

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: OL SGP 4/2025
(Please use this reference in your reply)

1 May 2025

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 51/8, 53/14, 53/4, 53/12 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we express our serious concern about the **Misuse of Drugs Act of 1973** and the supplementary Amendment Act of 2023 and that some provisions are not consistent with international human rights law relating to the presumption of innocence, the right to a fair trial, the right to life and the prohibition of torture and other cruel, inhuman, or degrading treatment or punishment.

We note that Special Procedures mandate holders have repeatedly drawn attention to concerns in relation to specific cases of individuals sentenced to death under the Act, (including [SGP 2/2025](#), [Reply received](#) on 16/4/2025, [SGP 1/2025](#), [Reply received](#) on 27/2/2025, [SGP 3/2023](#), [Reply received](#) on 27/2/2025, [SGP 3/2023](#), [Reply received](#) on 27/2/2023, [SGP 2/2023](#), [Reply received](#) on 19/6/2023, [SGP 9/2022](#), [Reply received](#) on 16/9/2022, [SGP 7/2022](#), [SGP 5/2022](#), [Reply received](#) on 16/5/2022, [SGP 4/2022](#), [Reply received](#) on 26/4/2022, [SGP 3/2022](#), [Reply received](#) on 5/4/2022, [SGP 3/2021](#), [Reply received](#) on 2/3/2022; [SGP 2/2021](#), [Reply received](#) on 11/11/2021, [SGP 2/2017](#), [Reply received](#) on 28/6/2017, [SGP 6/2016](#), [Reply received](#) on 25/1/2017, [SGP 1/2012](#), [Reply received](#) on 2/7/2012 and [SGP 3/2011](#)).

The Misuse of Drugs Act of 1973

The Misuse of Drugs Act of 1973, as amended (hereinafter 'the Act'), presumes defendants have possession of the drug, have knowledge of the nature of the controlled drug, that is in one's possession, and presumes that the possession of controlled drug was for the purposes trafficking if certain conditions are meant. It is up to the defendant to prove their innocence in face of these presumptions.

Under section 17, a person found with more than a specified threshold amount of certain controlled substances – namely opium, morphine, diamorphine, cannabis, cannabis mixture, cannabis resin, cocaine, methamphetamine, ketamine, or certain other drugs or any combinations of those drugs – is presumed to possess that drug for the purpose of trafficking. The defendant(s) must prove that the drug was not in his or her or their possession for that purpose.

Under sections 18(1) and 18A(1), defendants are presumed to have a drug or psychoactive substances in their possession or custody or under their control, until the contrary is proved, if they are found with 1) anything containing a controlled drug or psychoactive substance, 2) the keys of an item or location where the controlled drug or psychoactive substance is found, or 3) a document of title or any other document relating to control or delivery of the drug.

The defendant(s) must prove that the drug was not in his, her or their possession. The presumption of possession cannot be rebutted by proof the defendant never had physical possession of the controlled drug or psychoactive substance (sections 18(3) and 18(A(3))).

Section 18(2) builds on section 18(1) in that a person proved *or presumed* to possess a controlled drug is also presumed to have knowledge of the nature of the drug. The Misuse of Drugs (Amendment) Act 2023, among other changes, extends the Misuse of Drugs Act to cover all substances with the capacity to have a psychoactive effect, unless the substance is on the exclusion list. Per section 18A(2), a person proved *or presumed* to possess a psychoactive substance is presumed 1) to know the substance or product has the capacity to have a psychoactive effect and 2) to have had no reason to believe the substance or product is not an excluded substance as specified in the Fifth Schedule of the Act. The defendant must prove they were unaware of the nature of the drugs or psychoactive substances (sections 18(2) and 18(A(2))).

If equipment or apparatus used for smoking, administration or the consumption of a controlled drug or psychoactive substance— like a utensil, pipe or syringe – is found in any place or premises, it is presumed that the place or premises is used for the purpose of drug consumption, unless the contrary is proven (section 19(1)). Similarly, anyone found in or fleeing from a place or premises presumed to be used for the purpose of drug consumption is presumed to be using or consuming or administering a controlled drug or psychoactive substance in that place, unless the defendant proves the contrary (section 19(2)).

If a controlled drug or psychoactive substance is found on a ship or aircraft, it is presumed that it was imported with the knowledge of the ship's master or aircraft's captain (section 20). If found in a vehicle, it is presumed to be in possession of the owner of the vehicle and the person temporarily in charge of the vehicle (section 21). If any controlled drug or psychoactive substance is found in a person's urine, they are presumed to have consumed the drug or substance (section 22). To rebut these presumptions, the defendant must prove the contrary (sections 20, 21, and 22).

The Court of Appeal has upheld the constitutionality of the presumptions in several cases based on the arguments presented.

However, in *Zainal bin Hamad v Public Prosecutor* and another appeal (*Zainal bin Hamad v PP* [2018] SGCA 62, [2018] 2 SLR 1119 [52]), the Court of Appeal provided guidance for the Prosecution and Defence for future cases where the the presumptions under sections 17 (of trafficking) and 18(1) (of possession) and 18(2) (of knowledge) may potentially be applicable. The Court noted that presumptions under sections 17 and 18(1) (of possession) cannot run together because the former only

applies where possession is proved whereas if the latter provision is invoked, its effect is to give rise to a presumption (and not proof) of the fact of possession. This proposition is well established in jurisprudence of the Court of Appeal as outlined in *Lim Lye Huat Benny v PP* [1995] 3 SLR(R) 689 (“Benny Lim”) at [17] and *Ali bin Mohamad Bahashwan v PP* and other appeals [2018] 1 SLR 610 at [91].

The Court of Appeal, in *Zainal bin Hamad’s* case also noted that section 17 presumption of trafficking and section 18(2) presumption of knowledge of the nature of the drugs also cannot run together. The statutory scheme of the Misuse of Drugs Act makes it clear that section 18(2) operates as an ancillary provision to section 18(1), meaning that where an accused is in physical control of an object, the Prosecution may rely on section 18 as a whole to invoke both a presumption of possession and of knowledge of the item that the accused is in possession of. Section 18 thus deals with the issue of knowing possession, while section 17 deals with the purpose of the possession, which were two distinct matters. Thus, in cases where both may apply, while the presumptions under section 18 may be run as a whole, the presumptions under sections 17 and 18 cannot run together.

The Court held that the presumption of possession under section 17 can only be invoked if both possession and knowledge of what was possessed are first proven. The Court indicated that, in future cases where the presumptions under both sections are potentially applicable, it is incumbent on the Prosecution to make clear which presumption(s) it is relying on in the trial court and on appeal.

On 7 May 2025, the Court of Appeal will hear a new application on the constitutionality of the presumptions in the case of *Pannir Selvam Pranthaman v Attorney General of Singapore*.

The second schedule of the Act for offenses punishable on convictions imposes a mandatory death sentence for the unauthorized trafficking, manufacturing, import, or export of certain controlled drugs above specific threshold quantities subject to only very restricted exceptions. Thus, the defendant may be presumed to be trafficking a controlled substance and given a death sentence based on such presumption. The court is given very narrow discretion to impose an alternative sentence. Under section 33B, the court may only impose life imprisonment instead of the death penalty if the person convicted proves, on a balance of probabilities, that their involvement in the offence was restricted to the 1) transporting, sending, or delivering of a controlled substance, 2) offering to carry out those acts, or 3) carrying out preparatory acts for those purposes. The defendant must **also** either prove that they were suffering from an abnormality of the mind that substantially impaired their mental responsibility *or* receive certification from the Public Prosecutor that they substantially assisted in the disruption of drug trafficking in Singapore. The determination of whether or not the defendant has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities is at the sole discretion of the Public Prosecutor determination unless it is proved to the court that the determination was done in bad faith or with malice (section 33B(4)). The court is excluded from considering any other mitigating circumstances. Thus, outside these narrow exceptions, the death penalty is mandatory.

Overview of the international human rights law standards applicable

We would like to reiterate the obligation of your Excellency's Government to respect and protect individual rights guaranteed under the Universal Declaration of Human Rights (UDHR). This includes article 3, protecting the fundamental right to life, and article 5, guaranteeing that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment as well as article 10 guaranteeing the right to a fair trial by an independent and impartial tribunal, and article 11 guaranteeing the right to be presumed innocent. We remind your Excellency's Government 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.

Incompatibility of the presumptions with international human rights law standards

The Misuse of Drugs Act presumes defendants have possession of the drug, have knowledge of the nature of the drug, or are trafficking the drug if certain conditions are met, violating the defendant's right to the presumption of innocence and to a fair trial. We are concerned that a fundamental principal of law – the presumption of innocence – is not being complied with as, the presumptions assume the defendant is guilty and the defendant must prove to the contrary.

In this regard, we emphasize that the UDPR article 11 states that “everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.” Singapore is a signatory to the ASEAN Human Rights Declaration article 20(1) of which proclaims that ‘[e]very person charged with a criminal offence shall be presumed innocent until proved guilty according to law.’ Additionally, the Singaporean Court of Appeal has recognized that ‘the presumption of innocence ... is the necessary hallmark of any criminal justice system’ (AOF v Public Prosecutor [2012] 3 Singapore Law Reports 34 at para. 315). They have equally recognized that “the fundamental rule of proof beyond a reasonable doubt is considered hallowed precisely because it rests upon the bedrock principle of the presumption of innocence, which is the very foundation of criminal law. As a practical measure, the rule reduces the risk of convictions arising from factual error,” (Court of Appeal in Public Prosecutor v GCK [2020] 1 Singapore Law Reports 486 at para. 126)

A rebuttable presumption of law that places on the accused person the legal burden of disproving an element of an offence on the balance of probabilities infringes the right to be presumed innocent. This is because the court is permitted to convict the accused person despite reasonable doubt about the presence of that offence element, and hence, reasonable doubt as to his or her guilt.

The Working Group on Arbitrary Detention has observed that “the presumption of innocence imposes a burden on the prosecution of proving charges beyond reasonable doubt ([A/HRC/45/16/Add.1](#), para. 40)” Furthermore, the Working Group observed in their study on arbitrary detention relating to drug policies that “the use of legal presumptions in some countries in relation to drug trafficking, whereby persons found in possession of keys to a building or vehicle where drugs have been located, is

incompatible with the presumption of innocence ([A/HRC/47/40](#), para. 27).” This is similarly applicable to the other presumptions contained in the Act.

In this regard, we further note that the former Special Rapporteur on Extrajudicial Summary or Arbitrary Executions, Mr. Bacre Waly Ndiaye expressed concern as far back as 1997 “about the existence of laws, particularly those relating to drugs offences in countries such as ... Singapore, where the presumption of innocence is not fully guaranteed, as the burden of proof lies partially on the accused ([E/CN.4/1997/60](#), para. 81)”.

The [International Guidelines on Human Rights and Drug Policy](#), state that, in accordance with the right to a fair trial, states should ‘Guarantee to all persons accused of drug-related offences the right to a fair and public hearing, without undue delay, by a competent, independent, and impartial tribunal established by law, and further guarantee that all such persons will be presumed innocent until proven guilty according to the law (guideline II.8, page 13).’

Furthermore, per sections 4 and 5 of the United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty, adopted by Economic and Social Council resolution 1984/50 (25 May 1984), the death penalty, even for the most serious crimes, can only be imposed after a legal process which gives all possible safeguards to ensure a fair trial, including the presumption of innocence, 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.” Defendants must be presumed innocent until their guilt has been proved beyond a reasonable doubt, in strict application of the highest standards for the gathering and assessment of evidence.

In this connection, we express concern that in sections 17 to 22 of the Misuse of Drugs Act, the presumption of innocence and right to a fair trial are not fully guaranteed, as the burden of proof lies partially on the accused, requiring the accused to rebut the presumption of knowledge on a balance of probabilities that he or she did not know the nature of the controlled drug referred to in the charge. The “balance of probabilities” threshold means that, even if there was some doubt that accused actually knew about the drugs, they could still be convicted and (if the amount of drugs in question was over the stipulated threshold) sentenced to death.

We wish to stress that only full respect for stringent due process guarantees distinguishes capital punishment from arbitrary execution. Violations of the guarantees of a fair trial – including depriving defendants of the presumption of innocence – result in the imposition of the death penalty being arbitrary in nature.

Incompatibility of mandatory death sentences with international human rights standards

We also emphasize that mandatory death sentences are inherently arbitrary 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 determine whether a death sentence would be permissible in a capital case. In such cases, individualized sentencing by the judiciary is required to prevent cruel, inhuman or degrading punishment and the arbitrary deprivation of life ([A/HRC/4/20](#),

para. 4).

We reiterate our concern that the Misuse of Drugs Act, except for limited cases where the defendant is found to have substantially assisted the Public Prosecutor or have an “abnormality of the mind,” the death sentence remains mandatory. As such, this legislation prohibits other mitigating factors from being considered by the judge, and it is thus inconsistent with the prohibition of cruel, inhuman or degrading treatment or punishment as well as the right to life.

We also note that in the limited circumstances where the court does have discretion to impose an alternative sentence, much power is left in the hands of the Public Prosecutor, as the Public Prosecutor is given the power to certify if the defendant substantially assisted in the disruption of drug trafficking. In practice, the Public Prosecutor therefore may be making the decision as to whether the defendant will or will not be spared the death penalty. In this regard we note that according to the [Basic Principles on the Independence of the Judiciary](#) judges are ‘charged with the ultimate decision over life, freedoms, rights, duties and property of citizens’, and that they “shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason (Preamble and para. 2)”.

More generally we reiterate that, based 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.). In this regard, it is pertinent to observe that neighboring and regional countries, who also face challenges combatting the use and trafficking of narcotic drugs, have, after careful study, found that the mandatory death penalty was not effective, and have abolished the mandatory death penalty for drug trafficking, deciding that the decision of whether to impose the death penalty ought to be the subject of the discretion of the courts (see for example closing remarks of a Member of Parliament and former Deputy Minister in the Prime Minister's Department of a country from the region, at the biennial high-level panel discussion on the question of the death penalty held during the 58th session of the Human Rights Council on 25 February 2025, recording available [here](#) at 1:50:48-1:52:44.).

Incompatibility of death sentences for drugs with international human rights law standards

We would also like to remind your Excellency’s government that under international human rights law, the death penalty may be imposed only for the “most serious crimes,” which has consistently been interpreted to mean crimes of extreme gravity that intentionally result in death. As has already been communicated to your Excellency's Government, drug crimes do not meet this internationally recognized threshold. States must therefore refrain from using the death penalty for crimes not involving intentional killing, including for drug-related offences. In this regard, we underline that the Misuse of Drugs Act constitutes per se a violation of international law.

We would like to refer your Excellency’s Government to the report of the former Special Rapporteur on extrajudicial, summary or arbitrary executions, stating 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). Similarly the Working Group on Arbitrary Detention observed in their study on arbitrary detention relating to drug policies that “imposing the death penalty for drug-related offences is incompatible with international standards on the use of the death penalty, (A/HRC/47/40, para. 41).”

The International Narcotics Control Board (INCB) has observed that ‘respect for human rights is inherent to and a prerequisite for the implementation of the international drug control conventions. INCB has repeatedly called for human rights to be respected in the development and implementation of drug policy. Any measure that is adopted with the purported aim of furthering drug policy but that is inconsistent with universally recognized human rights norms is a violation of the international drug control conventions (INCB, [Annual Report 2024](#), page ix).’ It has also encouraged that ‘all States that retain the death penalty for drug-related offences to consider the abolition of the death penalty for drug-related offences and to commute death sentences that have already been handed down in view of the relevant international conventions and protocols and relevant resolutions of the General Assembly, the Economic and Social Council and other United Nations bodies on the application of the death penalty for drug-related offences (ibid, para. 725)’.

The United Nations Office on Drugs and Crime has [publicly stated](#) that it does not support the use of the death penalty. It observed ‘the three international drug control conventions, which form the foundation of the global drug control system that has been agreed by nearly every country in the world, cannot be used to justify the use of the death penalty for drug-related offences alone... Application of the death penalty may also impede international cooperation to fight drug trafficking, as there are national laws that do not allow the exchange of information and extradition with countries which may impose capital punishment for the offences concerned. The dangers posed by illicitly-trafficked drugs are evident and lives are at stake. But use of the death penalty cannot provide durable solutions or protect people.”

Similarly, the [International Guidelines on Human Rights and Drug Policy](#), state that, in accordance with the right to life, “States shall: Take immediate action to halt executions, commute death sentences, and abolish the death penalty for drug offences (guideline II.5, page 5).”

We remind your Excellency’s Government 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 79/179](#) of 17 December 2024 (para. 2). It has also called upon all States to respect the Safeguards for the Protection of the Rights of Persons Facing the Death Penalty (ibid para. 8 (a)). We recall that all measures towards abolition of the death penalty should be considered as progress in the enjoyment of the right to life (Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/69/265).

Concerns regarding the risk of death sentences being applied under the Act to persons with disabilities

While we note the limited discretion given to the court to impose life imprisonment instead of the death penalty extends to cases of ‘abnormality of the mind,’ we note that this only applies if the individual is considered to be a courier. In other cases, such individuals may be executed.

We further note that the Committee on the Rights of Persons with Disabilities, in its most recent Concluding Observations on Singapore, expressed its grave concern that “the death penalty is still legal in the State party and is imposed and carried out on persons with intellectual disabilities, persons with psychosocial disabilities and autistic persons, including for crimes not involving intentional killing...[the Committee] urgently recommends the State party abolish the death penalty for persons with intellectual disabilities, persons with psychosocial disabilities and autistic persons, including for crimes not involving intentional killing, and immediately cease imposing and carrying out the death penalty in such cases, in accordance with the limits established under international law ([CRPD/C/SGP/CO/1](#), paras. 19-20).

Additionally, General Assembly Resolution A/79/276 on the Moratorium on the use of the death penalty (5 August 2024), emphasizes that States should prohibit the imposition of the death penalty on persons with psychosocial or intellectual disabilities and ensure their equal access to justice without discrimination.

We respectfully emphasize, consistent with Singapore’s international human rights law obligations and resolutions of the General Assembly, and Human Rights Council, that all measures to counter drug trafficking must fully respect international human rights, including the presumption of innocence, the right to a fair trial, the right to life and the prohibition of torture and other cruel, inhuman, or degrading treatment or punishment. We reiterate our recommendation to your Excellency’s Government to give serious consideration to ensure (1) the provisions of the Misuse of Drugs Act are consistent with providing a fair trial and ensuring the presumption of innocent for the accused (2) that the judiciary has full discretion in all cases to decide on whether to impose the death penalty 3) the death penalty is not used for drug related offenses, without exception and 4) the death penalty is abolished for persons with intellectual or psychosocial disabilities.

Please note that the recommendations offered in this communication relate to specific provisions of the Misuse of Drugs Act of 1973, as amended which were brought to our attention and are notwithstanding other possible concerns in relation to the Act’s compliance with human rights law standards. We encourage your Excellency’s Government to conduct a full review of all provisions of the Act to bring it in full compliance with international norms and standards.

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 issues.

2. Please provide information on any steps being considered to review the presumption in the Misuse of Drugs Act in order to ensure the Act respects the presumption of innocence and the right to a fair trial.
3. Please provide information on any steps being considered to review the Misuse of Drugs Act to give the judiciary full discretion with regards to the application of the death penalty.
4. Please provide detailed information on any steps being taken to review the Misuse of Drugs Act to ensure it comply with the requirement that the death penalty shall only be imposed for intentional killing.
5. Please provide information on the steps taken to abolish the death penalty for persons with intellectual or psychosocial disabilities in line with the recommendations of the Committee on the Rights of Persons with Disabilities.

This communication, as a comment on legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. 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.

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