

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on minority issues

Ref.: UA SGP 7/2022
(Please use this reference in your reply)

5 July 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the human rights of migrants and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 44/5, 42/22, 44/8, 43/6 and 43/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the case of Mr. Kalwant Singh a/l Jogindar Singh, a Malaysian national convicted for drug trafficking and drug possession, scheduled to be executed on 7 July 2022. Please note that a copy of the present urgent appeal will be sent to the Government of Malaysia.

We wish to recall that we have expressed our concerns at the increase of executions being carried out in Singapore on different occasions¹, including in relation to Malaysian nationals, like Mr. Kalwant Singh a/l Jogindar Singh, belonging to an ethnic minority, as they are overrepresented among persons sentenced to the mandatory death penalty. Furthermore, we have most recently publicly urged your Excellency's Government to establish a moratorium on the use of the death penalty, with a view to fully abolishing it, because the use of capital punishment for drug-related offences runs contrary to international law².

We wish to reiterate that States that have not yet abolished the death penalty may only impose it for the 'most serious crimes' which, under international law, can only be considered those of an extreme gravity, involving intentional killing. Once again, we stress that drug offences do not meet this

¹ See, for instance: UA SGP 5/2022: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27250> and the Government's reply: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36955>; UA SGP 4/2022: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27224> and the Government's reply: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36912>; UA SGP 3/2022: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27176> and the Government's reply: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36877>; UA SGP 1/2022: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26982> and the Government's reply: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36843>; UA SGP 3/2021: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26870> and the Government's reply: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36844>; and UA SGP 2/2021: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26795>; and the Government's reply: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36622>.

² See Singapore: UN human rights experts urge immediate death penalty moratorium: <https://www.ohchr.org/en/press-releases/2022/05/singapore-un-human-rights-experts-urge-immediate-death-penalty-moratorium>

threshold.³

In the same vein, we recall that the mandatory use of the death penalty constitutes an arbitrary deprivation of life, where it is imposed without any possibility of taking into account the defendant's personal circumstances or the circumstances of the particular offence. Mandatory death sentences are arbitrary in nature and not compatible with the limitation of capital punishment to the 'most serious crimes'⁴.

According to the information received:

On 24 October 2013, Mr. Kalwant Singh a/l Jogindar Singh ("Kalwant"), at the time aged twenty-three, was arrested, together with another person, at a multi-storey carpark at Blk 892C Woodlands Drive 50, located in Woodlands, a district in northern Singapore, during a Central Narcotics Bureau ("CNB") operation.

The CNB officers recovered six bundles wrapped with black tape that Kalwant had placed in the motor box of the other person's motorcycle. Three other bundles, similarly wrapped in black tape, were also recovered from a haversack that Kalwant was carrying. Each of the nine bundles contained two packets of brown-coloured substances.

Upon forensic analysis, the 12 packets of substances from the six bundles that were found in the motor box of the motorcycle, were found to contain approximately 120.90g of diamorphine, and the six packets from the three bundles that were recovered from Kalwant's haversack, were found to contain approximately 60.15g of the same substance.

Kalwant was charged with drug trafficking and with possession for the purpose of trafficking of diamorphine. He was convicted accordingly and sentenced to death by the High Court of Singapore on 1 June 2016, which was upheld by the Court of Appeal on 10 March 2017.

Throughout the proceedings, Kalwant maintained that he did not have knowledge that the bundles contained diamorphine. He thought that he was merely helping to collect and deliver "panparak", a sort of Indian betel nut mixed with tobacco, as instructed by his boss in Malaysia, whom he trusted, due to a debt of money.

To date, Kalwant has spent nine years in prison. His sister and niece could not visit him for the past two years due to the COVID-19 pandemic. They could afford to travel to Singapore from Malaysia in early June 2022, but, once there, they were neither allowed to visit him in person nor through video.

Without prejudging the accuracy of the above allegations, we emphasize that, if carried out in the circumstances of the present case, the enforcement of the death

³ See Report of the Secretary-General, Question of the death penalty (A/HRC/45/20): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/204/10/PDF/G2020410.pdf?OpenElement>

⁴ *Ibid.*

sentence imposed on Mr. Kalwant Singh a/l Jogindar Singh would amount to an arbitrary deprivation of life, in violation of Article 3 of the Universal Declaration of Human Rights.

We therefore respectfully call on the Government of Singapore **to halt the execution of Mr. Kalwant Singh a/l Jogindar Singh and to ensure that the death sentence imposed against him is commuted, in compliance with international human rights norms and standards.**

We also respectfully call again on the Government of Singapore **to review, as a first step and without delay, the scope of the death penalty, as currently applied, to ensure that its imposition and implementation are strictly limited to cases involving intentional killing⁵.**

Like the United Nations Secretary-General, we share the view of the Human Rights Committee that the death penalty cannot be reconciled with full respect for the right to life. Therefore, abolition is both desirable and necessary for the enhancement of human dignity and the progressive development of human rights⁶.

Accordingly, we respectfully call again on the Government of Singapore **to consider abolishing the death penalty and reiterate our readiness to support and assist all the relevant authorities in any effort in this regard.**

We are issuing this appeal in order to safeguard the rights of Mr. Kalwant Singh a/l Jogindar Singh from irreparable harm and without prejudicing any eventual legal determination.

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 an urgent 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 and any comment you may have on the above-mentioned allegations.
2. Please explain whether the imposition of the death penalty in the present case is compatible with the obligations that the Government of Singapore has under international law, particularly to respect and ensure the right to life of all individuals, without discrimination of any kind.

⁵ See footnote n. 2 above

⁶ See footnote n. 3 above

3. Please provide information on whether Mr. Kalwant Singh a/l Jogindar Singh could be visited by his family members and was given adequate opportunities to communicate with them.

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

Last, while we may publicly express our concerns in this case, we would prefer to welcome publicly that the death penalty against Mr. Kalwant Singh a/l Jogindar has been commuted, or the decision that his case is being judicially reviewed given its particular circumstances, and that Singapore is returning to its previous moratorium on executions. We believe that the issue of the death penalty in any country is of utmost importance as it gives the state the authority to deprive someone of his or her life, and for this reason, that the general public should be informed given that it concerns everyone's most fundamental right and a decision by an elected government. Any public expression of concern on our part will indicate that we have been in touch with the Government to clarify the issue/s in question.

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.

We would also like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

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

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

Felipe González Morales
Special Rapporteur on the human rights of migrants

Fernand de Varennes
Special Rapporteur on minority issues