

YONG VUI KONG SINGAPORE



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YONG VUI KONG (Yong), a Malaysian man, was arrested in Singapore in 2007, aged 19, for possessing 47g of heroin. Yong had dropped out of school early and had turned to petty crime as a way of earning money.

Under Singapore's Misuse of Drugs Act, anyone caught with more than 15g of heroin is presumed to be guilty of drug trafficking, for which the death penalty is mandatory. As Yong was not able to counter this presumption, the High Court convicted him in 2008 and he was sentenced to death. The court had no discretion to consider mitigating circumstances or pass a lesser sentence.

Lawyers filed an appeal against his conviction but Yong withdrew it in April 2009, saying that he had embraced Buddhism and wanted to acknowledge his crime. Yong petitioned Singapore's president for clemency on the basis of his youth but this was rejected in November 2009.

Yong's lawyer, M. Ravi, has appealed against Yong's sentence by challenging the constitutionality of the mandatory death penalty for drug trafficking and seeking judicial review of the clemency process. But in May 2010, the Court of Appeal rejected the constitutional challenge on the mandatory death penalty for drug trafficking. This was the third time it had rejected such a challenge since 1980.

The Court ruled that the right to life in the Singapore Constitution did not imply a ban on inhuman punishment, and by extension, on mandatory death sentences. It rejected a rule of customary international law that prohibits mandatory death sentences as an inhuman punishment or a violation of the right to life.

M. Ravi's application for judicial review of the clemency process argued that the power to grant pardon had been prejudiced by comments about the case made by the Law Minister, thereby undermining accepted principles of procedural fairness. This was dismissed by the High Court in August 2010. The Court of Appeal dismissed an appeal against the High Court's decision in April 2011, clearing the way for Yong's execution.

The President can only exercise clemency following advice from the Cabinet and thus has little discretion in granting pardons. Clemency for a sentence of execution in Singapore has reportedly been granted only six times since independence in 1965.

“When we say mandatory death sentence it means basically judges don't have discretion. Just close your eyes... and execute. Don't have to look at the person's background and all that.”

M. Ravi, Yong Vui Kong's lawyer

MANDATORY
DEATH SENTENCES

DENIAL OF RIGHT TO BE
PRESUMED INNOCENT

SINGAPORE was long known for having the highest per capita execution rate in the world, but the number of executions has decreased in recent years. According to government figures, three people were executed in 2007, six in 2008, five in 2009 and none in 2010. At least 12 offences are punishable with death and the death penalty is mandatory for murder, sedition, serious firearms offences and drug trafficking. Singapore is not party to the International Covenant on Civil and Political Rights but is obliged under customary international law to respect the right to life and observe the absolute ban on torture and other ill-treatment.

ACT NOW

Appeal to the President to:

- ★ Stop the execution of Yong Vui Kong by whatever judicial or other means are available.
- ★ Suspend all executions and the imposition of death sentences as a step towards total abolition of the death penalty.
- ★ Revise laws and change policies and practices to ensure fair trials in line with international standards, in particular laws that reverse the presumption of innocence.
- ★ Abolish mandatory death sentences.
- ★ Ratify the International Covenant on Civil and Political Rights.

Write to:

The President
Office of the President
Orchard Road, Istana
Singapore 0922
Email: s_r_nathan@istana.gov.sg