



PERMANENT MISSION OF THE REPUBLIC OF SINGAPORE  
UNITED NATIONS | GENEVA

23 December 2015

PERMANENT REPRESENTATIVE

Mr Karim Ghezraoui  
Chief a.i.  
Special Procedures Branch  
Office of the High Commissioner for Human Rights  
Palais des Nations  
CH 1211 Geneva 10

Dear Mr Ghezraoui,

I hope this this letter finds you well. I am writing in response to your letter of 7 July 2015 conveying the joint urgent appeal from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Special Rapporteur on the situation of human rights defenders and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (reference UA SGP 1/2015).

I would be most grateful if you could assist transmitting our reply (enclosed herewith) to them.

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

Yours sincerely

FOO Kok Jwee  
Ambassador and Permanent Representative



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PERMANENT REPRESENTATIVE

Mr David Kaye  
Special Rapporteur on the promotion and protection  
of the right to freedom of opinion and expression

Mr Dainius Pūras  
Special Rapporteur on the right of everyone to the enjoyment of the  
highest attainable standard of physical and mental health

Mr Michel Forst  
Special Rapporteur on the situation of human rights defenders

Mr Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading  
treatment or punishment

Office of the High Commissioner for Human Rights  
Palais des Nations  
CH 1211 Geneva 10

Dear Mr Kaye, Mr Pūras, Mr Forst and Mr Méndez,

**COMMUNICATION FROM SPECIAL PROCEDURES  
JOINT URGENT APPEAL UA SGP 1/2015**

1. We refer to your letter of 7 July 2015 (Reference UA SGP 1/2015). Your letter refers to (a) the civil defamation suit filed against Roy Ngerng Yi Ling (“Mr Ngerng”) by Lee Hsien Loong (“Mr Lee”) in his personal capacity and (b) the prosecution and conviction of [REDACTED] (“Mr [REDACTED]”) on charges of disseminating an obscene video and posting a video containing remarks against Christianity with the deliberate intention to wound the religious feelings of Christians.

2. In your letter, you asked for further information on both these cases, including information on the relevant legal grounds applicable to each case. With respect to Mr Ngerng, you have requested information on the legal justification for the civil defamation suit, the details of the imposition of the injunction on Mr Ngerng to restrain him from issuing further blog posts and the proportionality of the award of damages accorded by the High Court. With respect to [REDACTED], you have requested information on the legal grounds for the prosecution and detention of [REDACTED] including the penalties sought by the prosecutor, the allegations of torture, ill-treatment and abuse in detention, the health conditions of [REDACTED] and his access to health services and treatment in detention. More generally, you have also asked for information on measures taken towards the implementation of relevant recommendations of the Committee of the Rights of the Child, any measures taken towards the ratification of the International Convention on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and measures taken to ensure the conformity of Singapore's defamation laws with international human rights norms and standards. We address these queries below in the context of each case.

#### **Mr Ngerng's case**

3. It must be noted at the outset that Mr Ngerng's case involves a civil defamation suit filed by Mr Lee, in his personal capacity, in respect of an article published by Mr Ngerng on his blog containing an allegation that was found to be defamatory of Mr Lee. The High Court of Singapore issued its grounds of decision on 7 November 2014, holding that the allegation in question was defamatory of Mr Lee as it conveyed the meaning that Mr Lee was guilty of criminal misappropriation. The grounds of decision were made known publicly and we invite you to peruse the same. A copy is attached to this letter for your convenience. We will highlight the salient findings of fact in the grounds of decision below as well as other relevant facts. All information is available in the public domain.

4. On 15 May 2014, Mr Ngerng published an article on his blog in which he drew a comparison between an on-going prosecution relating to the alleged misuse of church funds by the founder and deputies of a Singapore-based church and the management of funds in the Central Provident Fund ("CPF"), Singapore's universal retirement savings scheme. In response to a letter of demand from Mr Lee's solicitors, Mr Ngerng removed the article from his blog. On 23 May 2014, Mr Ngerng published an apology accepting that (a) his article meant that Mr Lee, as Prime Minister of Singapore and Chairman of the

Government of Singapore Investment Corporation ("GIC"), was guilty of criminal misappropriation of the monies Singaporeans paid to CPF, (b) such allegation was false and completely without foundation, and (c) he had caused Mr Lee distress and embarrassment by the allegation. Mr Ngerng's solicitors subsequently wrote to Mr Lee's solicitors to offer \$5,000 as damages. Mr Lee's solicitors replied to reject the offer and stated that the offer completely disregarded the gravity of Mr Ngerng's conduct in pursuing a course that was designed to aggravate the injury and distress. Mr Lee's solicitors also noted that Mr Ngerng repeated the libel and went back on his apology.

5. Mr Lee subsequently commenced proceedings against Mr Ngerng for defamation. In the application for summary judgment, Mr Ngerng's sole defence was that the law of defamation contravened Article 14 of the Constitution of the Republic of Singapore. Article 14, sub-paragraph 1 enshrines the right to freedom of speech and expression of every citizen of Singapore. Article 14, sub-paragraph 2(a) provides that Parliament may impose limits on the right to freedom of expression as it considers necessary or expedient so as to protect against defamation. In response to Mr Ngerng's defence, the High Court held that it was settled law in Singapore that the constitutional right to freedom of speech is restricted by the law of defamation. In reaching this conclusion, the High Court applied two previous Singapore Court of Appeal decisions which held that in light of Article 14, sub-paragraph 2(a) of the Constitution, the right to freedom of expression in Singapore is limited by the common law of defamation as modified by the Defamation Act (Chapter 75).

6. The High Court also held that the natural and ordinary meaning of the relevant passages in the article posted by Mr Ngerng were defamatory as they conveyed the meaning that Mr Lee, in his capacity as Prime Minister of Singapore and Chairman of GIC, was guilty of criminal misappropriation of the monies Singaporeans paid to CPF. Mr Ngerng appears to have accepted this finding by the High Court as he has not filed an appeal against the High Court's judgment.

*Injunction to restrain Mr Ngerng from publishing or disseminating the defamatory allegation*

7. Mr Lee sought an injunction prohibiting Mr Ngerng from repeating the defamatory allegation or words and/or images to the same effect. The High Court noted that Mr Ngerng had a propensity to repeat the defamatory allegation, taking into account Mr Ngerng's actions of republishing the links,

once before and after the apology. The High Court also emphasised that the injunction should not overreach and infringe on Mr Ngerng's right to freedom of speech or have a chilling effect. Thus, the High Court granted a limited injunction prohibiting Mr Ngerng from repeating the defamatory allegation. The High Court did not extend the injunction to cover words and/or images to the same effect as sought by Mr Lee.

#### *Award of damages*

8. You also sought information on the award of damages imposed on Mr Ngerng. The award of damages is also the subject of grounds of decision by the High Court of Singapore, issued on 17 December 2015. Again, these grounds are publicly available and we invite you to peruse the same. A copy of these grounds is attached to this letter for your convenience.

9. In particular, you may find paragraphs 93 through 113 to be of interest in light of the specific issues you raised in your letter. There, the High Court addressed in detail the argument by Mr Ngerng concerning "the chilling effect that a large award of damages would have on free speech in Singapore."

#### *Mr Ngerng's employment with Tan Tock Seng Hospital*

10. Your letter states that Mr Ngerng was fired from his job at Tan Tock Seng Hospital and that the hospital put out a press release on their decision, which blamed the termination of Mr Ngerng's employment on his statements about Mr Lee. A copy of this press release is attached for your perusal. The press release stated that the hospital had issued a formal warning letter to Mr Ngerng in May 2014 for "misusing [hospital] time and resources to pursue personal and non-job related interests". After this warning, the hospital renewed his contract as they decided to give him a chance. However, Mr Ngerng disregarded the warning and continued to misuse hospital time and resources.

11. The hospital also referred to Mr Ngerng's posting of the article on Mr Lee and noted that he had admitted to defamation and that the article was without basis. The hospital stated that such conduct was incompatible with the values and standards expected of its employees, who must conduct themselves properly, honourably and with integrity. As a result of Mr Ngerng's neglect of duty and his improper public conduct, the hospital noted that it had terminated his contract, in accordance with the terms of his contract.

Mr [REDACTED] case

12. Mr [REDACTED] was prosecuted and convicted of two offences under Singapore's Penal Code on 12 May 2015. He was convicted of one charge under section 292(1)(a) of the Penal Code for disseminating an obscene image and of another charge under section 298 of the Penal Code for posting a video containing remarks against Christianity with deliberate intent to wound the religious feelings of Christians. The grounds of decision on the conviction are attached for your perusal. On 6 July 2015, Mr [REDACTED] was sentenced to four weeks' imprisonment. He was released on the same day in light of the time spent in detention.

13. Mr [REDACTED] filed an appeal against the conviction and sentence, both of which were dismissed by the Singapore courts on 8 October 2015. It bears highlighting that under Singapore's Constitution, the Public Prosecutor has the power to institute, conduct or discontinue any criminal proceedings for any offence. Mr [REDACTED] case was conducted pursuant to the Public Prosecutor's discretion, which was exercised independently of the Singapore Government. We will highlight the salient facts and clarifications in the following paragraphs.

14. Mr [REDACTED] posted a video containing remarks against Christianity on 27 March 2015 and subsequently posted an obscene image on his Wordpress blog on 28 March 2015. Mr [REDACTED] also announced both the postings on his Facebook page. Mr [REDACTED] was charged on 31 March 2015 under section 292(1)(a) of the Penal Code (for disseminating an obscene image) and under section 298 of the Penal Code (for posting a video that contained remarks against Christianity with the intent to wound the feelings of Christians). Mr [REDACTED] was initially charged with a third charge under section 4(1)(b) of the Protection from Harassment Act; but the Public Prosecutor did not proceed against Mr [REDACTED] on the third charge. After Mr [REDACTED] conviction on the first two charges, the Public Prosecutor withdrew the third charge.

15. In light of the nature of Mr [REDACTED] offences, bail was made available subject to certain conditions. Mr [REDACTED] was released on bail on 31 March 2015, and had agreed to a bail condition that he would not post, upload or distribute any content on social media while the case was proceeding. In accordance with this, Mr [REDACTED] privatised (i.e. made inaccessible to members of the public) the posts containing the obscene image and the video which were the subject matter of the charges in accordance with his bail condition. However, on 14 April 2015, Mr [REDACTED] un-privatised the said image and video and thus breached his bail condition.

16. At the pre-trial conference on 17 April 2015, the Court reiterated the bail condition that Mr [REDACTED] was not to post, upload or distribute any content on social media while the case was proceeding. The Court also imposed an additional condition that Mr [REDACTED] report daily to the police station. The Court accepted the Prosecution's request that there be no condition that only Mr [REDACTED] parents could stand as bailor for him.

17. Mr [REDACTED] parents declined to stand bail for him as they were not confident that they could ensure that he would comply with bail conditions. As no one came forward to stand as Mr [REDACTED] bailor on 17 April 2015, he was remanded. It should be noted that the bail sum (of \$20,000) was non-monetary in nature. A pledge by one or more bailors would have been sufficient and no cash payment or deposit was required. Mr [REDACTED] was subsequently bailed by Vincent Law ("Mr Law") on 21 April 2015 and at this point, Mr [REDACTED] privatised the obscene image and video again. However, hours ahead of his next pre-trial conference on 30 April 2015, Mr [REDACTED] once again made the obscene image and the video public. Additionally, he made a series of online posts in which he stated that he was not remorseful and that he had deliberately un-privatised his posts. As a result of Mr [REDACTED]'s posts, his bailor, Mr Law, informed the court that he was no longer willing to act as Mr [REDACTED] bailor. As no one else came forward to act as Mr [REDACTED]'s bailor and make the requisite pledge, Mr [REDACTED] was remanded again.

18. Mr [REDACTED]'s trial took place over two days on 7 and 8 May 2015. On 12 May 2015, Mr [REDACTED] was convicted on the two charges. Mr [REDACTED] was released on bail pending sentencing as his mother stepped forward to stand as his bailor. Mr [REDACTED] remained on bail until the next sentencing hearing on 2 June 2015.

#### *Penalties sought*

19. From the outset, the Prosecution maintained that the paramount sentencing consideration in Mr [REDACTED]'s case was rehabilitation. This accorded with the established sentencing practice of the Singapore courts which treat rehabilitation as the predominant sentencing consideration in cases involving young offenders. Thus, on 12 May 2015, after Mr [REDACTED] was convicted, the Prosecution requested the Court to call for a probation report so as to facilitate Mr [REDACTED]'s rehabilitation. Mr [REDACTED]'s lawyers initially asked the court to impose a fine in relation to both charges and not a jail term; alternatively, they submitted that the time which Mr [REDACTED] had spent in remand (of 18 days) was sufficient for a sentence. In light of the Prosecution's request for probation, Mr [REDACTED]'s lawyers

persuaded him to consider probation. After ascertaining that Mr [REDACTED] was willing to consider probation, the Court directed a probation officer to assess Mr [REDACTED]'s suitability for probation. Subsequently, when contacted by the assigned probation officer, Mr [REDACTED] stated that he did not wish to be placed on probation.

20. As a result, at the subsequent sentencing hearing on 2 June 2015, the Prosecution maintained that rehabilitation remained the key consideration in Mr [REDACTED]'s case and submitted that a fine or prison term would not meet the goal of rehabilitation. The Prosecution requested the Court to consider a term of reformatory training which would provide the necessary structure and discipline that would be conducive to his rehabilitation. The Court directed that Mr [REDACTED]'s suitability for reformatory training be assessed, and remanded Mr [REDACTED] for three weeks for such assessment.

21. On 23 June 2015, at the next sentencing hearing, the Court noted that in the course of Mr [REDACTED]'s assessment for suitability for reformatory training, a psychiatrist had observed that Mr [REDACTED] might suffer from autism spectrum disorder. The Court was of the view that it should explore the sentencing option of a mandatory treatment order. The Court thus directed for Mr [REDACTED] to be assessed by the Institute of Mental Health to determine if he had an autism spectrum disorder and would be suitable for a mandatory treatment order. The report was submitted to the Court on 3 July 2015 and stated that Mr [REDACTED] did not suffer from autism spectrum disorder or any other mental disorder.

22. At the sentencing hearing on 6 July 2015, Mr [REDACTED]'s lawyers reiterated the call for a fine to be imposed, or a jail term that took into account the days which Mr [REDACTED] had spent in remand. Mr [REDACTED]'s lawyers argued that sentencing Mr [REDACTED] to reformatory training was neither just nor appropriate, and that it would place Mr [REDACTED] in an environment which posed more rather than less risk. They highlighted that Mr [REDACTED] had relayed to them that he was feeling suicidal at the thought of the possibility of being sent for reformatory training and that there should be additional reviews by psychiatrists appointed by Mr [REDACTED] to assess his mental suitability for reformatory training. The Prosecution noted that there had been material changes, particularly with respect to Mr [REDACTED]'s conduct. The Prosecution noted that at the hearing on 23 June 2015, Mr [REDACTED] had voluntarily removed the offensive image and the video and given a written undertaking to the Court that he would not re-post these. Additionally, in the report submitted to the Court on 3 July 2015, the doctor had noted Mr [REDACTED] admitted his guilt and promised not to reoffend. In the light of these significant shifts in attitude, the Prosecution sought one day's imprisonment for Mr [REDACTED]. The Court, however,

decided to sentence Mr [REDACTED] to four weeks' jail. The sentence was backdated and Mr [REDACTED] was released on the same day.

23. As noted earlier, Mr [REDACTED] appealed against the conviction on both charges and the sentence in relation to the second charge. Both Mr [REDACTED]'s appeal against conviction and sentence were dismissed on 8 October 2015. In dismissing the appeal against Mr [REDACTED]'s sentence, the judge noted that Mr [REDACTED]'s attitude was that of "complete disregard for others". While Mr [REDACTED]'s remand exceeded his sentence of four weeks' jail, the judge observed that this was entirely caused by Mr [REDACTED].

#### *Protection of Mr [REDACTED] during the proceedings and in remand*

24. On 30 April 2015, on his way to the State Courts, Mr [REDACTED] was slapped once by a member of the public. This incident happened outside the State Courts building. The perpetrator was quickly identified and arrested on 1 May 2015. On 11 May 2015, he was convicted of voluntarily causing hurt and sentenced to 3 weeks imprisonment.

25. Mr [REDACTED]'s treatment during remand took into account the fact that he was a young offender (below the age of 21). During his remand from 2 June to 23 June 2015 at Changi Remand Centre, [REDACTED] was housed in a cell which was monitored for his safety. This protection is accorded to young offenders for their safety. As a matter of practice, young offenders are not housed with adults above the age of 21 years. This was the case for Mr [REDACTED]. The only exception was on the day Mr [REDACTED] was remanded (2 June 2015), when for the first 6 hours, he was housed with a 22 year old while his appropriate cell was being arranged. Because of the need to remotely monitor young offenders for their safety, the lights in the cell are kept on; however, they are significantly dimmed at night.

26. Your letter noted it is alleged that Mr [REDACTED] had been strapped to a bed for a day and half and that the practice stopped following the complaints of his lawyer. For your information, on 4 June 2015, Mr [REDACTED] expressed suicidal ideations. Hence, for his own safety, Mr [REDACTED] was restrained and monitored closely in the medical ward of Changi Remand Centre, in accordance with the facility's standard procedure for persons suffering suicidal ideations. The psychiatrist discharged him from the medical ward after an assessment and after Mr [REDACTED] confirmed that he no longer had suicidal ideations.

27. During his remand in the Institute of Mental Health for his assessment, Mr [REDACTED] was not placed in solitary confinement. Mr [REDACTED] was not handcuffed nor

placed under any physical restraints. Mr [REDACTED] shared his cell with another patient of the same age and they were free to interact with each other. Mr [REDACTED] was also allowed to sit and read in the day area of the ward, which was supervised by a nurse. Mr [REDACTED] was also free to contact his parents at any time with the assistance of the nurses in the ward.

#### *Mr Yee's access to health services and treatment*

28. Throughout his remand, Mr [REDACTED] had access to health services and any treatment which was required. During his stay in the Institute of Mental Health, Mr [REDACTED]'s mental and physical health status was closely monitored by the nurses. A doctor attended to him once a day and at no time did his physical or mental health deteriorate either quickly or severely.

#### **Singapore's compliance with international obligations**

29. Singaporeans have a constitutionally protected right to freedom of speech and expression. Singaporeans are free to express views on any matter, including on the Government – so long as it is done in accordance with the law. In Singapore, as it is in the Universal Declaration of Human Rights itself, and in many other States, this right is not without certain prescribed restrictions. Similarly, Article 13 of the Convention of the Rights of the Child is not an unqualified right. Singapore's limitations on the freedom of expression are in compliance with our obligations under international law.

30. Singapore is a small island city-state with a multi-racial, multi-religious population living in close proximity to one another. In the past, this has led to incidents of religious and racial tension. The Government must carefully pursue harmony amongst the diverse communities by scrupulously and delicately managing relations among the different races and religions. By doing so, Singapore has since independence avoided major incidents of sectarian or inter-racial violence. It is in the context of Singapore's historical background that Singapore has laws which criminalise words and gestures made with the deliberate intention of wounding the religious feelings of a person. Comments which are calculated to denigrate or show a lack of respect to a religion can stir up ill-will between groups and set back the racial and religious harmony that has been nurtured over the years.

31. Singapore's defamation laws are based on English common law and are premised on the basis that public discourse should not degenerate to a base level, by allowing untrue personal attacks. Any personal attack of facts against a person's reputation need to be proven in court. All speech on issues, including political debate on government policies, is protected under the Constitutional right to freedom of expression. Fierce criticisms of government policies are not considered defamatory.

32. As regards Mr [REDACTED], the Singapore Government notes that Mr [REDACTED] was convicted of offences that were prohibited by Singapore's criminal law at the time they were committed. The Convention on the Rights of the Child does not prohibit the arrest and detention of a young person who is above the minimum age to have the capacity to infringe the penal laws of Singapore. At the time of arrest, Mr [REDACTED] was above 16 years of age and under Singapore law, had the capacity to understand and judge the nature and consequences of his conduct. The Singapore Government notes that Mr [REDACTED] has been dealt with in accordance with Singapore's law and accorded all his due rights at all times. This was recognised by Mr [REDACTED] in his mitigation submissions to the court which noted that the due criminal justice process has taken its course. We too respect the outcome of Mr [REDACTED]'s case as a function of due process.

33. We reiterate that Singapore continues to respect the fundamental human rights enshrined in the UN Charter and the Universal Declaration of Human Rights. Singapore also takes all necessary steps to ensure conformity with our applicable international law obligations.

Yours *Sincerely*



FOO Kok Jwee  
Ambassador and Permanent Representative