

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ref.: AL SGP 11/2022
(Please use this reference in your reply)

17 November 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 43/16, 44/5, 43/4 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the investigation into the activities of human rights defenders Kirsten Han and Rocky Howe allegedly in connection with the exercise of their fundamental freedoms advocating against the use of the death penalty in Singapore.

Ms. **Kirsten Han** is a woman human rights defender and freelance journalist. She runs "We, The Citizens", a newsletter which comments on the situation of human rights in Singapore. In 2019, she was awarded the Asia-wide Human Rights Press Award for her work covering freedom of expression issues in Singapore. As part of her journalistic work she also reports on prisoners on death row and the experiences of their families.

Mr. **Rocky Howe** is a human rights defender and anti-death penalty activist at the Transformative Justice Collective, a non-governmental organisation that advocates for the reform of the criminal justice system in Singapore, including on the death penalty. He also works at the Cassia Resettlement Team, researching public housing resettlement in Singapore.

A previous communication brought to the attention of your Excellency's Government underlined that the Singaporean authorities are reportedly 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 (UA SPG 8/2022 sent on 20 July 2022). We thank your Excellency's Government for the reply received on 16 September 2022.

According to the information received:

On 30 March 2022, Ms. Kirsten Han and Mr. Rocky Howe organised a four-person gathering outside Changi Prison. The gathering was meant as a candle-light vigil for a man convicted of drug related offences who was to be executed that night. While at the vigil, Ms. Han and Mr. Howe wore t-shirts with anti-death penalty messages and Mr. Howe held up a sign reading "End oppression, not life".

On 25 April 2022, Ms. Han and Mr. Howe took a photograph together outside Changi Prison a few days before another man convicted of drug-related offences was due to be executed. In the photograph, they were wearing anti-death penalty t-shirts. The photo was later posted on social media.

On 24 June 2022, Ms. Han and Mr. Howe were summoned for questioning by police at the Bedok Police Division Headquarters, reportedly in connection with the aforementioned events. They were not permitted to be accompanied by their lawyers. The human rights defenders wore the anti-death penalty t-shirts to the police interview, which they were forced to remove and which were confiscated by police upon arrival. They were reportedly informed by police officers that they could face an additional charge of “illegal procession” for having met beforehand and travelled together wearing the t-shirts on their way to the police station. Police officers later confirmed that the wearing of the t-shirts to the station was not considered an offence in itself, however the t-shirt would remain confiscated as part of an investigation into the photograph taken on 25 April 2022.

Ms. Han and Mr. Howe agreed to surrender her phone to police as part of the investigation. After the phone was surrendered, Ms. Han was asked to provide access to her Facebook, Twitter and Instagram accounts for the duration of the investigation, which she had logged out of before surrendering her phone. When she refused, police reportedly threatened with charging her under section 39(3) of the Criminal Procedure Code, for obstructing the police from accessing, inspecting and checking the operation of a computer used in connection with an alleged offence. The charge carries a maximum fine of 5,000 USD and/or up to six months in prison.

After several hours, the human rights defenders were allowed to leave the police station. As of today, they have not been charged and are reportedly not aware of the status of the investigation or whether police will proceed with the charge of obstruction of the exercise of police powers, in relation to access of Ms. Han’s phone.

If the human rights defenders are found guilty of organising a public assembly without a permit under section 16 of the Public Order Act, they may be fined up to 5,000 USD, for a first offence or 10,000 USD for a repeat offence, and/or up to six months in prison.

On 23 September 2022, Mr. Howe filed a case at the High Court to seek a declaration on alleged abuse of power by police in its “illegal procession” investigation against him.

At 9 a.m. on 11 October 2022, Ms. Han received a phone call from the Ang Mo Kio Police Division to inform her that she would be called into the police station for further questioning in relation to a new case. The officer reportedly initially refused to inform Ms. Han of the exact nature of the investigation, before eventually telling her that it was related to a Facebook post from 10 May 2022. The officer refused to give any further details over the phone.

The Facebook post in question is believed to be a post that Ms. Han re-shared from another individual about an investigation that he is under. It is unclear

whether she is being questioned as a witness or under a separate investigation, which inhibits her ability to seek appropriate legal counsel. Ms. Han has been requested to present herself at the police station on 21 October 2022.

Without wishing to prejudge the accuracy of the above-mentioned allegations, we express our deep concern at the questioning and investigations against the peaceful human rights work of Ms. Kirsten Han and Mr. Rocky Howe. We are concerned by what appears to be an attempt to criminalise and intimidate the two human rights defenders for defending the rights of others and exercising their internationally recognised rights to freedom of peaceful assembly and freedom of expression. We are furthermore concerned by the lack of information provided to the human rights defenders about the progress and nature of the investigation, which may inhibit their ability to continue their work in defence of human rights, notably advocating against the use of the death penalty. Regardless of the outcome, we expect that Mr. Howe's right to bring a counter-lawsuit is fully respected and is subject to an impartial trial without fear of further intimidation or retaliation.

We reiterate concerns, as expressed for example in previous communications SGP 4/2017 SGP 3/2020 and SGP 8/2022, that restrictions on freedom of peaceful assembly and freedom of expression in Singapore, in cases such as described in the allegation above, are neither necessary nor proportionate and cannot be considered as lawful under international human rights law.

We further remind your Excellency's Government of Human Rights Council resolution 62/149 of 18 December 2007 which proclaimed a global moratorium on the death penalty. As elaborated by Acting UN High Commissioner for Human Rights, Ms. Nada Al-Nashif on 23 September 2022, "[m]oratoriums should be followed by abolition in law, that is, tangible legal reforms, including amendments of penal codes, criminal procedure codes, military codes and reforms of constitutions to remove capital provisions and explicitly prohibit the death penalty." Any measures to abolish the death penalty should be seen as progress towards the realization of the right to life. 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.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information the basis in international law for the investigation into Ms. Han and Mr. Howe for the gatherings they held

in March and April 2022.

3. Please provide information as to the status of the investigation into Ms. Han and Mr. Howe.
4. Please provide information on the legal framework protecting the rights to freedom of peaceful assembly and of association in Singapore.
5. Please provide information on any efforts envisaged to remove the death penalty in Singapore, in particular the mandatory death penalty for drug offences and/or to reduce the scope of application of the death penalty.

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

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(s) responsible for the alleged violations.

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan

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

Clement Nyaletsossi Voule

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above. In particular, we would like to remind you of the right to life, the right to freedom of expression, and freedom of peaceful assembly in accordance with articles 6, 19 and 20 of the Universal Declaration of Human Rights.

In this regard, we would like to refer to the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with the criteria established by international human rights standards. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality.

The right to peaceful assembly has been reaffirmed by a number of Human Rights Council resolutions as well, including resolutions 15/21, 21/16 and 24/5. Furthermore, in its resolution 24/5, the Human Rights Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote those rights. This has been reaffirmed in the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association in 2014 (A/HRC/26/29, para 22).

While the right to freedom of peaceful assembly is not an absolute right under international human rights law, and it 'can be subject to certain restrictions, which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others' (Human Rights Council resolution 15/21, OP 4); these restrictions should be the exception and not the rule.

Furthermore, we wish to call the attention of your Excellency's Government to the provisions contained in the Declaration on Human Rights Defenders, adopted by the General Assembly in its resolution 53/144, which in its article 5 declares that, '[f]or the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully'. We also wish to refer to article 6 points (b) and (c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.

While Singapore is not a party to the International Covenant on Civil and Political Rights, the language of the right to freedom of expression established under the Declaration – and the Universal Declaration of Human Rights, which provides global standards in human rights for all States – is materially similar to article 19 of the Covenant. Article 19(1) of the Covenant states that "[e]veryone shall have the

right to hold opinions without interference.” Article 19(2) establishes State Parties’ obligations to respect and ensure “the right to freedom of expression,” which includes the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” Accordingly, the jurisprudence of article 19 (and particularly its criteria for valid limitations on freedom of expression) provides persuasive guidance on the scope of Singapore’s obligations to respect and ensure the right to freedom of opinion and expression.

Finally, we stress 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 more 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).