



PERMANENT MISSION OF THE REPUBLIC OF SINGAPORE
UNITED NATIONS | GENEVA

PERMANENT REPRESENTATIVE

26 May 2023

Ms Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Mr Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary, or arbitrary executions

Ms Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mr Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ms Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Dear Special Procedures Mandate Holders,

I refer to your joint communication dated 27 March 2023 [Ref: AL SGP 1/2023] and would like to respond to the allegations concerning (a) Mr Ravi A/L Madasamy, (b) Mr Charles Yeo Yao Hui, (c) Mr Zaid Abd Malek and Lawyers for Liberty, and (d) Mr Rocky Howe and Ms Kirsten Han.

On Allegations about Intimidation and Harassment of Lawyers and Civil Society Actors

2 You received information that:

- a) The “Singaporean authorities reportedly intimidate and harass capital defense lawyers” and that “such harassment allegedly makes it difficult for capital defense lawyers to work on capital defendants’ cases seeking to stay or otherwise challenge their executions, often resulting in individuals facing their death sentences without legal representations”.
- b) “Capital defense lawyers faced unreasonably truncated and expedited filing deadlines and proceedings, additional cost orders, threats of contempt of court proceedings, arbitrary disciplinary proceedings, violations of legal professional privilege, and risk of contempt of court for having publicly criticised Singapore’s application of the death penalty”.
- c) The Administration of Justice (Protection) Act (AJPA) has been used to “target capital defense lawyers, civil society actors and human rights defenders”.

3 These allegations are patently untrue. In Singapore, all persons facing criminal charges that may result in capital punishment are entitled to and have access to legal representation. If a person charged with a capital offence cannot afford a lawyer, legal counsel will be offered to the person free of charge under the Legal Assistance Scheme for Capital Offences for the entire duration of the trial and appeal.

4 There are many lawyers in Singapore who have represented persons facing capital criminal charges. No action, whether disciplinary or other, has ever been taken against them for such representation. However, the right to counsel should not include the right to make applications that are frivolous, vexatious or an abuse of process. Otherwise, it risks undermining the proper functioning of the criminal justice system of the country, and the interests of the public. In such circumstances, the Courts have the discretion to impose costs orders on the lawyer.

5 Legislation to prevent the abuse of court process is common in many jurisdictions, especially developed countries and those with strong rule of law, and including I am sure, in your respective home countries. This is to safeguard the administration of justice. In Singapore, the Courts have taken steps to address abuse of the criminal justice system in both capital and non-capital cases.

6 The AJPA clarifies “contempt of court” by codifying the long-existing common law principle of contempt of court into statute. More certainty is provided, for instance, by setting out the various defences to contempt of court, and imposing limits on the maximum punishment. The AJPA does not prohibit individuals from expressing fair criticism of the judiciary and its decisions, as fair criticism does not amount to contempt. In fact, judicial decisions in Singapore are routinely criticised without falling afoul of the AJPA. The AJPA strengthens the rule of law, and respects international human rights law. We had clarified this point in previous responses.

Clarifications on Cases

Mr Ravi A/L Madasamy (“Ravi”)

7 You cited information stating that Ravi “faced six concurrent sets of disciplinary proceedings, one contempt of court action, and two separate investigations into contempt of court” after stating that he faced reprisals for representing persons who have been sentenced to capital punishment. This is misleading. The disciplinary proceedings against Ravi were not because of him representing such convicted persons, but because of his misconduct in court and other actions. Specifically:

- a) The Attorney-General’s Chambers (AGC) had filed disciplinary complaints to the Law Society against Ravi because of his misconduct of his legal cases, and his breaches of his professional undertaking to the Supreme Court of Singapore and the Council of the Law Society in relation to the conditions imposed on his Practising Certificate for Practice Year 2021/2022. For instance, Ravi had acted without his clients’ instructions, and furthermore, misrepresented to the Courts that he had had such instructions.

- b) Some of the disciplinary proceedings, in fact, arose from complaints made by members of the public.
- c) The contempt of court hearing was a consolidation of two contempt of court actions that Ravi faced relating to his conduct in court during two other non-capital cases which Ravi had appeared as counsel. In the first case, while representing an accused person in the State Courts, Ravi accused without basis the district judge of being biased, intentionally interrupted the district judge, and insulted the district judge. In the second case involving a civil trial in the High Court, Ravi repeatedly accused without basis the High Court judge of being biased, intentionally interrupted the High Court judge, made allegations which impugned the propriety of the court, and took legal positions without instructions from his client.

8 You cited information alleging that Ravi was “not given sufficient time to adequately prepare for each court hearing and did not receive the medical treatment he required”, and that [REDACTED] was not taken into account by the Law Society or the AGC, and “no procedural accommodations [had] been made to allow his disciplinary proceedings and legal proceedings relating to costs orders to take place fairly”. Again, this is untrue. Both the courts and AGC had accommodated Ravi’s need for longer timelines due to his medical condition. For example, the hearing in respect of the contempt of court actions against Ravi was initially fixed in May 2022. However, Ravi (represented by counsel) sought various adjournments and extensions of timelines to prepare, and for Ravi to obtain [REDACTED]. The AGC did not object to these applications for more time. When the matter was finally heard in October 2022, Ravi was asked by the presiding judge if he was able to proceed with the hearing, and he confirmed that he was able to do so. ([REDACTED].) Ravi’s [REDACTED] was also considered by the Courts and the AGC when determining its relevance as to the issue of liability for his acts of contempt.

9 Several of the other pieces of information you had received about Ravi are also misleading and/or false. In the interest of brevity, I invite you to view the facts of those matters at the **Annex** of this letter.

Mr Charles Yeo Yao Hui (“Yeo”)

10 You cited information alleging that Yeo had been ordered to “pay personal costs orders in a pro bono case” after applications to stay the executions of two convicted persons sentenced to capital punishment were dismissed. It is misleading to state this without clarifying that the orders for costs were made in relation to three applications to the Courts, that were eventually found by the Courts to have been abuses of court processes.

- a) In the first application, Yeo sought leave to apply for a Prohibiting Order and other related declarations in respect of the capital sentences of two convicted persons. The High Court dismissed the application and denied leave to commence judicial review. The High Court found that Yeo had acted improperly in the manner in which he commenced and conducted the application. Specifically, the High Court found that the application was brought for the collateral purpose of attacking an earlier decision of the Court of Appeal (CA) regarding his client’s appeal and not to genuinely seek prerogative relief. The application also lacked merit and was supported by a defective statement and an equally deficient supporting affidavit. Following the decision, the AGC was awarded costs of S\$2,830.20.
- b) In the second application, Yeo appealed to the CA against the abovementioned High Court decision. The CA dismissed the appeal, and ordered S\$2,500 in costs against Yeo.
- c) In the third application, Yeo, acting for the same two convicted persons, applied to the CA for leave to make a review application in respect of their concluded appeals. The CA dismissed the application, and ordered S\$1,500 in costs against Yeo.

11 On the latter two applications, the CA found that Yeo’s conduct, in filing them when he had no material to justify either of them, was improper. It found that the applications “had been cobbled together without substance” and that the applications had caused AGC to incur costs unnecessarily.

Mr Zaid Abd Malek (“Zaid”) and Lawyers for Liberty (“LFL”)

12 You cited information alleging that Zaid “was detained at the border for 4 hours without an explanation and was summoned to the Police Cantonment Complex on 6 July 2022 for an investigation into alleged offenses of contempt of court”, and that he was interrogated for “approximately two and a half hours”. You also quoted information claiming that Zaid was “allegedly summoned for contempt of court”.

- a) To clarify, Zaid was being investigated for offences relating to contempt of court after he had made statements suggesting that the Singapore Courts had been unfair and ignored due process by allegedly rushing the hearing of lawsuits filed by two individuals over the alleged execution methods used by the Singapore Prison Service (“SPS”). He also alleged that the Singapore Courts were “bent on dismissing the suits and proceeding to execution.” The Police, in consultation with AGC, served warnings to Zaid and LFL in lieu of prosecution for the offence of contempt of court under the AJPA. Zaid had accepted both the warnings served to him, and to LFL in his capacity as Director for LFL.
- b) It is misleading to state that Zaid was detained at the airport “without an explanation”. Upon Zaid's arrival in Singapore on 4 July 2022, the Police proceeded to the airport to serve an order on him requiring his attendance for a police interview. Zaid informed the officers that he was available for interview on 6 July 2022 and the officers scheduled an interview with him at the Police Cantonment Complex accordingly. Thereafter, Zaid was allowed to leave the airport.
- c) On 6 July 2022, Zaid’s statement recording at the Police Cantonment Complex began at 10.17am and ended at 12.05pm. Before the commencement of the interview, Zaid was informed that he could request for breaks at any point during the interview. He did not request for any break throughout the interview. Zaid left the Police Cantonment Complex shortly after the statement recording ended.

13 You cited information alleging that the “Singapore Government [had] allegedly issued a Correction Notice to LFL, which demanded LFL “[to] issue a correction or face criminal proceedings” after “LFL [had] published a statement on their website which included an SPS officer’s testimony on the

torturous nature of executions in Singapore”. This is misleading as it omits the basis provided by the Government for the issuance of the Correction Direction under the Protection from Online Falsehood and Manipulation Act, i.e. that LFL’s allegation of the SPS applying “unlawful methods for judicial execution” was completely untrue and baseless. The Government had publicly clarified that capital punishment in Singapore is carried out duly and properly in strict compliance with the law.

14 You quoted information alleging that “intimidating statements against LFL were made in Singapore’s Parliament in the context of a discussion condemning “foreign interference” in its criminal justice system.” This is untrue. The Minister of State for Home Affairs had, in response to a Parliamentary Question, sought to remind Singaporeans of the importance of being vigilant against foreign interference. He had referred to LFL as an example of the ostensible attempts by foreigners to weaken public trust and confidence in our criminal justice system with baseless accusations and race baiting. No threatening language was used at any point in his speech. You may refer to the following weblink for the relevant statement by the Minister of State for Home Affairs: <https://sprs.parl.gov.sg/search/#/sprs3topic?reportid=oral-answer-2781>

Mr Rocky Howe (“Howe”) and Ms Kirsten Han (“Han”)

15 Most of the information you cited in relation to Howe and Han had featured in your previous joint communication on the two individuals dated 17 November 2022 [Ref: AL SGP 11/2022], which I had addressed in a reply on 17 January 2023.

Clarifications on Other Matters

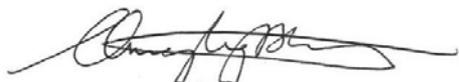
16 The information you cited alleged that some of the persons facing capital criminal charges whom Ravi and Yeo had represented were intellectually disabled. This is untrue. Those individuals were not intellectually disabled, and this had been determined by the Singapore Courts during their trials. Under Singapore law, if a person was indeed, at the time of his offence, by reason of unsoundness of mind (a) incapable of knowing the nature of the act, (b) incapable of knowing that what he was doing was wrong, or (c) completely

deprived of power to control his actions, the person will not be held liable for the offence. Capital punishment cannot be imposed on such persons.

17 You requested for information regarding the amended Criminal Procedure Code and Post-Appeal Applications in Capital Cases Bill. You may wish to visit the following weblink for the information: <https://www.mlaw.gov.sg/news/press-releases/2022-11-07-legislative-amendments-clarify-process-post-appeal-applications-cc/>.

18 I invite you, in the future, in the interests of coming to robust and accurate appreciations and assessments of situations and incidents, to check with me for the facts, before taking a position on allegations which you receive against the Singapore Government.

Yours sincerely,



UMEJ BHATIA

Ambassador and Permanent Representative

ANNEX

Clarifications to Inaccuracies and Misrepresentations involving Mr Ravi A/L Madasamy

S/N	Relevant Excerpts from AL SGP 1/2023	Clarifications
1.	[Mr Ravi] is representing himself in all disciplinary proceedings because he has not been able to find a lawyer to defend him.	<p>It is <u>untrue</u> that Ravi represented himself in all disciplinary proceedings.</p> <ul style="list-style-type: none">For instance, in <i>Attorney-General v [REDACTED] and another</i> [2022] SGHC 180, which decided on whether a Disciplinary Tribunal’s decision regarding Ravi’s professional misconduct should be reviewed, Ravi was represented by lawyers, [REDACTED]
2.	After publicly criticizing the prosecuting authorities’ approach in the [REDACTED], a case in which he represented a young man sentenced to death, the Attorney-General’s Chambers allegedly referred Mr. Ravi to the Disciplinary Tribunal. Though he ultimately was found not guilty of misconduct, Mr. Ravi was reportedly fined for making ‘baseless and misleading allegations’ against the Prosecution after	<p>It is <u>untrue</u> that Ravi was “found not guilty of misconduct”.</p> <ul style="list-style-type: none">The Disciplinary Tribunal had found him guilty of improper conduct in respect of three (out of four) charges but that there was no cause of sufficient gravity for disciplinary action, and therefore recommended a \$6,000 penalty to be imposed instead.¹The matter was subsequently reviewed by the Court of Three Judges (“the Court”). The Court disagreed with the Disciplinary Tribunal’s findings that there was no cause of sufficient gravity

¹ Report of the Disciplinary Tribunal (DT 6/2021) at [176(c)].

	<p>he said that the Public Prosecutor had ‘acted in bad faith or maliciously’.</p>	<p>for disciplinary action; it found on the contrary that Ravi’s misconduct amounted to due cause for disciplinary action.²</p> <ul style="list-style-type: none"> • The Court had found due cause for disciplinary action because Ravi had sought to accuse without basis (a) AGC of improperly and unfairly prosecuting ██████████; <i>as well as</i> (b) the Law Society of Singapore of improperly referring the Deputy Attorney-General’s complaint to the Disciplinary Tribunal. Both AGC and the Law Society are key pillars of the Singapore legal system; the Court found that Ravi’s allegations “pose[d] a real threat of serious injury to public confidence in the cornerstones of our legal system”.³
<p>3.</p>	<p>Mr. Ravi faced repeated unreasonably truncated filing deadlines.</p>	<ul style="list-style-type: none"> • It is <u>misleading</u> to state that the deadlines were unreasonably truncated. • For context, in the case of ██████████ ██████████. By the time Ravi came on board in 2021, ██████████ had filed an appeal against his conviction, a re-sentencing application, a judicial review application, a constitutional challenge, as well as appeals against the dismissals of the said applications. As such, any further application at this late stage (when Ravi came on board) would be exceptional.

² See *Law Society of Singapore v Ravi s/o Madasamy* [2023] SGHC 65 (“*Law Society v Ravi*”) at [110].

³ *Law Society v Ravi* at [110].

		<ul style="list-style-type: none"> • The Court of Appeal found that Ravi “deliberately chose to withhold the evidence they had on hand because they intended to drip-feed the applications and the evidence, in order to prevent the conclusion of the matter in any way they could”,⁴ and noted the “manifest lack of good faith” in the conduct by Ravi of these proceedings:⁵ <ol style="list-style-type: none"> a) On 2 November 2021, Ravi filed a judicial review application (Originating Summons (“OS”) 1109) against Nagaenthran’s impending execution (then scheduled on 10 November 2021), on the basis of Ravi’s purported belief that Nagaenthran’s mental condition had deteriorated in prison.⁶ However, Ravi objected to disclosure of contemporaneous medical reports that would have shed light on the matter, a position which the Court of Appeal noted “smacks of bad faith”.⁷ b) On 8 November 2021, during the High Court hearing for OS 1109, Ravi filed Criminal Motion (“CM”) 30 which canvassed the same arguments and sought the same relief as OS 1109.⁸ Thereafter, Ravi also filed CA 61 to appeal against the High Court’s dismissal of OS 1109. c) On 9 November 2021, before the Court of Appeal hearing of CA 61 and CM 30, Ravi filed another criminal motion (CM 31)
--	--	---

⁴ *Nagaenthran a/l K Dharmalingam v AG* [2022] 2 SLR 211 (“*Naga v AG*”) at [15].

⁵ *Naga v AG* at [24].

⁶ *Naga v AG* at [32].

⁷ *Naga v AG* at [36] and [37].

⁸ *Naga v AG* at [12].

		<p>seeking leave to file a review application, citing the same factual contention in OS 1109 and CM 30 (<i>i.e.</i>, the need to assess [REDACTED] present mental condition).⁹</p> <p>d) [REDACTED] was granted a stay of execution on 9 November 2021 as he tested positive for COVID-19, and the Court of Appeal adjourned the hearing of CA 61 and CM 30 to a later date.</p> <p>e) On 23 November 2021, the Court of Appeal allowed CM 31 and granted leave for Ravi to file a review application. In spite of this, Ravi never filed any review application.</p> <p>f) On 14 January 2022, Ravi became unable to practise as he was on medical leave.¹⁰ The matter was handed over to Violet Netto.</p> <p>g) On 29 March 2022, the Court of Appeal dismissed both CA 61 and CM 30.</p> <p>Throughout the above process, Ravi filed evidence such as affidavits and psychiatric reports piecemeal, even though some of the evidence would already have been available at the time of filing an earlier application.</p>
--	--	--

⁹ *Naga v AG* at [16].

¹⁰ *Naga v AG* at [20].

<p>4. [A]n SGD \$15,000 fine in punitive cost orders was imposed on Ravi for seeking relief from the death penalty on the basis that [REDACTED] was not competent for execution due to his disability and mental condition.</p>	<ul style="list-style-type: none"> • It is <u>misleading</u> to state that the order for costs against Ravi was a punitive fine imposed on Ravi for seeking relief for [REDACTED] from the death penalty. • The costs of S\$15,000 was ordered against Ravi for two matters, (S\$11,250 for CA 61 and S\$3,750 for CM 30).¹¹ The Court of Appeal held that it was appropriate to make the cost orders against Ravi because: <ul style="list-style-type: none"> a) there was no factual basis for CA 61 and CM 30 – Ravi had not adduced any admissible evidence in support of his applications.¹² b) the proceedings constituted a “blatant and egregious abuse of the court’s processes”. The Court of Appeal highlighted that Ravi and Netto drip-fed the supposed evidence and arguments.¹³
<p>5. Because of the disciplinary proceedings to which he was reportedly subjected, Mr. Ravi was not able to work on the [REDACTED] [REDACTED] filed for a stay of execution on the ground that he needed to instruct a new lawyer but the</p>	<ul style="list-style-type: none"> • It is <u>untrue</u> that Ravi was unable to work on the case of [REDACTED] “because of the disciplinary proceedings to which he was reportedly subjected to”. He was unable to represent [REDACTED] in filing OA 347¹⁴ because he did not have a valid practising certificate for the practice year 2022/23. He was previously able to work on the case of [REDACTED]

¹¹ *Nagaenthran a/l K Dharmalingam v AG and another matter* [2022] SGCA 44 (“*Naga costs*”) at [23].

¹² *Naga costs* at [12].

¹³ *Naga costs* at [16].

¹⁴ Three days before his scheduled execution, Nazeri filed OA 347 seeking: (a) a declaration that the Attorney-General had arbitrarily imposed the capital charge upon him in breach of his rights under Arts 9(1) and 12(1) of the Constitution of the Republic of Singapore; and (b) a prohibiting order and/or a stay of execution in respect of the execution of his sentence of death, pending the disposal of this matter.

<p>Court dismissed his application, allegedly arguing that because Mr ██████'s execution was imminent, he could not benefit from new legal assistance.</p>	<p>prior to 30 March 2022 and did in fact represent ██████ in various matters.¹⁵</p> <ul style="list-style-type: none">• It is <u>untrue</u> that the Court of Appeal dismissed ██████ application to engage new counsel because his “execution was imminent”. It was dismissed because the orders sought by ██████ were entirely devoid of factual basis and legal assistance would not have given factual substratum to a case which had none to begin with.¹⁶ The Court of Appeal also added that (a) it would not allow its processes to be abused where an applicant asks for a last-minute adjournment in order to seek legal representation for what is an application that had no factual basis to begin with; and (b) ██████ appeal was yet another instance of an abuse of the court’s process, conducted with the aim of frustrating the imposition of a punishment.
--	---

¹⁵ For example, CM 12/2021 (Nazeri’s leave application for a criminal review), and OS 825/2021 (application for various declarations against the Attorney-General).

¹⁶ ██████ v AG [2022] SLR 964 (██████”) at [35].