

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

REFERENCE:
UA LKA 4/2019

28 June 2019

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 35/15 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the signature of executions warrants for four prisoners convicted of drug-related offences.

The possible decision to resume the death penalty in Sri Lanka for drug-related offences was the subject of a previous communication by the Special Procedures mandate holders, sent on 30 August 2018 to Sri Lanka (OL LKA 3/2018).

According to the information received:

On 26 June 2019, H.E. President Sirisena announced having signed the execution warrants of four prisoners convicted of drug-related offences and that they will be hanged in the near future. The President also indicated that they could apply for clemency. He also added that the four prisoners and their families have not yet been informed about the imminent execution.

Up to now, there are no details about the identities of the four prisoners and when and where the scheduled executions will take place. For this reason, it is not possible to determine whether they have been able to submit a request for clemency.

At least 14 other prisoners are also at grave risk of imminent execution but it is uncertain if their executions warrants have also been issued and signed.

We are gravely concerned about the possible resumption of death penalty in Sri Lanka. We also express very serious concern at the lack of information on the identity of the four prisoners and if they were duly informed about their right to request for clemency.

We would like to refer your Excellency's Government's attention to article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Sri Lanka in 1980, which provides for the right to life of a person, and indicates that in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes. We recall that drug-related offences do not meet the threshold of "most serious crimes" and executions for such crimes constitute unlawful killing.

In its General Comment No. 36, the Human Rights Committee stresses that domestic legislation should specify clear procedures and criteria for granting pardon or commutation, and a right for individuals to initiate procedures to seek such relief, to make representations, and to be informed of when their request will be considered and the outcome. Sentences should not be carried out before such requests for pardon or commutation have been meaningfully considered and conclusively decided upon according to applicable procedures. Such relief should not be applied in a discriminatory or arbitrary manner, or give families of victims a preponderant role in determining whether the death sentence should be carried out (para. 47). It also underlines that the ability to seek pardon or commutation is not substitute for the need of judicial discretion in the application of the death penalty (para. 37). Furthermore, States parties of the ICCPR that are not yet totally abolitionist should be on an irrevocable path towards complete eradication of the death penalty, *de facto* and *de jure*, in the foreseeable future. The death penalty cannot be reconciled with full respect for the right to life, and abolition of the death penalty is both desirable and necessary for the enhancement of human dignity and progressive development of human rights (para. 50).

We also recall that convicts and family members have a right to prepare for death (see Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, [A/67/279](#)), meaning that sufficient notice must be given not only for prisoners and family members to adapt, but also in order to allow lawyers to explore all available legal options. This is derived from States obligations of transparency, including in the implications of death penalty ([A/69/265](#)).

In view of the urgency of the matter, and of the irreversibility of the punishment of the death penalty, we call on your Excellency's Government to take all necessary measures to ensure these executions are not carried out and the moratorium is maintained. We urge the Government to identify procedures to halt executions and appeal to the President's clemency.

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

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information/comment you may have on the above mentioned allegations.
2. Please indicate if the four prisoners, and their families and lawyers, were informed about the imminent executions.
3. Please provide information as to whether the four prisoners could file appeals for clemency and what is the current status of each of their appeals.
4. Please indicate if other death warrants have been signed or will be in the future.

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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Agnes Callamard

Special Rapporteur on extrajudicial, summary or arbitrary executions

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment