



Singapore: Review the Death Penalty Halt Executions

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Kuala Lumpur, Malaysia

The Anti-Death Penalty Asia Network (ADPAN) is closely monitoring the upcoming court hearings involving Rosman bin Abdullah, Pausi bin Jefredin, Roslan bin Bakar, and Nagaenthran a/l Dharmalingam taking place in Singapore on 28 February and 1 March 2022.

These cases highlight the fundamental and critical flaws of the drug laws and policies in Singapore and why the implementation of these law are likely to result in miscarriages of justice. These flaws include:

i) The Lack of Protection or Safeguards for Individuals Suffering from Mental Health Issues or Psychosocial Disabilities

Nagaenthran, Pausi, and Roslan have been noted to either suffer from an intellectual disability or borderline intellectual functioning by psychiatrists. Despite the acknowledgement of their conditions, they were considered to have the necessary mental capacity at the time of their offence. As the consideration of 'abnormality of the mind' is only open to accused persons who are said to have played a minor 'courier' role in offending, there is very limited scope for the court to give proper consideration of an accused person's mental and psychosocial profile.

All four incarcerated persons were arrested and tried prior to Singapore's ratification of the United Nations *Convention on the Rights of Persons with Disabilities* and were therefore [unlikely to have received appropriate procedural accommodations at the time of arrest and initial trial](#). Now Singapore has committed to protect the rights of persons with disabilities, under Article 12 they must ensure they "[take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity](#)". Furthermore, Singapore has not addressed the issue that, irrespective of their culpability, persons with mental and psychosocial disabilities should not be executed as their execution would amount to cruel and inhuman punishment and is a violation of international law.

ii) Lack of Transparency and Inconsistency in Issuance of Certificate of Assistance by Public Prosecutor

Earlier court decisions on the issue of Certificate of Assistance suggests that substantive assistance that is required cannot be based on the defence's subjective beliefs but on the will of the Public Prosecutor.

The lack of an objective, transparent and consistent methodology in the issuance of the Certificate of Assistance gives rise to a sense of injustice or perception of bias or abuse.

For these reasons, ADPAN maintains its view that given the courts are the ultimate adjudicators in criminal trials, the decision whether or not an accused person's level of cooperation amounts to 'substantive assistance' should lie with the judiciary. Judicial determination of 'substantive assistance' would allow objective measures to be set and create a mechanism for a proper review of such decisions.

iii) Hasty and Onerous Judicial Processes that Undermines the Right to Fair Trial

The haste in the recent cases raises additional concerns regarding the potential violation of important fair trial guarantees. Despite the gravity of the death sentence, the hearings and subsequent appeals were concluded within hours. The speed in which the matters were 'resolved' effectively denies the defence an adequate opportunity to prepare and argue complex appellant casework and casts doubt as to whether the arguments were given due consideration by the court. Legal counsel, appearing on a pro-bono basis, are put in an excruciatingly difficult position where they are required to brief their clients on the case whilst drafting an appeal that needs to be filed within the hour.

Furthermore, in the case of Roslan and Pausi, the court required a security of cost order of 20,000SGD be lodged to the court on behalf of the Applicants within an hour of the decision by the High Court. The exorbitant sum denies and deters legitimate judicial challenges from being heard as many would unlikely be able to pay such an amount within limited time. Incarcerated persons on death row and their families are disproportionately indigent and largely reliant on pro-bono legal assistance, particularly at the final appeal stage of their cases. The requirement to lodge funds before accessing the right to appeal in a death penalty case sets a prohibitive and discriminatory financial barrier to accessing justice.

The presence of any one of these issues ought to have been enough of a concern for the death penalty to be set aside for the incarcerated persons on death row concerned. Unfortunately, this has not been the case in Singapore despite the presence of multiple or all these factors in a single case. The irreversible nature of the death penalty means that courts must uphold the strictest

observance of fair trial guarantees. Furthermore, international norms dictate that for the minority of States that still apply the death penalty, it can only be applied to 'the most serious crimes'. This is a threshold that drug offences does not meet and has been consistently excluded from the category of 'the most serious crimes'.

ADPAN calls on the Government of Singapore:

- To impose a moratorium on executions and join the clear global trend that is moving towards abolition of the death penalty;
- To review Singapore's continued reliance on the death penalty based on the false perception that the death penalty is an effective deterrence to crime;
- To facilitate independent psychiatric and medical assessments of all death row prisoners at the time an execution is listed, to ensure that Singapore is adhering to its obligations under the UN Convention of Persons with Disability;
- To commute the sentences of individuals suffering from mental illness, mental and psychosocial disabilities;
- and to ensure that no persons with mental illness or disability are executed.

For and on behalf of ADPAN (Anti-Death Penalty Asia Network)

Email: adpan@adpan.org

Website: <https://adpan.org/>

ADPAN

ADPAN is the peak regional body for organisations committed to the abolition of the death penalty across Asia-Pacific, with members from approximately 22 countries within the region. As such, ADPAN maintains that the death penalty violates the right to life, that it is the ultimate form of cruel, inhuman and degrading punishment and that the death penalty should be entirely abolished internationally.