

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**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 rights to freedom of peaceful assembly and of association**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1)  
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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 and Special Rapporteur on the rights to freedom of peaceful assembly and of association pursuant to Human Rights Council resolutions 16/4 and 15/21.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **investigations launched by the police under the Peaceful Assembly Act 2012 to identify 14 activists who allegedly brought children to a recent opposition-led rally.**

The Peaceful Assembly Bill was the subject of a communication, and a subsequent press statement, by the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human rights of migrants, issued respectively on 2 and 7 December 2011. We acknowledge receipt of the response of your Excellency's Government of 4 April 2012.

According to the information received:

On 12 January 2013, opposition parties organized a large rally called "Himpunan Kebangkitan Rakyat" ("people uprising rally"). The police adopted a facilitative approach prior to and throughout the rally, and no incident reportedly happened during the protest.

However, it is reported that the police have been searching for 14 activists who allegedly brought children to the rally, in breach of Section 4(2) of the Peaceful Assembly Act 2012 which provides that "[a] person commits an offence if being a child [i.e. a person below the age of fifteen years] he participates in an assembly other than an assembly specified in the Second Schedule [i.e. religious

assemblies; funeral processions; assemblies related to custom; and assemblies approved by the Minister]; or he recruits or brings a child to an assembly or allows a child to attend an assembly other than an assembly specified in Second Schedule”.

We welcome the facilitative approach adopted by the police in relation to the Himpunan Kebangkitan Rakyat rally, which is certainly a commendable achievement in light of past rallies marred with allegations of excessive use of force by the police. However, we wish to raise concern about the investigations undertaken by the police to identify the 14 aforementioned activists in connection with the exercise of their rights to freedom of peaceful assembly and expression accompanied by their children, and in relation to the right of the child to freedom of peaceful assembly and to express his or her own views which must be given due weight in accordance with his or her age and maturity.

In this connection, we take this opportunity to express our concerns in relation to Section 4(2) of the Peaceful Assembly Act 2012, as raised earlier with regard to the Peaceful Assembly Bill. While taking note of the response of your Excellency’s Government of 4 April 2012, in which it was stated that “the Government introduced [the fifteen years age limit for children to participate in an assembly] to protect the welfare of children pursuant to section 31 of the Child Act 2001 taking cognizance of the fact that all assemblies have the potential to turn violent and that children could be utilized as human shields”, we would like to make reference to the first thematic of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, in which he highlighted a presumption of peaceful intentions of participants, and the positive obligation of States to both facilitate and actively protect peaceful assemblies (A/HRC/20/27, para. 25-26 and 33).

While we do not wish to prejudge the accuracy of these allegations, we would like to remind your Excellency’s Government of 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.”

Furthermore, we would like to highlight article 12 of the Convention on the Rights of the Child, which provides that “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.” In its General Comment No.12 (2009), the Committee on the Rights of the Child stressed that “[b]y requiring that due weight be given in accordance with age and maturity, article 12 makes it clear that age alone cannot determine the significance of a child’s views. Children’s levels of understanding are not uniformly linked to their biological age. Research has shown that information, experience, environment, social and cultural expectations, and levels of support all contribute to the development of a child’s capacities to form a view. For this reason, the

views of the child have to be assessed on a case-by-case examination” (CRC/C/GC/12, para. 29).

Similarly, we would like to refer your Excellency’s Government to article 20 of the UDHR which provides that “[e]veryone has the right to freedom of peaceful assembly and association”, and to article 15 of the Convention on the Rights of the Child, which states that “States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.”

We would like to further refer to 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” (emphasis added).

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 cooperation and 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 investigations undertaken by the police to find the 14 individuals who allegedly brought children to the rally. Please indicate how such measures are compatible with the aforementioned international human rights norms and standards.
3. In response to earlier concerns, we would appreciate learning what legislative amendments are being considered to ensure that Section 4(2) of the Peaceful Assembly Act 2012 complies with international human rights standards.

We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately 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