



## ADPAN Statement on Malaysia's Progress in Death Penalty Reform and Indefinite Juvenile Detention

The Anti-Death Penalty Asia Network (ADPAN) commends Malaysia's historic steps towards reducing the use of the death penalty. Shifting from a mandatory sentencing framework to a discretionary one has had a significant impact: recent parliamentary data<sup>1</sup> reveals that, after resentencing hearings took place between November 2023 and October 2024, the number of people on death row dramatically declined from more than 1300<sup>2</sup> to 140. Allowing the Federal Court of Malaysia to review each sentence and to consider mitigating factors has given second chances to many people previously condemned to death and signals a crucial move away from capital punishment as a default.

Further, this has paved the way for better compliance with international human rights standards and the adoption of a rehabilitative, rather than a punitive, approach to justice. ADPAN commends the work of the dedicated capital defence lawyers, the Malaysian Bar, civil society organisations, and others whose efforts ensured that all those eligible for resentencing were able to be represented before the Court.

### Progress: Significant Decline in Death Sentences

According to Parliamentary data and records from the Malaysian Prisons Department, the number of people on death row in Malaysia has significantly declined, including a sharp drop in the proportion of women. As of 22 January 2025 the proportion of women on death row fell from **9.65% in 2022<sup>3</sup> to just 1.43% in 2025**. In 2022, the World Coalition Against the Death Penalty reported that Malaysia had 129 women on death row, making it the country with the highest number of women sentenced to death based on available data<sup>4</sup>. That number has now fallen to two women, along with one individual whose gender identity is unclear from publicly available

<sup>1</sup> First Meeting of the Fourth Session of the Fifteenth Parliament, 2025 (3 February – 6 March 2025), Question No. 1–721

<sup>2</sup> Martin Carvalho, Rahimy Rahim, and Tarrence Tan, "Over 1,000 Inmates on Death Row May Be Spared the Gallows Following New Law," *The Star*, April 3, 2023, <https://www.thestar.com.my>

<sup>3</sup> 'Mapping of Women on Death Row', Report, World Coalition Against the Death Penalty, August 2023, p16, [https://worldcoalition.org/wp-content/uploads/2023/08/ENG\\_Country-Mapping-report\\_Women-on-Death-Row.pdf](https://worldcoalition.org/wp-content/uploads/2023/08/ENG_Country-Mapping-report_Women-on-Death-Row.pdf)

<sup>4</sup> 'Mapping of Women on Death Row', Report, World Coalition Against the Death Penalty, August 2023, p16, [https://worldcoalition.org/wp-content/uploads/2023/08/ENG\\_Country-Mapping-report\\_Women-on-Death-Row.pdf](https://worldcoalition.org/wp-content/uploads/2023/08/ENG_Country-Mapping-report_Women-on-Death-Row.pdf)

data. This decline means that Malaysia is now aligned with the global average, where women typically make up 1–5% of death row populations.<sup>5</sup> It marks a significant milestone in addressing the disproportionate impact of the death penalty on women in Malaysia, many of whom were convicted of drug-related offences under coercive or exploitative circumstances.

The number of foreign nationals sentenced to death in Malaysia has also significantly declined—the data shows that there are **now 27 foreign nationals on death row<sup>6</sup> (19.3%)**. This is a notable drop from previous years: in February 2019, Amnesty International reported 568 (44%) foreign nationals on death row, of which 73% had been convicted of drug trafficking<sup>7</sup>.

While this decline reflects ongoing reforms and evolving sentencing practices, concerns persist regarding fair trial rights and access to legal representation for foreign nationals facing capital punishment.

### Death Penalty for Drug Offences

Despite progress in reducing the overall number of people on death row, serious concerns remain. Nearly one-third of persons remaining on death row (40 people) have been convicted of drug offences<sup>8</sup>. Drug offences do not meet the international legal threshold of “most serious crimes” set by Article 6 of the International Covenant on Civil and Political Rights, which has been interpreted as referring to “crimes of extreme gravity involving intentional killing”<sup>9</sup>. A number of UN bodies, including the United Nations Office on Drugs and Crime<sup>10</sup> and the International Narcotics Control Board<sup>11</sup>, have called for States to abolish the death penalty for drug offences. We urge the Government of Malaysia to review its position on retaining the death penalty for drug offences and consider an evidence-based drug policy that ‘promotes prevention, treatment, rehabilitation and reintegration’<sup>12</sup>.

### Mitigation Review

We urge the authorities to ensure that the 140 persons still facing the death penalty are given **mitigation reviews** with full consideration of **mitigating factors that may not have been presented at the time of their original sentencing or during the resentencing process**. Failure to consider such factors has been widely recognized as leading to unjust and

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<sup>5</sup> Cornell Center on the Death Penalty Worldwide, Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty, (September 2018), <https://deathpenaltyworldwide.org/publication/judged-more-than-her-crime/>

<sup>6</sup> First Meeting of the Fourth Session of the Fifteenth Parliament, 2025 (3 February – 6 March 2025), Question No. 1–721

<sup>7</sup> Amnesty International, *Fatally Flawed: Why Malaysia Must Abolish the Death Penalty*, 2019, p. 5

<sup>8</sup> First Meeting of the Fourth Session of the Fifteenth Parliament, 2025 (3 February – 6 March 2025), Question No. 1–721

<sup>9</sup> Article 6(2) of the International Covenant on Civil and Political Rights; Safeguard No.1 of the [UN Safeguards guaranteeing protection of the rights of those facing the death penalty](#), adopted through UN Economic and Social Council resolution 1984/50.

<sup>10</sup> United Nations Office on Drugs and Crime (UNODC), ‘Statement Attributable to the UNODC Spokesperson on the Use of the Death Penalty’ (Press Release, 27 June 2019)

<https://www.unodc.org/unodc/en/press/releases/2019/June/statement-attributable-to-the-unodc-spokesperson-on-the-use-of-the-death-penalty.html>

<sup>11</sup> [Report of the International Narcotics Control Board for 2021](#), UN DOC. E/INCB/2021/1, para. 96.

<sup>12</sup> United Nations Office on Drugs and Crime (UNODC), ‘Statement Attributable to the UNODC Spokesperson on the Use of the Death Penalty’ (Press Release, 27 June 2019)

<https://www.unodc.org/unodc/en/press/releases/2019/June/statement-attributable-to-the-unodc-spokesperson-on-the-use-of-the-death-penalty.html>

disproportionate sentences. International human rights standards, including **Article 14(1) of the International Covenant on Civil and Political Rights (ICCPR)**, affirms that everyone is entitled to a fair and public hearing by a competent, independent, and impartial tribunal. A fair and just legal process must recognize the individual circumstances of each case and align with international human rights standards. In this regard, we recommend that Malaysia consider establishing a mitigation system according to clear and accepted standards developed along themes of mitigating circumstances.

### Indefinite Juvenile Detention

Malaysia's commitment to legal reform must go beyond the death penalty and tackle other deep-seated injustices—particularly the indefinite detention of juvenile offenders **under Section 97(2) of the Child Act 2001**.<sup>13</sup> According to the latest parliamentary data,<sup>14</sup> **27 juvenile offenders have been sentenced under this provision**:

- **11 individuals have been imprisoned for over 10 years**
- **12 individuals have been imprisoned for 10 to 20 years**
- **2 individuals have been detained for more than 20 years**

Children sentenced to indefinite detention are given annual reviews, but there is no clear path to release, violating Articles 37(b) and 40(1) of the Convention on the Rights of the Child (CRC). The CRC mandates that detention be a last resort, for the shortest period, and that juvenile justice promotes dignity, rehabilitation, and reintegration. However, discretionary powers over release rest with the Yang di-Pertuan Agong, rulers, or governors, with little transparency in the review process, raising concerns about prolonged imprisonment and lack of due process.

Worryingly, these individuals sentenced as children have been **excluded from resentencing under the Resentencing Act 2023**, leaving them trapped in a system that contradicts Malaysia's commitments to juvenile justice reform and human rights. **should abolish indefinite detention for juvenile offenders**, review these cases under Malaysia's **2023 legal reforms**, and **adopt rehabilitative justice** models in line with the principle of the best interests of the child and international best practices.

### Prospects for Reform: Our Continuing Call

While Malaysia's criminal justice reforms signal significant progress, **true justice requires a holistic and rights-based approach** that extends beyond death penalty abolition to broader systemic reforms. We remain committed to working alongside civil society, legal practitioners, and policymakers to **advocate for a fair, humane, and just criminal justice system**.

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<sup>13</sup> Section 97(2) Child Act 2001

<sup>14</sup> Malaysia, **House of Representatives**, *Response by the Minister of Home Affairs to Question No. 552 by Tuan Chow Yu Hui (Raub) during the First Meeting, Fourth Session, Fifteenth Parliament, January 22, 2025, Notice of Question in the House of Representatives*