



PERMANENT MISSION OF THE REPUBLIC OF SINGAPORE

PERMANENT REPRESENTATIVE

16 April 2025

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

Ms Ganna Yudkivska
Vice-Chair of the Working Group on Arbitrary Detention

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

Dear Special Procedures Mandate Holders,

I refer to your Joint Urgent Appeal (“JUA”) dated 17 February 2025 [Ref: UA SGP 2/2025] on the capital sentence of Pannir Selvam Pranthaman (“Pannir”) and I would like to provide some clarifications.

Clarifications on Pannir’s Case

2 The JUA highlighted that “mandatory death sentences are inherently over-inclusive and unavoidably violate human rights law” and cited concerns regarding the (a) Certificate of Substantive Assistance (“CSA”); and (b) Section 18(2) of the Misuse of Drugs Act (“MDA”). I would like to set out a few clarifications.

3 The CSA regime does not violate the right to a fair trial. It is the court that determines whether the accused is guilty of the drug trafficking offence beyond a reasonable doubt. Upon the conviction of the accused of the offence, the Public Prosecutor will decide whether to issue a CSA, based on whether the accused had provided the authorities with substantive assistance that leads to the disruption of drug trafficking activities within or outside Singapore. If the Public Prosecutor decides to issue a CSA and the court finds that the accused’s involvement in the drug trafficking offence was limited to that of a drug courier, it has the discretion under the MDA to sentence the accused either to the death penalty or to life imprisonment. The Public Prosecutor does not decide on the sentence meted out by the Courts.

4 The Singapore Court of Appeal has recognised that it is entirely logical for Parliament to vest the Public Prosecutor (and not the courts) with the power to issue the CSA. This is because the inquiry as to whether an offender's assistance disrupted drug trafficking activities entails a wide-ranging assessment that likely considers materials that are not admissible as evidence in court.

5 The Public Prosecutor did not issue a CSA in Pannir's case. Following his conviction, Pannir filed court applications which specifically challenged the Public Prosecutor's decision not to issue a CSA. The Singapore Court of Appeal considered the information provided by Pannir and affirmed that the Public Prosecutor's decision not to issue him a CSA was proper. The information Pannir provided neither enhanced the operational effectiveness of the authorities, nor was his information useful to the authorities.

6 The JUA also asserts that the presumption of knowledge of the nature of the drug under s 18(2) of the MDA violates the presumption of innocence and the right to a fair trial. This is not true. In all cases, the burden lies on the Prosecution to prove the offence beyond a reasonable doubt. The s 18(2) presumption does not presume the guilt of the accused but merely shifts the evidential burden to the accused to prove, on a balance of probabilities, that he did not know the specific type of drug he was in possession of. Accused persons can and have in previous instances rebutted this presumption.

Consular Access

7 Singapore faithfully discharges our obligations under the Vienna Convention on Consular Relations. If the foreign national so requests, the Singapore authorities will inform the relevant embassy when the foreign national is arrested, committed to custody, sentenced to imprisonment by the courts, or detained in any other manner. In Pannir's case, upon his arrest, the Singapore authorities informed him of his right to contact his embassy. Pannir duly exercised his right, and the High Commission of Malaysia was duly informed without delay of his arrest and remand in September 2014.

8 The High Commission of Malaysia was also informed of key events in Pannir's case. First, when Pannir was sentenced to death in May 2017. Second, when Pannir's sentence of death was confirmed by the Court of Appeal, the High Commission of Malaysia was informed of the clemency process as well as the timeline for any submission of a petition for clemency. Third, when Pannir's sentence was scheduled to be carried out, the High Commission of Malaysia was notified on the same day as Pannir's next-of-kin.

9 Representatives of the relevant embassy or foreign government have access to and can visit their nationals in prison and speak to them during these visits, including arranging for their legal representation. Foreign nationals in prison similarly can write to their embassy or government, and request for their consular

representatives to visit them. In Pannir's case, the Singapore Prison Service ("SPS") has facilitated interviews and correspondence between Pannir and officials from the High Commission of Malaysia.

Other Clarifications

10 You have also highlighted that "lack of approval of any presidential requests for clemency raises the question of whether such requests are being perfunctorily dismissed" and raised concerns on whether mitigating factors are fully considered. Similar concerns have been raised in previous communications, which we have responded to, including our most recent response in February 2025. The President's clemency powers are enshrined in the Constitution of the Republic of Singapore. In States which prioritise the rule of law, the law should ordinarily take its course. Clemency powers are of an exceptional nature, given that it involves a departure from the law. Every petition for clemency is therefore carefully examined, and only cases with exceptional circumstances should be considered for an exercise of clemency. In relation to mitigating circumstances, our laws provide a discretion for the court to refrain from imposing the death penalty in certain circumstances and this discretion has been exercised in the past. Our position on these issues has been set out in detail in our previous submissions and we refer you to them.

Safeguarding the Right to Life and No International Consensus on Capital Punishment

11 The Singapore Constitution expressly provides in Article 9 that "No person shall be deprived of his life or personal liberty save in accordance with the law". In Singapore, the right to life applies with equal force to all persons.

12 You have asserted that mandatory capital punishment violates human rights law. On the contrary, international law does not prohibit capital punishment, including mandatory capital punishment, when it is imposed in accordance with due process of law and judicial safeguards. You have also asserted that the mandatory death penalty for drug offences does not meet the "most serious crimes" threshold. On the contrary, there is also no international consensus on what constitutes the "most serious crimes". Singapore considers trafficking in significant quantities of drugs as a most serious crime which causes immense harm, not just to drug abusers, but to their families and society as well. For Singapore, the legal imposition of mandatory capital punishment for drug trafficking helps protect lives.

13 You have also alleged that Pannir's execution, if it proceeds, would "constitute a violation of applicable international human rights standards, and would thus be an arbitrary execution". On the contrary, Pannir was sentenced to capital punishment in respect of an offence that is considered a most serious crime in accordance with the law in force in Singapore at the time of the commission of the crime.

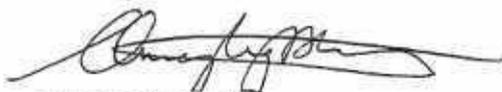
14 Further, a final judgment on sentence was rendered by a competent court. Also, in accordance with the law, Pannir has been granted a stay on his execution on 19 February 2025, pending the outcome of his post-appeal application. Clearly, Pannir has therefore been accorded full due process under the law.

Singapore's Approach against Drugs has Proven Effective

15 Singapore is particularly vulnerable to the menace posed by drugs. We are situated near a major drug producing region. The UNODC World Drug Report 2022 described Southeast Asia, particularly the Golden Triangle area "literally swimming in methamphetamine". In 2023, the UNODC reported that there was a record seizure of 190 tonnes of methamphetamine in East Asia and Southeast Asia. Traffickers have much to gain if they succeed in smuggling drugs to and through Singapore. Singapore is also a small country with a small population, vulnerable to any amount of drug trafficking. This is why Singapore has adopted an uncompromising approach towards the threat posed by the drug trade, including capital punishment for trafficking in large amounts of drugs.

16 There is clear evidence that capital punishment has been and continues to be an effective deterrent in Singapore's context. We have provided evidence to support this in our previous responses, most recently in our response of 17 January 2025.

Yours sincerely,



UMEJ BHATIA
Ambassador and Permanent Representative