



PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE  
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 15/21, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **new instances of harassment and arrest of activists and political leaders participating in demonstrations following the conclusion of the general election held on 5 May 2013.**

An urgent appeal in relation to similar alleged human rights violations was sent to your Excellency's Government on 3 June 2013 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders. A response from your Excellency's Government is yet to be received.

According to the information received:

On 27 May 2013, the following six opposition leaders were reportedly charged under Section 9(1) of the Peaceful Assembly Act for organizing rallies against alleged electoral irregularities during the general election of 5 May 2013:

- Mr. **Ong Eu Leong**, executive secretary of Pakatan Rakyat for the Penang state, was charged by the Butterworth Sessions Court, Penang, for organizing a rally in Batu Kawang held on 11 May 2013 and detained. Mr. Ong Eu Leong had reportedly notified on several occasions the police about the upcoming rally, first the Penang Chief police, then the Officer in Charge of Police District of Bukit

Mertajam and Nibong Tebal police headquarters. Mr. Ong Eu Leong who was subsequently released without bail, claimed trial and is due to appear before the same court for hearing on 27 June 2013.

- Mr. **Thomas Su**, Democratic Action Party's member of Parliament for Ipoh Timor, was charged by the Ipoh Sessions Court in relation to a rally at Dewan Wisma Chin Woo, in Jalan Hussein, Ipoh, held on 9 May 2013. Mr. **Mohammad Anuar Zakaria**, Peral's Parti Keadilan Rakyat (PKR), was similarly charged by the Ipoh Sessions Court in relation to another rally in Ipoh held on 12 May 2013. They were released after paying a MYR 4,000 bail each with one surety, and the cases have been set for mention for 19 July 2013.

- Mr. **Nazree Yunus**, Chief of the PKR Negeri Sembilan Youth, was charged by the Seremban Sessions Court for organizing a rally at Oakland, Seremban, on 17 May 2013 without prior notification. He was released after paying a bail of MYR 5,000, and his case has been set for mention for 25 June 2013.

- Mr. **R. Yuneswaran**, Executive Secretary for Johor PKR state, was charged by the Johor Bahru Sessions Court in relation to a rally at Tebrau, Johor Bahru held on 15 May 2013 and detained. Mr. Yuneswara, who was released without bail, claimed trial. His case which was fixed for mention on 10 June 2013 in the Johor Bahru Sessions Court, awaits the next hearing scheduled for 8 July 2013. .

- Mr. **Kamarulzaman Md Yunus**, Secretary of Pahang PKR, was charged at the Kuantan Sessions Court for organising a rally in Kuantan, Pahang. He was released on MYR 3,000 bail with one surety, and the case has been fixed for mention on 27 June 2013. Mr. Kamarulzaman Md Yunus reportedly notified the police about the upcoming rally, but his notification was allegedly 'rejected' by the police.

On 28 May 2013, the police issued an arrest warrant against Mr. **Hishamuddin Rais**, political activist affiliated to Bersih 2.0, after he reportedly made a seditious statement at a public forum at the Kuala Lumpur and Selangor Chinese Assembly Hall on 13 May 2013. On 29 May 2013, he surrendered himself at the Kuala Lumpur Sessions Court, and was charged under Section 4(1)(b) of the Sedition Act. He is due to appear before the court on 2 July 2013.

On 5 June 2013, Mr. **Badrul Hisham Shaharin**, leader of PKR, was charged under Section 9(1) of the Peaceful Assembly Act by the Petaling Jaya Sessions Court because he allegedly failed to notify the police about a rally he had organized on 25 May 2013 in Padang Timur, Petaling Jaya. He claimed trial, and the Court set 9 July 2013 for case management.

On 15 June 2013, Mr. **Edy Noor**, Mr. **Shariful Azmir Mustafa**, Mr. **Abdul Aziz**, Mr. **Anwar Yaacob**, Mr. **Sky Lau Tock Sang**, Mr. **Gerald Tang**, Mr. **Safwan Shamsuddin**, Ms. **Zanina Mohamed**, Mr. **Abdul Muqit**, Mr. **Ekhsan**

**Bukharee, Mr. Ibrahim Babu, Mr. Muhamad Al Fateh, Mr. Sulaiman Harun, Mr. Roslee Mohd Shariff, and Mr. [REDACTED]** (aged 10), took part in a peaceful flash mob at the Sogo shopping mall in Kuala Lumpur, with a view to informing the public of the date of a forthcoming rally scheduled for 22 June 2013. The aforementioned activists were arrested under Section 9(1) of the Peaceful Assembly Act, and investigated under Section 9(5) of the same Act. They were all released later that day under police bail. 112 statements were taken from the aforementioned individuals (with the exception of the minor).

Concerns are reiterated that the aforementioned individuals were arrested, charged or had statements taken because of the exercise of their rights to freedom of opinion and expression, and peaceful assembly.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to article 19 of the Universal Declaration of Human Rights (UDHR) which provides that "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Similarly, we would like to refer to article 20 of the UDHR which provides that "[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association."

In this connection, we would also like to mention Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

In addition, we would like to further refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; and
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, since it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Please confirm the legal basis of the charges brought against, and the statements taken from, the aforementioned individuals, and how these are compatible with the international human rights norms and standards specified above.

We undertake to ensure that your Excellency's Government's response is reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

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

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

Margaret Sekaggya  
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