



H.E. HALIMAH YACOB

Office of the President of the Republic of Singapore
Orchard Road, Singapore 238823

Subject: National Human Rights Institutions in South East Asia - Appeal for Clemency for Nagaenthran K. Dharmalingam

Dear Madam President,

We, the Commission on Human Rights of the Philippines (CHRP), the Indonesian National Human Rights Commission (Komnas HAM), the Human Rights Commission of Malaysia (SUHAKAM), the National Human Rights Commission of Thailand (NHRCT), and the Provedoria dos Direitos Humanos e Justica of Timor Leste (PDHJ) – a group of national human rights institutions (NHRIs) in South East Asia, respectfully write to Your Excellency regarding the impending execution of Nagaenthran K. Dharmalingam (Nagaenthran), a Malaysian national convicted and sentenced to death for drug trafficking.

Nagaenthran was arrested in 2009 for trafficking 42.72 grams of diamorphine (heroin) into Singapore and has been on death row for more than a decade. Following psychiatric assessment, Nagaenthran was found to be a person with psychosocial and intellectual disabilities. Particularly, he is diagnosed with Attention Deficit Hyperactivity Disorder (ADHD), severe alcohol use, and is found to have a below-average IQ of 69 - an IQ internationally recognized as a disability.

On the basis of intellectual disability, Nagaenthran's legal team filed a final appeal seeking (1) the conduct of an independent psychiatric assessment; and (2) an assessment of the legality of executing a person who is unfit for execution due to deteriorating mental capacity on the basis of international law. However, on 29 March 2022, the appeal was dismissed by the Singapore Supreme Court due to a lack of factual and legal basis.

Due to the dismissal of the appeal, Nagaenthran is scheduled to be hanged possibly within the next few days.

In view of the foregoing, we respectfully urge the government of Singapore to give full weight to the mental condition of Nagaenthran, taking into consideration the application of international human rights law and the rights of persons with disabilities.

We emphasize that international human rights law forbids the execution of a person with a psychological or intellectual disability. The UN Economic and Social Council 1989 ('Implementation of the safeguards guaranteeing protection of the rights of those facing Death Penalty 1989/64') tabled a recommendation that the death penalty for persons suffering from extremely limited mental competence, whether at the stage of sentencing or execution should be eliminated. The same has been reiterated in 1996, partly due to the concern of the lack of protection provided to those who were intellectually disabled from the death penalty.

This was also further emphasized by the Office of the High Commissioner for Human Rights (OHCHR) in Resolution 2004/67 *'the Question of the Death Penalty'*, wherein states are urged to exclude and exempt persons suffering from any form of mental disability from the imposition of death penalty.

On this note, the undersigned NHRIs jointly echoes the calls of the international community and partner human rights advocates in the ASEAN region for Your Excellency to grant Nagaenthran presidential clemency or to otherwise provide necessary intervention to commute his death sentence to imprisonment. Thank you very much.

Sincerely,

Commission on Human Rights of the Philippines (CHRP)

Indonesian National Human Rights Commission (Komnas HAM)

The Human Rights Commission of Malaysia (SUHAKAM)

The National Human Rights Commission of Thailand (NHRCT)

Provedoria dos Direitos Humanos e Justica of Timor Leste (PDHJ)