



PERMANENT MISSION OF THE REPUBLIC OF SINGAPORE
UNITED NATIONS | GENEVA

PERMANENT REPRESENTATIVE

29 June 2017

Mr David Kaye

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

Mr Michael Forst

Special Rapporteur on the situation of human rights defenders

Professor Joseph Cannataci

Special Rapporteur on the right to privacy

Dear Mr Kaye, Mr Forst, and Prof. Cannataci,

I refer to your letter dated 30 June 2016 [Ref: AL SGP 5/2016] on the violations of the Parliamentary Elections Act by Ms Teo Soh Lung and Mr Roy Ngerng.

The Cooling-Off period exists in various forms in several countries and is sometimes referred to as "campaign silence" or "election silence". The objective is to establish a period that is free from political agitation so that voters can carefully reflect on issues before going to the polls. A breach of the Cooling-Off period may amount to a criminal offence in some countries.

The Cooling-Off Day regulations in Singapore were first implemented in 2011. The publication of any "election advertising", or any material that is intended to raise the standing of, or secure the electoral success of, any candidate or party, is prohibited during the Cooling-Off Day and Polling Day under the Parliamentary Elections Act.

The Cooling-Off Day regulations contain a “private communication” exception to the general prohibition on election advertising: this exception allows an individual to transmit to another individual his or her own political views on a non-commercial basis. Singapore’s Minister for Law Mr K. Shanmugam explained the scope of this exception when these laws were first introduced in Parliament in April 2010 in the following fashion: *“If a person posts a message on his blog or on a website which everyone can read, asking readers to vote for a particular party or candidate, that would probably be election advertising. But if he sends an email or Short Message Service (SMS) to a friend to share his personal political views about the election and provided he does not collect money for doing so, then that would not be caught.”*

All candidates and their supporters, regardless of political affiliation, are expected to abide by all relevant laws, and refrain from conduct that goes against the spirit behind these laws. Singapore has successfully conducted two General Elections, two by-elections, and one Presidential election since the introduction of these Cooling-off Day regulations in 2011.

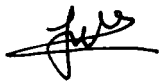
Both Ms Teo and Mr Ngerng publicly posted articles on 6 May 2016, Cooling-Off Day for the Bukit Batok by-election, which the Elections Department considered to amount to election advertising and do not fall within the “private communication” exception. The Elections Department therefore lodged police reports against Ms Teo and Mr Ngerng so that the police could investigate whether the posts did infringe the Parliamentary Elections Act.

The police searched the homes of Ms Teo and Mr Ngerng as part of their investigations. Under Singapore law, the police are empowered to conduct searches without a search warrant when investigating arrestable offences. A breach of the Cooling-Off Day regulations is an arrestable offence under our law. The electronic devices used by Ms Teo and Mr Ngerng to publish the online articles in contravention of the Cooling-Off Day regulations were seized to aid police investigations.

Following the conclusion of the investigations, the Singapore Police Force, acting on the advice of the Attorney-General’s Chambers, administered stern warnings in lieu of prosecution to Ms Teo and Mr Ngerng for their breaches of the Cooling-Off Day regulations.

Singaporeans have a constitutionally protected right to freedom of speech and expression. This is however not an unqualified right, as acknowledged by the Universal Declaration of Human Rights (UDHR), which recognises that individual rights must be subject to lawful limits in order to protect the rights of others. Singapore and other countries around the world have found Cooling-Off Day regulations necessary to safeguard the integrity of our electoral systems and to maintain society's confidence and trust in democratic processes.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Foo Kok Jwee', written in a cursive style.

FOO KOK JWEE
AMBASSADOR AND PERMANENT REPRESENTATIVE