangerous Drugs Act 1952’ sets out that those convicted of trafficking in a dangerous drug “shall be punished on conviction with death”:

**Trafficking in dangerous drugs**

39B. (1) No person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Malaysia—

- (a) traffic in a dangerous drug;
- (b) offer to traffic in a dangerous drug; or
- (c) do or offer to do an act preparatory to or for the purpose of trafficking in a dangerous drug.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence against this Act and shall be punished on conviction with death (The Commissioner of Law Revision, Malaysia 2006, ‘Act 234, Dangerous Drugs Act 1952’, Attorney General’s Chambers website, 1 January <http://www.agc.gov.my/agc/Akta/Vol.%205/Act%20234.pdf> – Accessed 15 July 2009 – Attachment 10).

**Use of the death penalty for drug-related offences in Malaysia**

Recent information suggests that Malaysia imposes mandatory death sentences on those found guilty of trafficking in drugs (see the section above on Malaysian law for more details), but few executions appear to have been carried out in recent years. A June 2009 report from Amnesty International claims that “a high proportion of death sentences are imposed upon those convicted of drug offences”, but a 2009 report on *Death Sentences and Executions in 2008*, also produced by Amnesty International, states that only one confirmed execution was carried out in Malaysia during the year. The Capital Punishment UK website does not list

Malaysia among the countries to have carried out confirmed executions in 2008. The anti-death penalty website Hands Off Cain claims that “[b]etween 1983 and 2002, at least 210 people were hanged in Malaysia for drug-related crimes”, but also notes that in 2006 one execution took place in Malaysia, and that this was the first since December 2002. Reports sourced from the Hands Off Cain website and the Asia Death Penalty blog suggest that large numbers of those convicted of drug offences are currently on death row, and that the death penalty continues to be applied to people convicted of drug trafficking (for the Amnesty International and Capital Punishment UK reports, see: ‘End the Death Penalty for Drug-Related Offences’ 2009, Human Rights Watch, 22 June

<http://www.hrw.org/en/news/2009/06/22/end-death-penalty-drug-related-offenses> – Accessed 14 July 2009 – Attachment 11; Amnesty International 2009, *Death Sentences and Executions in 2008*, March <http://www.amnesty.org/en/library/asset/ACT50/003/2009/en/0b789cb1-baa8-4c1b-bc35-58b606309836/act500032009en.pdf> – Accessed 14 July 2009 – Attachment 12; and: ‘Overview of the death penalty worldwide in 2008’ (undated), Capital Punishment UK website <http://www.capitalpunishmentuk.org/overview.html> – Accessed 14 July 2009 – Attachment 13; for other reports on the death penalty in Malaysia, see: ‘In Malaysia capital crimes include murder, rape, drug crimes, treason and possession of arms’ 2008, Hands Off Cain website, 1 January

<http://www.handsoffcain.info/news/index.php?iddocumento=10001372> – Accessed 15 July 2009 – Attachment 14; Goodwin, T. 2007, ‘Indonesian workers face execution in Malaysia’, Asia Death Penalty website, 27 May

<http://asiadeathpenalty.blogspot.com/2007/05/indonesian-workers-face-execution-in.html> – Accessed 14 July 2009 – Attachment 15; ‘Malaysia: Taxi Driver Sentenced to Death for Drug Trafficking’ 2009, Hands Off Cain website, (source: *Star Online*), 16 February

[http://www.handsoffcain.info/archivio\\_news/200902.php?iddocumento=12302494&mover=0](http://www.handsoffcain.info/archivio_news/200902.php?iddocumento=12302494&mover=0) – Accessed 14 July 2009 – Attachment 16; and: ‘Death Penalty: Malaysia to Hang Three for Marijuana Trafficking, Executions Continue in Middle East’ 2008, Stop the Drug War website, (source: *Drug War Chronicle*), 10 October

[http://stopthedrugwar.org/chronicle/555/death\\_penalty\\_malaysia\\_marijuana\\_iran\\_yemen\\_drug\\_offenses](http://stopthedrugwar.org/chronicle/555/death_penalty_malaysia_marijuana_iran_yemen_drug_offenses) – Accessed 14 July 2009 – Attachment 17).

Extracts from this source material follow below.

A 22 June 2009 Amnesty International report on the use of the death penalty for drug-related offences states that in Malaysia “a high proportion of death sentences are imposed upon those convicted of drug offences”. The report also notes that: “Mandatory death sentences are applied for certain drug offences in...Malaysia, leaving a judge with no discretion over the sentence for defendants found guilty”:

Sixteen countries in Asia apply the death penalty for drug-related offences. As many countries in the region do not make information on the death penalty available, it is impossible to calculate exactly how many drug-related death sentences are imposed. However, in Indonesia, Malaysia, Singapore, and Thailand, reports indicate that a high proportion of death sentences are imposed upon those convicted of drug offences.

...Death sentences are often handed down after unfair legal processes, a problem made worse by laws, policies or practices regulating drug offences in some Asian countries. Mandatory death sentences are applied for certain drug offences in Brunei, India, Laos, Singapore, and Malaysia, leaving a judge with no discretion over the sentence for defendants found guilty. Mandatory death sentences violate international standards on fair trials. Individualised sentencing is required to prevent cruel, inhuman, or degrading punishment and the arbitrary deprivation of life. Singapore, which has one of the highest per capita execution rates in the



world, as well as Malaysia, continue to hand down death sentences to individuals alleged to be drug traffickers after trials that presume guilt, and in which death sentences are mandatory.

...Confessions that have been coerced sometimes form the basis of guilty verdicts, death sentences and executions. Competent legal assistance is unavailable to many defendants, including defendants facing drugs-related charges, leaving many with little capacity to mount a defence at any stage of the proceedings ('End the Death Penalty for Drug-Related Offences' 2009, Human Rights Watch, 22 June <http://www.hrw.org/en/news/2009/06/22/end-death-penalty-drug-related-offenses> – Accessed 14 July 2009 – Attachment 11).

A 2009 Amnesty International report, titled *Death Sentences and Executions in 2008*, claims that Malaysia executed at least one person during the year, and conferred a sentence of death on at least twenty-two people (Amnesty International 2009, *Death Sentences and Executions in 2008*, March <http://www.amnesty.org/en/library/asset/ACT50/003/2009/en/0b789cb1-baa8-4c1b-bc35-58b606309836/act500032009en.pdf> – Accessed 14 July 2009 – Attachment 12).

Nonetheless, a report sourced from the Capital Punishment UK website does not list Malaysia among the countries which carried out executions in 2008 ('Overview of the death penalty worldwide in 2008' (undated), Capital Punishment UK website <http://www.capitalpunishmentuk.org/overview.html> – Accessed 14 July 2009 – Attachment 13).

A report sourced from the anti-death penalty website Hands Off Cain provides background and statistics on the use of the death penalty for drug-related offences in Malaysia, and claims that "[b]etween 1983 and 2002, at least 210 people were hanged in Malaysia for drug-related crimes". The report also notes that in 2006 one execution took place in Malaysia, and that this was the first since December 2002:

The Dangerous Drugs Act 1952, at Section 39B on possessing and distributing drugs, also carries a mandatory death sentence. Between 1983 and 2002, at least 210 people were hanged in Malaysia for drug-related crimes.

...The Malaysian High Courts only try criminal cases punishable with the death penalty. Death sentences issued by a High Court can be appealed at the Court of Appeal. If an appeal is unsuccessful a death row inmate can have resort to the Federal Court. The last resort is the State Pardons Board. The King alone is empowered to commute death sentences.

In general about two years pass between the passing of a death sentence and the execution of the person condemned. Some appeals processes however exceeded 10 years.

As of March 21, 2006 a total of 159 death row convicts were awaiting execution in prisons nationwide.

On February 3, 2005, Malaysia revealed it had executed 358 people by hanging in the past 24 years. Opposition leader, Lim Kit Siang, said he received the statistics from Prime Minister, Abdullah Ahmad Badawi, in response to a written question submitted in parliament. The figures also revealed that 50 foreign nationals had been hanged. They included seven from Thailand, eight from Hong Kong, 23 from the Philippines and four from Singapore. Two Indonesian had been put to death as well as one each from Australia, Britain and Pakistan. Forty-six of them were hanged for drug offences. Twelve of the executions were for offences under the Internal Security Act.

In 2006, one execution took place in Malaysia. Before that, last execution was carried out on December 27, 2002, when three men were hanged at the Kajang prison ('In Malaysia capital crimes include murder, rape, drug crimes, treason and possession of arms' 2008, Hands Off Cain website, 1 January <http://www.handsoffcain.info/news/index.php?iddocumento=10001372> – Accessed 15 July 2009 – Attachment 14).

A May 2007 posting on the Asia Death Penalty blog website quotes a *Jakarta Post* report which claims that there are 279 Indonesian workers “either on death row or facing possible capital charges” in Malaysia, and that “95 per cent were convicted, on trial or under police investigation for illegal possession of drugs”. The report quotes Indonesia government minister Erman Suparno, who reportedly “said several Acehnese sentenced to death on drug charged were awaiting execution following rejection of their appeals by Malaysia’s High Court” (Goodwin, T. 2007, ‘Indonesian workers face execution in Malaysia’, Asia Death Penalty website, 27 May <http://asiadeathpenalty.blogspot.com/2007/05/indonesian-workers-face-execution-in.html> – Accessed 14 July 2009 – Attachment 15).

Two recent reports suggest that Malaysian courts continue to deliver a sentence of death to those convicted of drug trafficking. A February 2009 report sourced from the *Star Online* states that “a part time taxi driver was sentenced to death by the Malaysian High Court after he was found guilty of trafficking...466.4g of cannabis on July 24, 2005”; and a report carried on the *Drug War Chronicle* website, dated 10 October 2008, claims that: “Twice in the past two weeks, courts in Malaysia have condemned people to death for marijuana trafficking offences” (‘Malaysia: Taxi Driver Sentenced to Death for Drug Trafficking’ 2009, Hands Off Cain website, (source: *Star Online*), 16 February [http://www.handsoffcain.info/archivio\\_news/200902.php?iddocumento=12302494&mover=0](http://www.handsoffcain.info/archivio_news/200902.php?iddocumento=12302494&mover=0) – Accessed 14 July 2009 – Attachment 16; ‘Death Penalty: Malaysia to Hang Three for Marijuana Trafficking, Executions Continue in Middle East’ 2008, Stop the Drug War website, (source: *Drug War Chronicle*), 10 October [http://stopthedrugwar.org/chronicle/555/death\\_penalty\\_malaysia\\_marijuana\\_iran\\_yemen\\_drug\\_offenses](http://stopthedrugwar.org/chronicle/555/death_penalty_malaysia_marijuana_iran_yemen_drug_offenses) – Accessed 14 July 2009 – Attachment 17).

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BACIS (DIAC Country Information database)

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ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

## List of Attachments

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