



Note No. 040/13

The Permanent Mission of the Republic of Singapore to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and has the honour to refer to the letter from the OHCHR dated 10 December 2012 conveying the Joint Urgent Appeal referenced UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) SGP 4/2012 dated 10 December 2012 from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression Mr Frank La Rue, the Special Rapporteur on the rights to freedom of peaceful assembly and of association Mr Maina Kiai, and the Special Rapporteur on the situation of human rights defenders Mrs Margaret Sekaggya to the Permanent Representative of Singapore to the United Nations, Ms Tan Yee Woan.

The Permanent Mission has the further honour to seek the assistance of the Office in transmitting the enclosed reply from Permanent Representative Tan to Mr Frank La Rue, Mr Maina Kiai and Mrs Margaret Sekaggya.

The Permanent Mission of the Republic of Singapore to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

GENEVA

15 February 2013

Special Procedures Branch
Office of the High Commissioner for Human Rights





PERMANENT REPRESENTATIVE
OF THE REPUBLIC OF SINGAPORE
TO THE UNITED NATIONS

15 February 2013

Mr Frank La Rue
Special Rapporteur on the promotion and protection
of the right to freedom of opinion and expression

Mr Maina Kiai
Special Rapporteur on the rights to freedom
of peaceful assembly and of association

Mrs Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

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

Dear Mr La Rue, Mr Kiai and Mrs Sekaggya,

**COMMUNICATION FROM SPECIAL PROCEDURES
JOINT URGENT APPEAL UA G/SO 214 (67-17) ASSEMBLY AND
ASSOCIATION (2010-1) G/SO 214 (107-9) SGP 4/2012**

Please refer to your letter of 10 December 2012 regarding the strike by public bus drivers from the People's Republic of China (PRC) in Singapore. The Singapore Government sets out, in the following, the context of the case as well as corrections and clarifications to the facts alleged in the summary of the case:

Under Singapore law, a strike is deemed to be illegal if it does not comply with certain conditions. One such condition is that a workman employed in any "essential service", not being water, gas or electricity services, must give his employer at least 14 days' notice of his intention to strike, which notice must be signed by not fewer than 7 workmen employed by the employer concerned in the strike.

This legal requirement for a notice period before commencing a strike exists in the legislation of many countries. In Singapore's case, the notice period is designed to encourage parties to engage in final negotiations before resorting to a strike.

Singapore considers public transport as an "essential service" and has classified it as such under the Criminal Law (Temporary Provisions) Act. As an island-state which cannot support a large number of private vehicles, Singapore is highly dependent on public transport to carry out daily activities. Voluntary disruption to such an essential service will have widespread impact on public order, as well as the movement and welfare of others in Singapore.

On 26 November 2012, 199 PRC public bus drivers employed by SMRT Corporation Limited¹ (SMRT) deliberately failed to turn up for work and commenced a strike in response to salary grievances, without giving their employer the requisite notice. On 27 November 2012, 83 bus drivers persisted with this strike. As a result, 4 bus drivers were arrested by the police between 28 and 29 November 2012 for instigating the strike, which as stated above, is deemed illegal due to the failure to give notice to the employer.

On 29 November 2012, the 4 bus drivers - Mr He Jun Ling, Mr Gao Yue Qiang, Mr Liu Xiangying and Mr Wang Xiangjie - were charged for the offence of engaging in a conspiracy with one another to instigate an illegal strike. This is an offence under Section 10(a) of the Criminal Law (Temporary Provisions) Act read with Section 109 of the Penal Code. The four bus drivers had failed to comply with the legal requirement to give the requisite notice before commencing a strike.

Mr He Jun Ling faces an additional charge under Section 10(a) of the Criminal Law (Temporary Provisions) Act for inciting others to take part in an illegal strike by making a post on a Chinese social networking website. Besides urging drivers to fight for their dignity and interests, the post also urged other SMRT bus drivers not to report for work and to take medical certificates *en masse* on 26 and 27 November 2012.

Legal proceedings against the 4 bus drivers are pending. They are being advised by Counsel. Under Singapore's laws, they will have an opportunity to present their case to the court.

¹ Temasek Holdings (Private) Limited was the largest shareholder (54%) of SMRT in 2012. Temasek is an investment company incorporated in Singapore and operates under the provisions of the Singapore Companies Act. It is not a statutory board or a government agency.

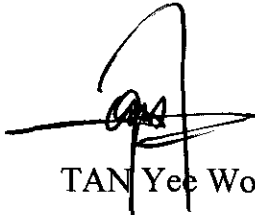
On 3 December 2012, another bus driver, Mr Bao Fengshan, was charged under Section 9(1) of the Criminal Law (Temporary Provisions) Act for commencing an illegal strike. This charge carries a maximum penalty of SGD\$2,000 or to imprisonment for a term not exceeding 12 months or to both. He pleaded guilty on the same day, was convicted and sentenced to 6 weeks' imprisonment. Mr Bao had access to consular officials who offered to assist him in obtaining legal representation.

Investigations were carried out to determine each bus driver's level of participation, before a decision was made to issue a stern warning and to revoke the work permits of 29 bus drivers who were involved in the strike. The bus drivers were given an opportunity to be heard before they were repatriated on 2 December 2012.

Singapore respects the fundamental human rights enshrined in the Universal Declaration of Human Rights (UDHR). There was no issue of a restriction of the bus drivers' right to freedom of opinion and expression, or right to freedom of peaceful assembly and association. It was simply a matter of them contravening Singapore's laws by not complying with the legal requirement of a notice period before commencing a strike.

The UDHR recognizes that individual rights must be subject to legal limits in order to protect the rights of others, as well as to maintain public order and general welfare. The bus drivers' right to commence a strike is not an absolute and is subjected to legal limits in order to protect the rights of others in Singapore to reasonable and reliable essential services.

Yours sincerely,



TAN Yee Woan