



PERMANENT MISSION OF THE REPUBLIC OF SINGAPORE
UNITED NATIONS | GENEVA

PERMANENT REPRESENTATIVE

1 December 2016

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

OHCHR REGISTRY

16 DEC. 2016

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

Recipients :.....S.P.O.....

Mr Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Enclosure

Office of the High Commissioner for Human Rights
Palais des Nations

Dear Mr Kaye, Mr Forst and Mr Bielefeldt,

**COMMUNICATION FROM SPECIAL PROCEDURES
JOINT URGENT APPEAL UA SGP 4/2016**

We refer to your letter of 20 June 2016 (Reference UA SGP 4/2016). Your letter referred to the prosecution of ~~Mr [REDACTED]~~ ("Mr [REDACTED]") on six charges of intending to wound the religious feelings of Muslims and Christians and two charges of failing to report to the Jurong Police Division despite an order.

In your letter, you asked for information on the charges that were brought against Mr ~~[REDACTED]~~ specifically how these charges are compatible with international human rights standards under Article 19 of the Universal Declaration on Human Rights. You also requested information on (i) the legal basis for entering the homes of Mr ~~[REDACTED]~~ mother and grandparents as well as the confiscation of items belonging to Mr ~~[REDACTED]~~ and Mr ~~[REDACTED]~~ mother; (ii) the legal grounds for the demand of harsh penalty against a child; and (iii) an explanation on how these are compatible with international human rights standards. More generally, you requested information on the measures Singapore has taken towards (i) the implementation of the recommendations of the Committee on the Rights of the

Child, in relation to the right to freedom of expression; (ii) the ratification of the International Covenant on Civil and Political Rights; and (iii) ensuring that our legislation is in conformity with international human rights norms and standards.

Mr Yee's case

The Charges

On 26 May 2016, Mr [REDACTED] was charged with the following offences:

- (a) six counts of causing matter to be seen and heard with deliberate intent to wound religious feelings under section 298 of the Penal Code; and
- (b) two counts of failure to attend in obedience to an order from a public servant under section 174 of the Penal Code.

Mr [REDACTED] had originally claimed trial to the charges, and his trial was scheduled to take place over five days between August and September 2016. However, upon the advice of his legal counsel, Mr [REDACTED] ultimately elected in the course of the trial to plead guilty to all eight charges. He was represented by his counsel in making his guilty plea and at the sentencing hearings in court, and was sentenced to six weeks' imprisonment and a S\$2,000 fine on 29 September 2016. Mr [REDACTED] began serving his sentence on 13 October 2016 after the expiry of the 14 day period for him to lodge an appeal against the conviction and sentencing under section 377 of the Criminal Procedure Code.

The salient facts of the case are as follows.

On 27 November 2015, Mr [REDACTED] uploaded a blog post containing offensive remarks against Islam. On 28 November 2015, Mr [REDACTED] made a post on his Facebook page making further offensive remarks against Islam. On 12 December 2015, the Singapore Police Force issued a notice under the Criminal Procedure Code ordering Mr [REDACTED] to report to the Police for investigations on 14 December 2015. Mr [REDACTED] did not comply with the notice, but instead left Singapore on 13 December 2015. On 17 December 2015, Mr [REDACTED] uploaded a video to his Wordpress blog which contained offensive remarks against Islam. On 14 April 2016, Mr [REDACTED] uploaded a video to YouTube containing offensive gestures and remarks against Christianity. This was followed by a photo uploaded to Mr [REDACTED] Facebook page showing Mr [REDACTED] pointing his middle finger at a copy of the Quran on 17 April 2016. Mr [REDACTED] returned to Singapore on 21 April 2016. On 4 May 2016, Mr [REDACTED] was served with a Warrant of Attendance issued by a Magistrate to report to the Police on 10 May 2016. Mr [REDACTED] did not comply with the Warrant of Attendance. On 9 May 2016, Mr [REDACTED] attempted to leave the country again but

was stopped at the airport. Mr [REDACTED] was subsequently arrested on 11 May 2016 after he failed to report to the Police for investigations on 10 May 2016. Mr [REDACTED] was released on bail of S\$5,000 on the same day. On 19 May 2016, Mr [REDACTED] uploaded a video containing offensive gestures and remarks against Islam to YouTube and Vimeo.

As I stated in my letter of 23 December 2015, under Singapore's Constitution, the Public Prosecutor has the power to institute, conduct or discontinue any criminal proceedings for any offence. I emphasise that Mr [REDACTED] case was conducted pursuant to the Public Prosecutor's discretion, which was exercised independently. The Public Prosecutor does not answer to the Cabinet, nor is he accountable to the Parliament.

The Search and Confiscation of items in the course of police investigations

The entry into the houses of Mr [REDACTED]'s mother and grandparents, as well as the confiscation of several items by the police officers were in keeping with the Criminal Procedure Code. On 12 December 2015, Mr [REDACTED] was served with a notice under section 20(1) of the Criminal Procedure Code, ordering him to produce any electronic devices used to upload the relevant posts, which the police considered to be necessary for their investigations. However, he refused to comply with the order. The police then exercised their power under sections 34 and 35 of the Criminal Procedure Code to search the aforesaid premises and seize the electronic devices, which were suspected to have been used to commit the offences for which Mr [REDACTED] was being investigated.

Penalties sought

As in Mr [REDACTED]'s previous case, which was addressed in my letter of 23 December 2015, it bears emphasis that Mr [REDACTED] himself rejected the option of an order of probation. As detailed in paragraphs 19 to 22 of my earlier letter, Mr [REDACTED] had, after his previous conviction in 2015, expressly informed the court that he was not amenable to being placed on probation. Similarly, for the present charges, Mr [REDACTED]'s counsel did not ask the court to consider placing him on probation, but instead asked for an imprisonment term to be given.

Mr [REDACTED] has the capacity to understand and assess the nature and consequences of his actions. He had been convicted previously for a similar offence and has, with respect to some of the recent charges he pleaded guilty to, uploaded material which was more offensive than the subject matter of his previous conviction.

Singapore's compliance with international obligations

As I stated in my letter of 23 December 2015, Singaporeans have a constitutionally protected right to freedom of speech and expression. Singaporeans are free to express views on any matter, so long as it is done in accordance with the law. In Singapore, as it is in the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and in many other States, this right is not without certain prescribed restrictions.

I reiterate that Singapore is a small, densely populated, multi-racial and multi-religious society. An individual's freedom of speech must be exercised with mutual respect and accord with the need to preserve a harmonious society. Under our law, any person who posts remarks that can cause ill-will and hostility between the different races and communities in Singapore will be held accountable to the law. There have to be safeguards against those who abuse their rights to freedom of speech and expression, whether in the physical or online world, to denigrate or offend the beliefs of others, or to incite racial or religious hatred. Mr. ~~XXXX~~ himself admitted in court that his acts were grossly offensive and provocative to the Christian faith and to Islam.

As I have earlier stated, 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. Mr. ~~XXXX~~ has been dealt with in accordance with Singapore law and was accorded all his due rights at all times.

Singapore takes our treaty obligations seriously. We have a process under our Inter-Ministerial Committee on Human Rights to actively review Singapore's ability to ratify additional human rights treaties.

I reiterate that Singapore continues to respect the fundamental human rights enshrined in the UN Charter and the Universal Declaration of Human Rights and our laws and enforcement actions are in conformity with our international law obligations.

Yours *sincerely,*



Foo Kok Jwee, PPA(P)
Ambassador and Permanent Representative