

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL  
SGP 2/2016:

9 June 2016

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of defamation charges and harassment campaign against human rights defender and blogger, Mr. Roy Ngerng, for exercising his right to freedom of expression.**

Mr. **Roy Ngerng** is a human rights defender and blogger who writes on issues of government transparency and accountability through his blog *www.thehearttruths.com*. He has also been a prominent organizer and participant in peaceful assemblies in Singapore.

According to the information received:

On 18 May 2014, the lawyer of the Prime Minister of Singapore wrote to Mr. Ngerng requesting that he take down a blog post dated 15 May 2014 on *www.thehearttruths.com* titled "Where Your CPF Money Is Going: Learning From The City Harvest Trial", in which he put forward allegations of the Government's mismanagement of public retirement funds from the Central Provident Fund (CPF), pointing to implications of the Prime Minister. The letter alleged that the blog post defamed the Prime Minister by implying he had committed criminal acts. The letter requested Mr. Ngerng to post a public repudiation and apology on his blog, which had been pre-written by the Prime

Minister's lawyers, and to offer an amount to pay the Prime Minister in damages and costs.

On 20 May 2014, Mr. Ngerng took down the posting, and on 23 May 2014, he published the pre-written repudiation and apology on his blog.

On 26 May 2014, Mr. Ngerng received a second request from the lawyer of the Prime Minister to take down four other blog posts and videos that were not the subject of legal proceedings, and did not make reference to the Prime Minister. Mr. Ngerng complied with this request on the same day. The following day he offered to pay the Prime Minister S\$5,000 (approximately \$3,665) in damages. Despite this, on 29 May 2014, the Prime Minister filed a civil law suit for defamation.

On 10 June 2014, due to the defamation case brought against him, Mr. Ngerng lost his job from Tan Tock Seng Hospital. The hospital and Ministry of Health both issued press releases denouncing the acts of Mr. Ngerng.

On 7 November 2014, the High Court ruled that Mr. Ngerng was liable for civil defamation. The High Court also issued a final injunction to restrain Mr. Ngerng from further publishing or disseminating the allegation that the Prime Minister misappropriated money paid by Singaporeans to the CPF, or any words and/or images to the same effect.

On 12 January 2015, the High Court ordered Mr. Ngerng to pay to the Prime Minister S\$20,000 (approximately \$14,792) in costs, and S\$9000 (approximately \$ 6,656) in filing fees.

On 17 December 2015, the Supreme Court ordered Mr. Ngerng to pay S\$150,000 (approximately \$110,000) in damages to the Prime Minister.

Concern is expressed at the alleged defamation charges and campaign of harassment against Mr. Ngerng, which appears to be in retaliation for his peaceful and legitimate human rights work and exercise of his rights to freedom of opinion and expression. Further concern is expressed at the damages Mr. Ngerng was ordered to pay to the Prime Minister, as this appears to be used to dissuade him from carrying out his peaceful and legitimate human rights work and more broadly to quell criticism and which could contribute to deter individuals from exercising their legitimate right to freedom of expression in Singapore, in particular on matters of public interest. We remain concerned about authorities resorting to civil lawsuits against speech expressed online and call on the Government to respect and guarantee fundamental rights and ensure an enabling environment for human rights defenders to carry out their activities, online as well as offline, without fear of persecution.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to International Law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the legal grounds for holding Mr. Ngerng liable for defamation. In particular, please provide information about the court's justification for ordering him to pay the Prime Minister of Singapore S\$179,000 (approximately \$130,000) in damages. Please indicate how the legislation on defamation is compatible with the permissible restrictions to freedom of expression, in particular the strict tests of necessity and proportionality. Please also provide information about measures taken to guarantee Mr. Ngerng a fair and impartial judicial procedure, as provided by international human rights standards.
3. Please provide information about the legal grounds for the dismissal of Mr. Ngerng from his job, and explain how this is compatible with international human rights norms and standards.
4. Please kindly indicate what measures have been taken to ensure that human rights defenders in Singapore are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to review the decision against Mr. Ngerng, and to revise the domestic legislation on defamation to ensure its conformity with international human rights standards.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate

a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to article 19 of the Universal Declaration of Human Rights (UDHR), which provides for the right to freedom of expression. Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards. We would also like to refer to the Human Rights Council resolution 12/16, calling on States to recognize the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society. We would moreover like to call your Excellency's Government's attention to the recommendations made in the report E/CN.4/2000/63 urging all States to amongst others limit sanctions for defamation to ensure that they do not exert a chilling effect on freedom of opinion and expression and the right to information, and ensure that defamation laws reflect the importance of open debate on matters of public interest and the principle that public figures are required to tolerate a greater degree of criticism than private citizens, and provide a range of remedies in addition to damage awards, for example, apology and/or correction. We would further like to reiterate the principle enunciated in the Principles on Freedom of Expression and Protection of Reputation, as endorsed in E/CN.4/2001/64 which states that all States should review their defamation laws in order to ensure that they do not restrict the right to freedom of expression and to bring them into line with their international obligations. Among the recommendations for a minimum standard of defamation laws, the principles state that government bodies and public authorities of all kinds should be prevented from bringing defamation actions, and civil sanctions for defamation should not be so large as to exert a chilling effect on freedom of expression and should be designed to restore the reputation harmed, not to compensate the plaintiff or to punish the defendant.

We would like to also reiterate 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, also known as the UN Declaration on Human Rights Defenders. In particular, articles 1 and 2 the Declaration state that everyone has the right 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 (a) which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, as well as for the right to freely publish, impart or disseminate that information and knowledge; and

- article 9 (3) (a) which provides for right to complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms.