

Urgent Action Office 3-1992 Yonge Street Toronto ON M4S 1Z7 Phone: (416) 363-9933 Fax: (416) 363-3103 urgentaction@amnesty.ca

UA 15/22, **Update 2**, AI Index ASA 36/5798/2022 of 4 July 2022

The original index number is ASA 36/5264/2022 of 23 February 2022

SINGAPORE FURTHER EXECUTIONS SET

Hangings have resumed in Singapore for drug related offenses, after Abdul Kahar bin Othman was executed on 30 March and Malaysian national Nagaenthran Dharmalingam was executed on 29 April, while on 28 April a third one was stayed. The executions of Malaysian national Kalwant Singh and another man are scheduled for 7 July. Both men were convicted of and sentenced to the mandatory death penalty for drug trafficking, in violation of international law and standards. The government of Singapore must halt these executions, commute all existing death sentences and review national legislation to bring its use of the death penalty in line with international law and standards as urgent first steps towards full abolition of the death penalty.

Singapore continues to resort to the death penalty for drug-related offences and as mandatory punishment, which are practices not only prohibited under international law and standards, but abandoned by the majority of the world's countries. Against Singapore's international commitments undertaken as a state party to the Convention on the Rights of Persons with Disabilities, a man with intellectual and mental disabilities has been executed. Several concerns on the fairness of the proceedings have further tainted the use of the death penalty against those convicted of drug trafficking.

International law and standards set out restrictions on the use of the death penalty to protect against the arbitrary deprivation of life.

Singapore is one of four countries known to have carried out executions for drug-related offences in recent years. Due to the country's drug control law, judges are very limited in their ability to take into consideration possible mitigating circumstances at sentencing, including drug dependence or other circumstances relevant to the case. Unfortunately, Singapore's highly punitive drug policies have failed not only to tackle the use and availability of drugs in the country, but also to offer effective protection from drug-related harm such as addressing root causes of drug use and adopting a health-based approach to drugs.

Write to the Prime Minister urging him to:

- immediately halt all executions, commute the sentences for those currently on death row, and establish an official moratorium on all executions as first step towards full abolition of the death penalty

Write to:

His Excellency Lee Hsien Loong
Prime Minister of Singapore
Office of the Prime Minister
Orchard Road, Istana
Singapore 238823

Singapore

Email: pmo_hq@pmo.gov.sg
lee_hsien_loong@pmo.gov.sg

Salutation: Dear Prime Minister:

And copy:

His Excellency Heng Nee Philip Eng
High Commissioner
High Commission for the Republic of Singapore
c/o Ministry of Foreign Affairs, Tanglin
Singapore 248163

Singapore

Fax: 011 65 6474 7885

Additional information

Kalwant Singh, a Malaysian national, was convicted and sentenced to the mandatory death penalty in 2016 for drug trafficking in 2013. The High Court found him to have been a “courier”, but the prosecution did not provide him with a certificate of substantive assistance, a requirement for the judges to be able to decide between the death penalty and life imprisonment with caning. His conviction and death sentence were upheld by the Court of Appeal in 2016. Singapore authorities set his execution for 7 July 2022, leaving his family little time to make arrangements to travel from Malaysia.

Another man was also convicted in the same case and sentenced to the mandatory death penalty for drug trafficking. His execution is also scheduled for 7 July. A third co-defendant, on the other hand, who was deemed to have cooperated with the authorities in their cases was granted a certificate of substantive assistance and was sentenced to life imprisonment and 15 strokes of the cane. Following amendments to the Misuse of Drugs Act effective from 2013, judges in Singapore have some sentencing discretion in cases where the role of the defendant was limited to transporting drugs (“courier”) provided that the public prosecutor issue a certificate of substantive assistance with the authorities, or defendants are found to have mental or intellectual disabilities that substantially impaired their mental responsibility for their acts and omissions in relation to the offence. Alarming, if the prosecution does not provide a certificate of substantive assistance after a defendant is found to be a “courier”, the court is deprived of any discretionary powers and must sentence the accused to death, shifting the sentencing decision in practice to the prosecution.

Malaysian Nagaenthran K Dharmalingam, was executed on 29 April 2022, despite international outcry. Medical experts who assessed Nagaenthran K Dharmalingam in 2013, 2016 and 2017 found that he has borderline functioning intelligence and concurrent cognitive deficits, which “may have contributed

toward his misdirected loyalty and poor assessment of the risks in agreeing to carry out the offence". In the ruling of his final appeal on 29 March 2022, the court rejected arguments about the decline of his mental state, and they have similarly dismissed challenges based on his intellectual ability. The treaty bodies for the Convention on the Rights of Persons with Disabilities (CRPD), to which Singapore is a party, and the International Covenant on Civil and Political Rights have clarified that these treaties prohibit the imposition of the death penalty on people whose mental and intellectual disabilities have impeded their effective defence.

Abdul Kahar bin Othman was convicted of drug trafficking and sentenced to the mandatory death penalty in 2015. His family were provided notice and asked to make arrangements for last visits in a letter dated 23 March, prior to his execution on 30 March. The hangings of Dharmalingam and Othman appear to be part of a new wave. A third man, Datchinamurthy Kataiah had his execution stayed on 28 April, a day before it was due to be carried out, after he petitioned – unrepresented – the court for a stay as he had another appeal ongoing. International safeguards guaranteeing protection of the rights of those facing the death penalty prohibit executions from being carried out when appeals are pending.

International law and standards prohibit the imposition of mandatory death sentences as these deny judges the possibility of taking into account the mitigating circumstances in the case. Moreover, international law and standards require that the imposition of the death penalty be restricted to the "most serious crimes" involving intentional killing. Of additional concern remains the possible reliance by the prosecution on legal presumptions under Singapore's Misuse of Drugs Act, meaning that any person who is proved to have in their possession certain amounts of prohibited substances can be presumed to have knowledge of the substance contained in the package and its quantity, and to have had that drug in their possession for the purpose of trafficking, unless they can prove differently, in contravention of the right to the presumption of innocence.

The last execution before March 2022 was carried out in November 2019, prior to the Covid-19 pandemic. The authorities set further executions in 2020 and 2021, but these were eventually stayed because of pending appeals. Amnesty International opposes the death penalty in all cases without exception. As of today, 110 countries have abolished the death penalty for all crimes and more than two-thirds are abolitionist in law or practice.