

Mandates of the Special Rapporteur on the independence of judges and lawyers; 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; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders

Ref.: AL SGP 1/2023
(Please use this reference in your reply)

27 March 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 44/8, 44/5, 43/4, 50/17 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **judicial harassment and intimidation of human rights defenders and capital defense lawyers defending inmates on death row, including being subjected to punitive cost orders that risk obstructing inmates' access to legal counsel and right to a fair trial.**

Alleged Victims

Mr. Ravi A/L Madasamy and **Mr. Yeo Yao Hui Charles (Yang Yao Hui)** are Singaporean capital defense lawyers.

Mr. Zaid bin Abd Malek is the Director of **Lawyers for Liberty (LFL)**, a Malaysian human rights and law reform initiative providing support to Malaysian nationals facing the death penalty in Singapore.

Mr. Rocky Howe and **Ms. Kirsten Han** are Singaporean anti-death penalty activists who provide support to capital defendants facing the death penalty and their families. They have also campaigned to highlight human rights violations in the context of Singapore's application of the death penalty.

Special Procedures mandate holders previously wrote to your Excellency's Government regarding investigations against human rights defenders Kirsten Han and Rocky Howe, allegedly in connection with their advocacy against the use of the death penalty in Singapore (AL SGP 11/2022). Previous communications also brought to the attention of your Excellency's Government reported intimidation by authorities aimed to silence legal professionals and human rights defenders who advocate against the death penalty and/or represent persons on death row (UA SGP 8/2022). Despite two related responses from your Excellency's Government, our concerns persist.

According to the information received:

Forms of intimidation and harassment of capital defense lawyers by State authorities

While there is a lack of publicly available data on the death row population in Singapore, research and monitoring efforts by civil society actors show that as of December 2022, there were over 50 men on death row in Singapore. Almost all were convicted of non-lethal drug offenses. As of the date of this allegation letter, Singapore had executed 11 men for drug-related offenses in 2022. It is alleged that these executions occurred in violation of international norms, in large part because Singaporean authorities reportedly intimidate and harass capital defense lawyers, civil society actors and human rights defenders who oppose the death penalty. Such harassment allegedly makes it difficult for capital defense lawyers to work on capital defendants' cases seeking to stay or otherwise challenge their executions, often resulting in individuals facing their death sentences without legal representation.

Information suggests that capital defense lawyers face unreasonably truncated and expedited filing deadlines and proceedings, additional cost orders, threats of contempt of court proceedings, arbitrary disciplinary proceedings, violations of legal professional privilege, and risk of contempt of court for having publicly criticized Singapore's application of the death penalty. Further, recent legislation imposing restrictions on the freedoms of expression and of peaceful assembly in the context of criticism of the courts or government, has reportedly been used by Singaporean authorities to target capital defense lawyers, civil society actors and human rights defenders. For example, in 2017, the Administration of Justice (Protection) Act came into force and codified contempt of court offences, criminalising criticism of the Courts.

These forms of intimidation and harassment against capital defense lawyers reportedly have had the effect of shrinking the already small community of defense attorneys willing to take on capital cases. This has resulted in capital defendants and their families being obliged to act as their own representatives in the face of imminent execution. For example, [REDACTED] involved 24 capital defendants who brought a legal challenge concerning their lack of access to justice after their lawyers had costs orders imposed and the defendants were forced to appear as litigants in person, facing a truncated procedural timeline.

Incidents of intimidation and harassment of capital defense lawyers and human rights defenders

Mr. Ravi A/L Madasmy

Mr. Ravi has reportedly been part of a small group of lawyers willing to represent capital defendants after their execution has been scheduled who has reportedly faced reprisals as a result. It is alleged that as of the beginning of August 2022, Mr. Ravi faced six concurrent sets of disciplinary proceedings, one contempt of court action, and two separate investigations into contempt of court. He is representing himself in all disciplinary proceedings because he has

not been able to find a lawyer to defend him. Lawyers he contacted are reportedly concerned to also face reprisals for representing him. He was reportedly not given sufficient time to adequately prepare for each court hearing and did not receive the medical treatment he required.

Mr. Ravi's vulnerable situation is further exacerbated due to his having been diagnosed with bipolar disorder. His condition has not been taken into account by the Law Society or the Attorney-General's Chambers, and no procedural accommodations have been made to allow his disciplinary proceedings and legal proceedings relating to costs orders to take place fairly.

After publicly criticizing the prosecuting authorities' approach in the [REDACTED] a case in which he represented a young man sentenced to death, the Attorney-General's Chambers allegedly referred Mr. Ravi to the Disciplinary Tribunal. Though he ultimately was found not guilty of misconduct, Mr. Ravi was reportedly fined for making "baseless and misleading allegations" against the Prosecution after he said that the Public Prosecutor had "acted in bad faith or maliciously."

In the [REDACTED], Mr. Ravi represented an intellectually disabled man sentenced to death. Mr. Ravi reportedly faced repeated unreasonably truncated filing deadlines and an SGD 15,000 (approximately USD 11,000) fine in punitive costs orders for seeking relief from the death penalty on the basis that his client was not competent for execution due to his disability and mental condition. In October 2022, Mr. Ravi was allegedly summoned to the Police Cantonment Complex for reporting on the case on social media; in his posts, he had critiqued the fact that [REDACTED] and his mother were obliged to appear without a lawyer earlier in the proceedings because other lawyers were unwilling to take his case owing to fear of reprisals. The investigation in this case is reportedly ongoing, leaving Mr. Ravi at risk of being convicted of contempt of court and defamation.

Because of the disciplinary proceedings to which he was reportedly subjected to, Mr. Ravi was not able to work on the [REDACTED]. [REDACTED] filed for a stay of execution on the grounds that he needed to instruct a new lawyer but the Court dismissed his application, allegedly arguing that because [REDACTED] execution was imminent, he could not benefit from new legal assistance.

On 21 March 2023, the Court of Three Judges suspended Mr. Ravi from practicing for five years, the maximum sanction possible for lawyers' misconduct, for making "grave and baseless accusations of improper conduct" against the Attorney-General's Office.

Mr. Yeo Yao Hui Charles (Yang Yao Hui)

Mr. Yeo was ordered to pay personal costs orders in a pro bono case after applications to stay the executions of two individuals with intellectual disabilities were dismissed. The Attorney-General's Chambers sought the imposition of personal costs orders amounting to SGD 25,000 (approximately USD 18,000). The Court ordered him to pay personal costs amounting to

SGD 4,000 (approximately USD 3,000).

Lawyers for Liberty (LFL) and LFL's Director, Mr. Zaid bin Abd Malek

On 16 January 2020, LFL, based in Malaysia, published a statement on their website which included a Singapore Prison Service officer's testimony on the torturous nature of executions in Singapore. The Singapore Government then allegedly issued a Correction Notice to LFL, which demanded LFL issue a correction or face criminal proceedings. On 22 January 2020, LFL published a statement refusing to comply with this demand. The next day, the Singapore Government reportedly ordered that the LFL website be blocked in Singapore. On 24 January 2020, LFL filed a civil suit in Malaysian Courts against the Singaporean Minister of Law and Home Affairs. The next hearing has been fixed for 16 May 2023.

On 14 February 2020, LFL issued a press release condemning the dismissal of the appeals of [REDACTED] and [REDACTED] (see above), both represented by Mr. Ravi, who himself had been reportedly subjected to harassment. On 17 March 2020, the Singapore Attorney-General's Chambers issued an order for investigation of Mr. Zaid for alleged contempt of court linked to the press release.

On 4 July 2022, Mr. Zaid traveled to Singapore to provide legal advice to the family of a Malaysian capital defendant who had been unable to find legal representation. It is reported that Mr. Zaid was detained at the border for 4 hours without an explanation and was summoned to the Police Cantonment Complex on 6 July 2022 for an investigation into alleged offenses of contempt of court. He was interrogated for approximately two and a half hours. That night, Mr. Zaid was allegedly summoned for contempt of court, which is punishable by three years' imprisonment and a fine of SGD 10,000 (approximately USD 7,000), for the publication of the above-mentioned press release. He was also ordered to refrain from criminal conduct for 24 months or face charges; LFL was ordered to do the same. On 9 March 2022, it is reported that intimidating statements against LFL were made in Singapore's Parliament in the context of a discussion condemning "foreign interference" in its criminal justice system.

LFL has also been subjected to costs orders, including for assisting in Mr. Yeo's case (see above).

Mr. Rocky Howe and Ms. Kirsten Han

In June 2022, Mr. Howe and Ms. Han were reportedly summoned by the police for questioning related to investigations into two allegedly illegal assemblies under the Public Order Act. A few months earlier, on 30 March 2022, both activists and others sat outside Changi Prison before the execution of a capital defendant who they had assisted. On 25 April 2022, the two and others briefly snapped photos outside Changi Prison two days before the execution of [REDACTED], Mr. Ravi's client (see above), who they had also been assisting.

The police allegedly sought to confiscate their protest t-shirts and seized their phones. Mr. Howe filed an application on 23 September 2022 to seek a declaration that the police had abused their power, but the application was dismissed. On 21 October 2022, Ms. Han reportedly went to the police station after receiving a call from an investigation officer. During that telephone conversation, she was given a conditional warning informing her that the Attorney-General's Chambers had deemed her May 2022 Facebook post criticizing cost orders to be in contempt of court. Later, Ms. Han challenged the conditional warning and proceedings are ongoing. Mr. Howe and Ms. Han have allegedly been targeted in recent public statements condemning anti-death penalty activists made by the Minister for Law and Home Affairs in Parliament, media interviews, and social media. Although their names were not cited, the context allegedly made clear that Ms. Han and Mr. Howe were being discussed.

Without prejudging the accuracy of the information received, we wish to express our serious concerns about the judicial harassment of Ravi A/L Madasamy, Yeo Yao Hui Charles (Yang Yao Hui), Rocky Howe, Kirsten Han, and Zaid bin Abd Malek, reportedly in connection to the exercise of their rights to freedom of expression as well as of peaceful assembly and of association, as guaranteed by international law. We underscore that lawyers must be able to exercise their profession without the fear of intimidation, restrictions, or arbitrary judicial proceedings being initiated against them. If the allegations reported above were confirmed, these actions against death penalty lawyers and civil society actors criticizing the application of capital punishment, would amount to a severe violation of international human rights norms. Further, we are seriously concerned that this apparent campaign against dissenting voices has reportedly resulted in a diminution of the number of lawyers willing to act in criminal cases where life is at stake, compelling some defendants to represent themselves before courts. Because the right to adequate and effective legal representation at all stages is a right owed to all, including those facing the death penalty, the judicial harassment of capital defense lawyers can also result in violations of the rights of those facing death. The allegations brought to our attention thus appear to demonstrate infringements of capital defendants' rights to life, legal representation, and a fair trial.

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 identify measures Your Excellency's Government is taking to ensure that Ravi A/L Madasamy, Yeo Yao Hui Charles (Yang Yao Hui), Rocky Howe, Kirsten Han, and Zaid bin Abd Malek can carry out their work independently without fears of judicial intimidation or harassment.

3. Please identify measures Your Excellency's Government is taking to ensure that lawyers Mr. Ravi, Mr. Yeo, and Mr. Zaid are able to exercise their professional duties without intimidation, hindrance, harassment or improper interference, and that they will not face prosecution or economic sanctions for any action taken in accordance with recognized professional duties, such as filing petitions for relief in death penalty cases.
4. Please identify measures Your Excellency's Government is taking to ensure that capital defendants, especially those with intellectual disabilities, have access to justice, including their rights to legal representation, due process, and a fair trial.
5. Please provide information about the applicable rules and procedures regarding the imposition of punitive personal costs orders and contempt orders. Please indicate the legal basis for these rules and procedures, explain whether there have been any recent changes to these rules and policies, and explain how these rules and procedures are compatible with international human rights law, including the rights to freedom of expression and of peaceful assembly, the protection of human rights defenders against judicial harassment, and the protection of lawyers from sanction or punishment for carrying out their professional duties.
6. Please provide information about the applicable rules and procedures regarding the amended Criminal Procedure Code and Post-Appeal Applications in Capital Cases Bill. Please indicate the legal basis for these rules and procedures, explain whether there have been any recent changes to these rules and policies, and explain how these rules and procedures are compatible with international human rights law, including the rights to freedom of expression and of peaceful assembly, as well as the protection of human rights defenders against judicial harassment.

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.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will 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.

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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 your obligations with respect to the right to life, the right to freedom of expression, and to freedom of peaceful assembly in accordance with articles 3, 8, and 10, 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.

In addition, we would like to refer to the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty, which provide that capital punishment may be imposed only for the most serious crimes, after a legal process which gives all possible safeguards to ensure a fair trial, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings. And that persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death.

While Singapore is not a party to the International Covenant on Civil and Political Rights, the language of the right to a fair trial 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 14 of the Covenant.

We recall that the right to a fair trial is one of the fundamental guarantees of human rights and the rule of law. It comprises various interrelated attributes and is often linked to the enjoyment of other rights, such as the right to life and the prohibition against torture. When confronting the challenge of terrorism in particular, the Human Rights Committee has stressed the importance of developing and maintaining effective, fair, humane, transparent and accountable criminal justice systems which provide access to a fair and public hearing and to independent and adequate legal representation in accordance with obligations under international law (HRC, general comment no. 32, CCPR/C/GC/32).

In its general comment no. 32 (2007), the Human Rights Committee explained that the right to communicate with counsel enshrined in article 14(3)(b) requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications. They should also be able “to advise and to represent persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter” (CCPR/C/GC/32, para. 34).

The Committee further notes that “In cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important. The imposition of a sentence of death upon conclusion of a trial, in which the provisions of article 14 of the Covenant have not been respected, constitutes a violation of the right to life (article 6 of the Covenant)” (CCPR/C/GC/32, para. 59).

Furthermore, the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, resolution 67/187 adopted in 2012, note in principle 2, that “States should consider the provision of legal aid their duty and responsibility”. When it comes to children, the Guidelines indicate in principle 11 that “legal aid provided to children should be prioritized, in the best interests of the child, and be accessible, age-appropriate, multidisciplinary, effective and responsive to the specific legal and social needs of children”.

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.

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).