

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention and the Working Group on discrimination against women and girls

Ref.: UA SGP 3/2023
(Please use this reference in your reply)

25 July 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 and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 44/5, 51/8 and 50/18.

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. Mohd Aziz bin Hussain, a 56-year-old Malay Singaporean national, scheduled for 26 July 2023, and Ms. Saridewi Binte Djamani, a 46-year-old Singaporean national, scheduled for 28 July 2023, for drug related offenses that do not meet the threshold for "most serious crimes". If carried out, Ms. Saridewi Binte Djamani would be the first woman to be executed in Singapore since 2004.**

The cases of Mr. Mohd Aziz bin Hussain and Ms. Saridewi Binte Djamani belong to 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 2/2023](#); [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 SGP 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). **The notion of national sovereignty cannot be used to undermine or negate the State's obligation to protect the right to life.**

¹ [Reply](#) to UA SGP 2/2023 received on 19 June 2023; [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.

According to the information received:

Imposition of the death penalty against Mr. Mohd Aziz bin Hussain

On 17 March 2015, Mr. Mohd Aziz bin Hussain, a Singaporean Malay national and landscaping subcontractor, reportedly received three packages of diamorphine from a person associated with him. He was allegedly to repackage them into smaller packages and deliver them to the buyers.

On 18 March 2015, Mr. Mohd Aziz took the three packages to his rented minivan with registration number GW2420D and began repacking them into smaller packages. At around 9.00 a.m., Mr. Mohd Aziz drove the van to Block 471, 44 Tampines Street, Singapore. He parked the van and proceeded to Flat No. 03-216, where persons associated with him resided, and delivered the repacked parcels. Mr. Mohd Aziz left the flat at around 10.00 am with the repacked parcels, which allegedly contained diamorphine. After putting the drugs in the van, he drove away. When he realised that he was being pursued by officers of the Central Narcotics Bureau (CNB), he left the van and started running, but was intercepted and arrested by CNB officers shortly afterwards. In his attempt to escape, he reportedly broke his humerus.

During interrogation, Mr. Mohd Aziz stated that he merely assisted in the delivery of the drugs as a favour to persons associated with him, for which he would receive no remuneration, and that the diamorphine belonged to persons associated with him.

On 14 December 2017, Mr. Mohd Aziz was sentenced to death by the High Court of Singapore under section 5(1)(a) read with section 5(2) of the Misuse of Drugs Act (“MDA”) for the possession of 49.98 grams of diamorphine for the purpose of trafficking.² The prosecution invoked the presumption of trafficking contained in section 17 of the MDA and contended that the narcotics were in the possession of Mr. Mohd Aziz, who was aware that they consisted of diamorphine. Mr. Mohd Aziz stated in his interrogation that he was ill-treated and assaulted during his arrest, resulting in the fracture of his upper arm. His defence also pointed out that Mr. Mohd Aziz had been forced by CNB officers to incriminate himself during his interrogation in connection with the allegations of drug trafficking. In addition, the defence argued that Mr. Mohd Aziz should be treated as a courier of narcotics as he had claimed in his statements that he was merely a “transporter”. The High Court of Singapore refused to issue a certificate of substantive assistance under section 33B(2)(b) of the MDA, and contended that the repackaging of the drugs did not fall within the definition of courier activities in the relevant provision, which would have prevented the imposition of the mandatory death penalty in Mr. Mohd Aziz case.

On 15 November 2018, the Court of Appeal dismissed Mr. Mohd Aziz's appeal.³ Specifically, Mr. Mohd Aziz pointed out, among other things, that the

² [2018] SGHC 19.

³ [2018] SGCA 77.

testimonies of the persons associated with him who were involved in the repackaging of the drugs would not have been coherent and that the High Court judge had given undue weight to eight incriminating statements made by Mr. Mohd Aziz during his interrogation under duress.

On 19 July 2023, persons associated with Mr. Mohd Aziz were notified of his execution by hanging, scheduled for 26 July 2023.

Imposition of the death penalty against Ms. Saridewi Binte Djamani

On 17 June 2016, at about 3.35 pm, a person associated with Ms. Saridewi drove a motorbike with registration number JHH 4015 into the car park of Block 350 Anchorvale Road, Singapore. After parking, the person retrieved a white plastic bag from the motorbike and proceeded to meet Ms. Saridewi on the 17th floor of the same building. The person handed her a white plastic bag and Ms. Saridewi returned an envelope marked “10,000”, which allegedly contained cash amounting to SGD\$10,050. The incident was reportedly recorded by the CCTV cameras in the lifts of the building. Ms. Saridewi then returned to her residence at Block 350.

On the same day, CNB officers, who were stationed in the building in a covert operation, entered Ms. Saridewi's residential unit and seized six packets and seven straws allegedly containing a total of 30.72 grams of diamorphine.

Between 18 and 24 June 2016, Ms. Saridewi was interrogated by the police officers without being assisted by a legal counsel. During the interrogation, she reportedly suffered from sleepiness and/or lethargy, hypersomnia, depressed mood, anxiety, an increased appetite and psychomotor retardation, as well as agitation. This condition reportedly affected her ability to give reliable statements during her interrogation.

On 6 July 2018, the High Court of Singapore convicted Ms. Saridewi of a charge under section 5(1)(a) read with section 5(2) of the MDA for having in her possession six packets and seven straws allegedly containing 30.72 grams of diamorphine, requiring the mandatory death penalty.⁴ During the trial, it was presumed under section 17 of the MDA that Ms. Saridewi was in possession of diamorphine for the purpose of trafficking. She admitted that she had made arrangements to purchase two packets of diamorphine, but that a substantial portion of the diamorphine seized during her arrest on 17 June 2016 was intended for her own consumption. The prosecution argued that she had not rebutted the presumption of illicit drug trafficking with her defense of diamorphine consumption, as the evidence showed that she had not consumed diamorphine at the time of the offence. The defense psychologist's contrary assessment that Ms. Saridewi may not have been able to give an accurate version of events during the interrogation due to her mental and physical state was rejected by the High Court judge.

⁴ Public Prosecutor v Saridewi Bte Djamani and another [2018] SGHC 204 (“GD”); Criminal Case No 28 of 2018.

In February 2022, Ms. Saridewi sought a remitted hearing to seek leave to rely on a further ground in her appeal. She indicated that she was suffering from methamphetamine withdrawal symptoms during the identified statement-taking period, between 18 to 24 June 2016 and claimed to have been unable to provide accurate information during interrogation due to her alleged mental condition.⁵ Three medical reports dated 13 July 2019, 23 November 2019 and 14 December 2020 indicated that Ms. Saridewi was suffering from persistent depressive disorder and amphetamine-type substance use disorder at the time of the offence indicating an abnormality of mind, which had impaired her judgment and ability to make rational decisions. However, the prosecution contended that Ms. Saridewi's statements reflected her mental clarity at the time of the offense and during interrogation.

On 28 June 2022, the High Court of Singapore dismissed the arguments brought forward by Ms. Saridewi during her remitted hearing on the grounds that the doctors who examined her after her arrest did not find any symptoms of drug withdrawal in relation to the drugs she had allegedly consumed.⁶ The judge pointed out that Ms. Saridewi had suffered, at most, from mild to moderate methamphetamine withdrawal during the period in which she made her statements and that this did not impair her ability to make statements.

On 6 October 2022, the Court of Appeal dismissed Ms. Saridewi's appeal on the basis that she was not severely addicted to diamorphine at the time of the offense and therefore did not require the diamorphine discovered in her residence for her own consumption.⁷

Ms. Saridewi has reportedly exhausted all possible legal remedies.

On 21 July 2023, persons associated with Ms. Saridewi were informed that her execution was scheduled for 28 July 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. Mohd Aziz, scheduled for 26 July 2023, and Ms. Saridewi, scheduled for 28 July 2023, despite the fact that their drug-related charges do not fall within the category of “most serious crimes,” required under international law for the imposition of the death penalty. It is of our outmost concern that, if carried out, Ms. Saridewi would be the first woman to be executed in Singapore since 2004.

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to constitute 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*,

⁵ CA/CM 15/2019 (“CM 15/2019”).

⁶ [2022] SGHC 150.

⁷ [2022] SGCA 64.

peremptory norms from which no derogation is permitted under any circumstances.

We reiterate our deep concern that, in the cases of Mr. Mohd Aziz and Ms. Saridewi, 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 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 about the allegations that in the case of Mr. Mohd Aziz statements were recorded under duress during the police investigation and that Ms. Saridewi was not provided with legal assistance during her interrogation. 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 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.

We are also alarmed by the information received that indicates a lack of understanding of the health related condition of Ms. Saridewi during her interrogation. Under universal standards of due process and fair trial, the imposition of the death penalty is always arbitrary and unlawful when the court ignores or discounts essential facts that may significantly influence a capital defendant's motivations, situation and conduct.

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.**

Considering that Mr. Mohd Aziz belongs to the Malay minority in Singapore, we concur 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, including Malays, 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).

In its report on women deprived of liberty submitted to the Human Rights Council (A/HRC/41/33), the Working Group on discrimination against women and girls stressed that links between economic and social inequalities and the criminal justice system can lead to trapping people in vicious cycles of poverty and criminalization. Poverty shapes not only the crimes of which women are accused, but also their interactions with the criminal justice system, which also have an effect on the likelihood of their incarceration and its length. In particular, lack of income and wealth limits women's access to quality legal representation, negatively impacting their ability to obtain favourable outcomes in the court system. It also limits their ability to post bail, which not only subjects them to pre-trial detention, but has also been found to dramatically increase the likelihood of their eventual conviction.

In a joint statement on the occasion of World Day Against Death Penalty in October 2018, several UN human rights experts urged Governments around the world to address the situation of women and girls on death row (<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23705&LangID=E>).

In its General Recommendation 33 on women's access to justice, the CEDAW Committee stresses that stereotyping and gender bias in the justice system have far-reaching consequences for women's full enjoyment of their human rights. They impede women's access to justice in all areas of law. Stereotyping distorts perceptions and results in decisions based on preconceived beliefs and myths rather than relevant facts. Often, judges adopt rigid standards about what they consider to be appropriate behaviour for women and penalize those who do not conform to those stereotypes. Stereotyping also affects the credibility given to women's voices, arguments and testimony. Such stereotyping can cause judges to misinterpret or misapply laws. In all areas of law, stereotyping compromises the impartiality and integrity of the justice system, which can, in turn, lead to miscarriages of justice.

The Committee also emphasizes that States parties have an obligation to expose and remove the underlying social and cultural barriers, including gender stereotypes, that prevent women from exercising and claiming their rights and impede their access to effective remedies. Discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men. Women who are unaware of their human rights are unable to make claims for the fulfilment of those rights. The

Committee has observed, especially during its consideration of periodic reports submitted by States parties, that they often fail to guarantee that women have equal access to education, information and legal literacy programmes.

We remain alarmed by the de facto suspension of the moratorium since 2019 and, particularly, the potential execution of a woman after almost 20 years. If carried out, Singapore will have executed 15 people for drug offences since 30 March 2022, an average of one execution per month. We further 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. Mohd Aziz bin Hussain and Ms. Saridewi Binte Djamani are not executed. Their 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. Mohd Aziz bin Hussain and Ms. Saridewi Djamani.

In the context of repeated reporting on the imposition of the death penalty, 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. Mohd Aziz and Ms. Saridewi for drug related offenses, and in light of the allegedly coerced confession in the case of Mr. Mohd Aziz, as well as the mental and physical health condition of Ms. Saridewi and the lack of assistance by a legal counsel during her interrogation, are 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 and whether a harm reduction approach is being envisaged when dealing with drug-related offenses.
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, including of women, 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. Mohd Aziz and Ms. Saridewi scheduled for 26 and 28 July 2023 respectively. In the light of these cases, 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.

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. Mohd Aziz'

and Ms. Saridewi's lives are 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.

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.

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

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

Matthew Gillett
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls