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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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

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

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1)
MYS 7/2013

23 July 2013

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 rights to freedom of peaceful assembly and of association pursuant to Human Rights Council resolution 16/4 and 15/21.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the situation of Ms. **Sheryne Olivia Yahcob**, Ms. **Laizah Laida**, Mr. **Mohd Asraf Sharafi b Mohd**, Mr. **Harieyadi b Karmin**, Mr. **Ardin b Manja**, Mr. **Johan Muhammad**, Mr. **Mohd Saifuddin Ahmad**, Mr. **Mohd Firdaus Muhammad Noor**, Mr. **Aliff b Basri**, Mr. **Akhdan Sheik Shah Sabang**, Mr. **Lahirul Latigu**, Mr. **Mohd Fathihie Gadius**, Mr. **Mohd Hisham Jais**, and Mr. **Mohd Abdillah Matlin**, student activists and opposition political party members.

According to the information received:

On 20 July at 8 am, the 14 aforementioned student activists and opposition political party members were peacefully protesting against the Trans Pacific Partnerships Agreement, a multi-national trade agreement, in front of the hotel in Sutera Harbour Hotel, Kota Kinabalu, where negotiations were underway, when they were arrested by the police. It is reported that the police initially used Section 15 of the Dangerous Drugs Act 1952 to arrest 11 demonstrators, who took urine tests which all turned out to be negative. The police then investigated the 14 participants under the Peaceful Assembly Act 2012. They were all released on the same day at 1.40 pm.

Concern is expressed that the arrest of the 14 aforementioned student activists and opposition political party members, and the possible charges which may be brought against them, may be linked to the exercise of their rights to freedom of peaceful

assembly and of opinion and expression. Further concern is reiterated about the application of the Peaceful Assembly Act 2012 against peaceful demonstrators.

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 shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Similarly, we would also like to refer to article 20 of the UDHR, which provides that "[e]veryone has the right to freedom of peaceful assembly and association".

In this connection, 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."

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:

1. Are the facts alleged in the summary of the case accurate?
2. Please confirm the legal basis of the arrest of the 14 aforementioned individuals, and of any subsequent charges which we may be brought against them. Please indicate how such measures are compatible with international human rights norms and standards in relation to the rights of freedom of peaceful assembly and of opinion and expression, as stated above.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report 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