

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on minority issues; the Independent Expert on the enjoyment of all human rights by older persons and the Special Rapporteur on extreme poverty and human rights**

Ref.: UA SGP 8/2022  
(Please use this reference in your reply)

20 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 promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on minority issues; Independent Expert on the enjoyment of all human rights by older persons and Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolutions 44/5, 42/22, 43/4, 41/12, 43/8, 42/12 and 44/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the risk of imminent execution of Mr. Nazeri Bin Lajim, scheduled for 22 July 2022, for drug related offenses that do not meet the threshold for "most serious crimes" in a context that continues to indicate a highly alarming acceleration of execution notices for this type of offence in the country.**

The case of Mr. Nazeri Bin Lajim is one of a series of cases in which the death penalty has been imposed for drug related offenses, and concerning which we have recently sent various communications to your Excellency's Government (UA SGP 7/2022; [UA SGP 5/2022](#); [UA SGP 4/2022](#), [UA SGP 3/2022](#), [UA SPG 2/2022](#), [UA SGP 1/2022](#); [UA SGP 3/2021](#) and [UA SGP 2/2021](#)), including three public statements on [8 November 2021](#), [12 May 2022](#) and on [8 July 2022](#). While we thank you for the responses provided by your Excellency's Government, we reiterate that there is no evidence worldwide that the death penalty has a particular deterrent effect on the commission of crimes, including drug related offenses. In light of the recent response by your Excellency's Government dated 16 May 2022 indicating that there is no international consensus that the use of the death penalty constitutes cruel, inhuman or degrading punishment, we respectfully submit that, contrary to this position, there is an ongoing development of an emerging customary law standard that prohibits the death penalty as a form of cruel, inhuman or degrading punishment (A/67/279).

According to the information received:

Mr. Nazeri is a Malay 64-year-old Singaporean national of disadvantaged economic background who has spent the last ten years in prison, of which nearly

six years were served on death row. He reportedly developed a drug addiction at the age of 14, and, as a result, has spent much of his life alternating between state-run drug rehabilitation centres and incarceration, failing to curb or stop his consumption of narcotic drugs.

On 13 April 2012, Mr. Nazeri arrived by taxi at the intersection of Orchard Road and Anguilla Park near the Far East Shopping Centre in Singapore, where he handed over two envelopes containing \$10,450 to a person associated with him in exchange for two packages. When arrested by agents of the Central Narcotics Bureau (CNB) shortly after the handover, 35.41 grams of diamorphine were detected in the packages (one package contained 453 grams of granular substance analysed to contain at least 18.3 grams of diamorphine and the other package contained 453.4 grams of the same substance analysed to hold at least 17.11 grams of diamorphine).

On 21 September 2017, Mr. Nazeri was convicted by the High Court of the Republic of Singapore for possessing a total of 33.39 grams of diamorphine for the purpose of trafficking under Sections 5(1) and 5(2) of the 1973 Misuse of Drugs Act (MDA).<sup>1</sup> Under Section 33(1) of the MDA, the mandatory death penalty was subsequently imposed in his case.

At the trial proceedings, Mr. Nazeri stated that he knew that one of the packages given to him contained diamorphine but was unaware of the contents of the other package. He had reportedly ordered only one 400-gram package of the granular substance, of which he intended to sell 38 smaller packages with a total of 13.318 grams of diamorphine. He would have used the rest for his own consumption, as he has been a long-time dependent of narcotic drugs. For this reason, the amount of diamorphine effectively destined for trafficking would not have exceeded the threshold for the imposition of the death penalty, namely 15 grams of diamorphine. Moreover, Mr. Nazeri stated that his statement during the interrogation, in which he declared a lower private consumption of diamorphine than in his testimony during the trial, had only been made under the coercive influence of the interrogating officer. However, the judge rejected this reasoning. As a result, the High Court did not consider Mr. Nazeri a “courier” or to have provided substantial assistance to the CNB under Section 33B(2)(A) of the MDA, which would have been considered as extenuating circumstances for which Mr. Nazeri should have received a life sentence instead of the death penalty.

On 4 July 2018, his appeal against the decision of the trial judge was dismissed by the Court of Appeal of the Republic of Singapore. Mr. Nazeri's claim that he had intended to receive only one package and that this package was predominantly for his own consumption was rejected on the grounds that such a high proportion of own consumption was implausible. The Court of Appeal found that, assuming that only one package was ordered and that part of it was

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<sup>1</sup> Misuse of Drugs Act (“MDA”), 7 July 1973, Singapore, s 7, available at: <<https://sso.agc.gov.sg/Act/MDA1973>> .

for Nazeri's personal use, the remainder would still have exceeded the limit of 15 grammes of diamorphine.

On 5 April 2021, Mr. Nazeri issued a criminal motion to file an application to re-open the appeal. Mr. Nazeri argued that the representation provided by his trial lawyer was inadequate or ineffective and had failed to challenge the evidence against him with precision or competence. However, the Court of Appeal determined that the legal counsel's performance did not meet the requisite threshold of incompetence. Furthermore, a medical report concluded that at the time of his arrest, Mr. Nazeri was suffering from a disorder of use of opioids, stimulants (methamphetamine), cannabis and sedatives (hypnotics) and that a high level of consumption of narcotic drugs, as indicated by Mr. Nazeri to justify the large quantity of diamorphine for private use, was probable.

On 20 April 2021, the Court of Appeal rejected this reasoning and upheld the death penalty.

On 10 July 2021, a petition for clemency for Mr. Nazeri was denied by the President of Singapore.

On 21 March 2022, a second application for clemency lodged by a person associated with Mr. Nazeri was equally rejected.

On 15 July 2022, persons associated with Mr. Nazeri were notified that the death sentence in Mr. Nazeri's case would be carried out on 22 July 2022. This reportedly represents the ninth execution notice to be issued in Singapore in 2022, and if carried out, Mr. Nazeri would be the fifth person to be executed in the country this year.

Separately, it is alleged that the Singaporean authorities are increasingly exerting pressure and intimidation tactics to silence activists, journalists, legal professionals and human rights defenders who peacefully advocate against the death penalty and/or represent persons on death row, which infringes their rights to freedom of opinion and expression and peaceful assembly. This includes police investigations into alleged offences under the Public Order Act, threats of contempt of court proceedings, extremely high-cost orders and shortened court filing deadlines.

While we do not wish to prejudge the accuracy of these allegations, we are gravely concerned at the risk of impending execution of Mr. Nazeri Bin Lajim, scheduled for 22 July 2022, despite the fact that his drug-related charges do not fall within the category of "most serious crimes," required under international law for the imposition of the death penalty.

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to be a blatant violation of the right of every individual to life, liberty and security as set out in article 3 and 9 of the Universal

Declaration of Human Rights (UDHR) and the guarantee that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment in article 5 of the same. We remind that the right to life is a *jus cogens*, peremptory norm from which no derogation is permitted.

We reiterate our deep concern that in the case of Mr. Nazeri Bin Lajim, the death penalty was not imposed for offenses corresponding to the most serious crimes which, under international law, provide for intentional killing. We would like to refer your Excellency's Government to the report of the former Special Rapporteur on extrajudicial, summary or arbitrary executions, indicating that "*the conclusion to be drawn from a thorough and systematic review of the jurisprudence of all of the principal United Nations bodies charged with interpreting these provisions is that the death penalty can only be imposed in such a way that it complies with the stricture that it must be limited to the most serious crimes, in cases where it can be shown that there was an intention to kill which resulted in the loss of life*" ([A/HRC/4/20](#), paragraphs 39-53). As has already been communicated to your Excellency's Government, **drug crimes do not meet this internationally recognized threshold**. In this connection, we also note, based on the long experience of this mandate, and a careful review of studies and evidence, **that the death penalty has never been proved to be an effective deterrent for crimes, including drug crimes** ([A/HRC/42/28](#), para 10.).

Apart from the fact that a death sentence in connection with drug related offenses constitutes *per se* a violation of international law, we are concerned by the allegations that the representation provided by his trial lawyer was inadequate or ineffective and may have led to inaccurate consideration of available evidence. With reference to paragraphs 4 and 5 of the United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty, adopted by the UN Economic and Social Council in 1984, we would like to recall that in the case of offenses that in fact reach the threshold of the most serious crimes, which does not appear to be the case in this instance, the death penalty can only be carried out after a legal process which gives all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings, and only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts. Forced confessions constitute a violation of fair trial guarantees.

Furthermore, paragraph 7 of the above-mentioned Safeguards establishes that **anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that pardon or commutation may be granted in all cases of capital punishment**.

We not only concur with the concern that a disproportionate share of those sentenced to death come from an economically disadvantaged background, but also with the observation made by the Committee on the Elimination of Racial Discrimination in its concluding observations on Singapore's first review in 2021 that persons belonging to ethnic minorities, are over-represented in Singapore's criminal justice system, especially among those sentenced to the mandatory death penalty under

the Misuse of Drugs Act (CERD/C/SGP/CO/1 para.21). In this regard, we highlight that the Committee recommended that Singapore take concrete and effective steps to eliminate racial inequalities at all levels of the criminal justice system, including through the implementation of effective national strategies or action plans aimed at eliminating structural discrimination, particularly in relation to drug offences, and the application of a moratorium on the death penalty with a view to its abolition (CERD/C/SGP/CO/1, para. 22).

We wish to recall that we have also expressed our concerns at the increase of executions being carried out in Singapore on different occasions with persons belonging to minorities, particularly Malays, overrepresented among persons sentenced to the mandatory death penalty.<sup>2</sup>

We are further alarmed by allegations of increasing pressure and intimidation tactics employed against activists, journalists, legal professionals and human rights defenders, who are peacefully advocating against the death penalty and/or representing persons on death row in Singapore. In this regard, we would like to remind you of the right to freedom of opinion and expression, and freedom of peaceful assembly in accordance with articles 19 and 20 of the Universal Declaration of Human Rights.

As previously noted, we are very concerned by the rapid increase in the number of execution notices issued in Singapore since the beginning of the year, mainly for drug related offenses. We are alarmed by the de facto suspension of the moratorium since 2019 and deeply deplore the execution of Mr. Abdul Kahar bin Othman on 30 March 2022, of Mr. Nagaenthran Dharmalingam on 27 April 2022 and of Mr. Kalwant Singh a/l Jogindar Singh on 7 July 2022 (see above paragraph 3). We note that at least three other individuals remain at risk of imminent execution due to drug related crimes and that more than 50 individuals are reportedly on death row in Singapore. We recall that the General Assembly has consistently called upon all States to establish a moratorium on executions with a view to abolishing the death penalty since its resolution 62/149 of 18 December 2007 (para.7) and most recently, in its resolution 73/175 of 17 December 2018 (para. 7), called upon all States to respect the safeguards guaranteeing protection of the rights of those facing the death penalty. We reiterate that any measures to abolish the death penalty should be seen as progress towards the realization of the right to life and that, by extension, the resumption of executions results in less protection of the right to life (see Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/69/265).

We reaffirm that **mandatory death sentences are inherently over-inclusive and unavoidably violate human rights law**. The categorical distinctions that may be drawn between offences in the criminal law are not sufficient to reflect the full range of factors relevant to determining whether a death sentence would be permissible in a capital case. In such cases, individualized sentencing by the judiciary is required in order to prevent cruel, inhuman or degrading punishment and the arbitrary deprivation

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<sup>2</sup> See, for instance: [UA SGP 5/2022](#) and the [Government's reply](#); [UA SGP 4/2022](#) and the [Government's reply](#); [UA SGP 3/2022](#) and the [Government's reply](#); [UA SGP 1/2022](#) and the [Government's reply](#); [UA SGP 3/2021](#) and the [Government's reply](#); and [UA SGP 2/2021](#) and the [Government's reply](#).

of life (A/HRC/4/20, para. 4). We re-iterate our concern that in Singaporean legislation, with the exception of limited cases where the defendant is found to have substantially assisted the Public Prosecutor, to be a “courier” or in cases of “abnormality of the mind,” the death sentence remains mandatory, preventing other mitigating factors from being considered. In this connection, we recall that the Special Rapporteur on extrajudicial, summary or arbitrary executions indicated that the death penalty should under no circumstances be mandatory by law, regardless of the charges involved and that “[t]he mandatory death penalty which precludes the possibility of a lesser sentence being imposed regardless of the circumstances, is inconsistent with the prohibition of cruel, inhuman or degrading treatment or punishment” (A/HRC/4/20, para. 4).

**In view of the urgency of the matter, the irreversibility of the punishment of the death penalty and the ongoing development of an emerging customary law standard prohibiting the death penalty as a form of cruel, inhuman, or degrading punishment, we call upon the judiciary and all relevant institutions to ensure Mr. Nazeri Bin Lajim is not executed. His execution, on the facts available to us, would constitute a flagrant violation of applicable international human rights standards and would thus be an arbitrary execution. We urge the President of the Republic of Singapore to consider granting clemency and commuting the sentence of Mr. Nazeri Bin Lajim.**

In the context of repeated reporting on the imposition of the death penalty and the speedy implementation of executions, we once again call on Singapore to reconsider its longstanding position on the death penalty, particularly in relation to drug offenses, which constitutes a per se violation of international law, in light of mounting evidence of its ineffectiveness as a deterrent. We urge your Excellency's Government to impose a moratorium on all death sentences pending such necessary review.

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 provide detailed information on the extent to which the execution of the death penalty in the case of Mr. Nazeri Bin Lajim for drug related offenses, and in light of the alleged irregularities in his trial, is consistent with international human rights law, including the United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty.
3. Please provide information on any efforts envisaged to remove the mandatory death penalty in Singapore at least for drug offences and/or to reduce the scope of application of the death penalty. Please also provide detailed information on how many individuals are currently held on death row with drug related charges.

4. Please provide detailed information on the reasons for lifting the de facto moratorium in place since 2019 and the extent to which the resumption of executions is consistent with the international human rights obligations of your Excellency's Government.

While awaiting a reply, we ask that prompt steps be taken to stop the execution of the death penalty against Mr. Nazeri Bin Lajim scheduled for 22 July 2022, while legal proceedings are ongoing. In the light of this case, we also recommend that similar judicial process in capital punishment cases for drug related charges be thoroughly reviewed to prevent any future risk of arbitrary death sentences and executions.

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 may continue to publicly express our concerns in the near future on this case, which in our view merits prompt and undivided attention, as Mr. Nazeri Bin Lajim's life is at stake, and the execution of a death penalty is irreversible. We also believe that this matter is one of public concern and that the public should be informed about it, and about its human rights implications. Any public expression of concern from our part would indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Irene Khan

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

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Claudia Mahler

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