

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 26/12 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **imminent execution of Mr. Gunasegar Pitchaymuthu, Mr. J Ramesh Jayakumar and Mr. Sasivarnam Jayakumar three Malaysian nationals, who were sentenced to death for murder by a Malaysian court.**

According to the information received:

Mr. Gunasegar Pitchaymuthu, Mr. J Ramesh Jayakumar and Mr. Sasivarnam Jayakumar, all three Malaysian nationals, were sentenced to death for a murder committed in Sungai Petani, Kedah State on 16 April 2005. As the capital punishment is mandatory for murder in Malaysia, the Courts were not allowed to commute their death sentences, which were upheld on 19 February 2014 by the Federal Court. The authorities did not send this decision to the families of the three sentenced.

It is believed that in December 2015 the Prisons Board of Kedah State rejected a pardon appeal submitted by the three co-defendants. However, the authorities did

not transmit any decision in this regard to their families or lawyers, leaving them in uncertainty.

On 23 March 2016, the authorities of the Taiping Prison informed the families of the co-defendants that they would be executed soon and that they have to prepare for their funerals.

The three co-defendants are due to be executed on Friday 25 March 2016 by hanging at Taiping Prison.

We express grave concern that the mandatory imposition of the death penalty against Mr. Gunasegar Pitchaymuthu, Mr. J Ramesh Jayakumar and Mr. Sasivarnam Jayakumar may be in contravention of international human rights standards. We further express grave concern that their execution may be a step back concerning the use of the death penalty in Malaysia.

Without expressing, at this stage, an opinion on the facts of the case, the above allegations appear to be in contravention of the rights of every individual to life, in accordance with articles 3 of the Universal Declaration of Human Rights (UDHR), and 11 of the ASEAN Human Rights Declaration. Moreover, the UN Human Rights Committee stated that “the automatic and mandatory imposition of the death penalty constitutes an arbitrary deprivation of life” (Pagdayawon Rolando v Philippines, Views of the Human Rights Committee, Communication No. 1110/2002, UN document CCPR/C/82/D/1110/2002, 8 December 2004, para. 5.2).

We call upon the State to rigorously observe the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights and articles 1 and 16 of the CAT. In this respect, there is no categorical evidence that any method of execution in use today complies with the prohibition of torture and cruel, inhuman or degrading treatment in every case. Even if the required safeguards (Economic and Social Council resolution 1984/50, annex) are in place, all methods of execution can inflict inordinate pain and suffering. States cannot guarantee that there is a pain-free method of execution. (A/67/279 para.41)

In view of the urgency of the matter, and of the irreversibility of the punishment of the death penalty, we **respectfully call upon your Excellency’s Government, as a matter of urgency to halt the execution of Mr. Gunasegar Pitchaymuthu, Mr. J Ramesh Jayakumar and Mr. Sasivarnam Jayakumar, which, on the facts available to us may constitute a violation of applicable international human rights standards, and thus an arbitrary execution.**

We further appeal to Malaysia to annul the death sentence against the aforementioned individuals and to commute their sentence. We also call upon your Excellency's Government to establish a moratorium on the use of the death penalty, with a view to its complete abolition.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

It is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your observations on any additional information and any comment you may have on the above mentioned allegations.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment