

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 and the Special Rapporteur on minority issues

Ref.: UA SGP 2/2023
(Please use this reference in your reply)

25 April 2023

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 and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 44/5, 51/8, 44/8 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 risk of imminent execution of Mr. Tangaraju s/o Suppiah, a 46-year-old Singaporean Tamil national, scheduled for 26 April 2023, for drug related offenses that do not meet the threshold for "most serious crimes" in a context that continues to indicate a highly alarming rate of execution notices for this type of offense in the country.**

The case of Mr. Tangaraju s/o Suppiah 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 9/2022](#); [UA SGP 8/2022](#); [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](#), on [8 July 2022](#) and on [29 July 2022](#). While we thank you for the responses provided by your Excellency's Government, we reiterate that there is no convincing evidence worldwide that the death penalty has a particular deterrent effect on the commission of crimes, including the trafficking of large amounts of drugs. In light of the recent responses¹ by your Excellency's Government indicating that there is no international consensus that the use of the death penalty constitutes cruel, inhuman or degrading punishment, we respectfully reiterate 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/77/270, paragraph 69).

According to the information received:

On 6 and 7 September 2013, two individuals were arrested by officers from the Central Narcotics Bureau ("CNB") on suspicion of involvement in drug trafficking at the PSA Vista car park and McDonald's in West Coast Park,

¹ [Reply](#) to UA SGP 9/2022 and UA SGP 8/2022 received on 16 September 2022; [Reply](#) to UA SGP 5/2022 on 16 May 2022; [Reply](#) to UA SGP 4/2022 on 26 April 2022; [Reply](#) to UA SGP 3/2022 on 5 April 2022; [Reply](#) to UA SGP 2/2022, UA SGP 1/2022 and UA SGP 3/2021 on 2 March 2022; and [Reply](#) to UA SGP 2/2021 on 11 November 2021.

Singapore. During the arrest, the mobile phones of the two individuals were seized. Phone records of these revealed that both persons were allegedly in contact with the same third person through two different phone numbers to coordinate the delivery of drugs.

On 3 March 2014, Mr. Tangaraju s/o Suppiah, a Singaporean Tamil national, was arrested and bail revoked for allegedly failing to report for urine tests in contravention of his bail conditions in connection with an earlier drug charge dated 23 January 2014. At this occasion, he was identified as the person with whom the above mentioned two individuals had reportedly been in contact on 6 and 7 September 2013 for allegedly trafficking drugs at that time.

On 24 April 2014, statements made by Mr. Tangaraju were recorded by a police inspector in which Mr. Tangaraju allegedly stated that he knew one of the persons arrested on 6 and 7 September 2013, but denied asking that person to collect drugs from McDonald's in West Coast Park on 6 September 2013.

At the court hearing following his arrest, Mr. Tangaraju stated that he had asked for a Tamil interpreter for the statements taken during the police investigation, which was refused by the relevant authorities at the time of the interrogations. Further, no lawyer was present during his interrogation. Mr. Tangaraju's defense lawyer argued that the suspicious phone numbers which were considered as evidence of Mr. Tangaraju's participation in drug trafficking belonged to one of the persons arrested on 6 and 7 September 2013, and that Mr. Tangaraju was not involved in any activities related to drug trafficking. The mobile phones were reportedly never seized for analysis purposes.

On 9 October 2018, Mr. Tangaraju was convicted by the High Court of Singapore of abetting a person considered a drug courier by engaging in a conspiracy with that person to traffic in cannabis by supplying 1017.9g of cannabis to himself under Section 5(1)(a) of the Misuse of Drugs Act ("MDA"), read with section 5(2) and section 12 of the MDA.² As the amount of cannabis constituted more than twice the capital limit for personal use allowed by law and Mr. Tangaraju had, according to the Court, not presented any evidence that the drugs were intended for his own consumption, it was found that Mr. Tangaraju had intended to engage in drug trafficking. The Court further held that Mr. Tangaraju would have used both telephone numbers to coordinate these activities with the two persons arrested on 6 and 7 September 2013. The rejection of his request for a Tamil interpreter during the police proceedings was reportedly disregarded by the Court. An alternative sentence under section 33B(1)(a) of the MDA was not considered viable in Mr. Tangaraju's case.

On 31 December 2018, Mr. Tangaraju was sentenced to the mandatory death penalty under section 33(1) of the MDA.³

² Misuse of Drugs Act ('MDA'), Singapore. <<https://sso.agc.gov.sg/Act/MDA1973>>.

³ Public Prosecutor v Tangaraju s/o Suppiah [2018] SGHC 279, Criminal Case No 19 of 2017.

On 14 August 2019, the Court of Appeal dismissed Mr. Tangaraju's appeal against his conviction, , submitted on 18 October 2018, indicating that the objective evidence, combined with the statements of the two arrested persons and Mr. Tangaraju's own confession, suggested that he was the user of the mobile phone numbers to coordinate the delivery of drugs on 6 and 7 September 2013. The Court of Appeal rejected Mr. Tangaraju's objection that the Court had failed to make available to him the testimonies of certain witnesses and relevant telephone records.

On 7 November 2022, Mr. Tangaraju filed an application (CA/CM 25/2022 (“CM 25”) under sections 392 (on the taking of additional evidence) and 407 (on the form and issue of criminal applications) of the Criminal Procedure Code of Singapore to be permitted to present further evidence in his case proceedings.

On 23 February 2023, the Court of Appeal dismissed the Mr. Tangaraju's application for leave to review a previous judgment of the Court of Appeal (CA/CCA 38/2018).⁴

On 19 April 2023, the Singapore Prison Service sent a notice to persons associated with Mr. Tangaraju informing them of the date of his scheduled execution on 26 April 2023.

While we do not wish to prejudge the accuracy of these allegations, we are gravely concerned at the risk of impending execution of Mr. Tangaraju s/o Suppiah, scheduled for 26 April 2023, 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 and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment are *jus cogens*, peremptory norms from which no derogation is permitted under any circumstances.

We reiterate our deep concern that, in the case of Mr. Tangaraju, the death penalty was not imposed for offenses corresponding to the most serious crimes which, under international law, relate to 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*

⁴ Public Prosecutor v Tangaraju s/o Suppiah [2023] SGCA 8, Criminal Motion No 25 of 2022.

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.**

We further underline, 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 related offenses** ([A/HRC/42/28](#), paragraph 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 no adequate translation and interpretation in Tamil, as requested by Mr. Tangaraju, during police investigations was provided. We stress that the provision of free interpretation is critical to ensure a fair hearing constituting a fundamental principle of fair trial, and that the reported circumstances may have led to an 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 legal representation at every stage of proceedings and necessary interpretation during all stages of oral 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.

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 in Singapore 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 offenses, and the application of a moratorium on the death penalty with a view to its abolition (CERD/C/SGP/CO/1, para. 22).

We remain alarmed by the *de facto* suspension of the moratorium since 2019. We note 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 offenses 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 of life (A/HRC/4/20, para. 4). We reiterate 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 and the irreversibility of the punishment of the death penalty, we call upon the judiciary and all relevant institutions to ensure Mr. Tangaraju s/o Suppiah 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. Tangaraju s/o Suppiah.

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. Tangaraju s/o Suppiah for drug related offenses, and in light of the alleged irregularities in his trial proceedings, 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 related offenses 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 in relation to 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.
5. Please provide detailed information on measures taken to protect those defending persons held on death row against any acts of intimidation, harassment, or reprisals.

While awaiting a reply, we ask that prompt steps be taken to stop the execution of the death penalty against Mr. Tangaraju s/o Suppiah scheduled for 26 April 2023. 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. Tangaraju s/o Suppiah'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 issues in question.

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

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