

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: UA  
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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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 25/2, 24/6, 25/18, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning charges on defamation against **Mr. Roy Ngerng Yi Ling** in relation to blog posts critical to the Prime Minister. Mr. Ngerng is a blogger and human rights defender in Singapore, writing on issues of government transparency and accountability.

We would also like to bring to the attention of your Excellency's Government allegations we have received concerning the prosecution and detention of **Mr. [REDACTED]**, a 16 year old blogger, in relation to cartoons and a video posted on his blog criticizing public figures, as well as allegations in relation to the treatment and conditions of detention that could amount to torture, considering that **[REDACTED]** is a child in light of international human rights norms and standards.

According to the information received:

***Mr. Roy Ngerng Yi Ling***

On 7 November 2014, the High Court of Singapore ruled that Mr. Ngerng was liable for civil defamation against Prime Minister Lee Hsien Loong for a 15 May 2014 blog post in which he drew comparisons between a notorious fraud scheme in Singapore and the way in which the government manages public retirement funds from the Central Provident Fund (CPF). The High Court rejected Mr. Ngerng's arguments that the blog posts were not defamatory, that he had exercised his right to freedom of expression and that the blog posts concerned matters of public interest. The High Court imposed a final injunction to restrain Mr. Ngerng from repeating the alleged defamatory statements.

It is reported that before the civil suit for defamation was filed on 29 May 2014, Mr. Ngerng had removed a total of six blog posts, following letters of demand from Mr. Lee's lawyers. Only one of these posts is part of a civil litigation. On 23 May 2014, Mr. Ngerng published a pre-written repudiation and an apology on his website at the request of Mr. Lee's lawyers and offered to pay S\$5,000 Mr Lee in damages, but the offer was rejected.

On 12 January 2015, Mr. Ngerng was ordered by the Court to pay S\$20,000 for Prime Minister Lee's legal costs and S\$9,000 for his filing fees. On 11 June 2015, the High Court allegedly dismissed Mr. Ngerng's bid for a Queen's Counsel to represent him in a hearing on the damages. He was asked to pay S\$6000 for court costs. A hearing to determine the extent of damages is set for 31 August 2015 and could order Mr. Ngerng to pay damages up to S\$250,000 or more. These orders will have significant financial implications for Mr. Ngerng, leaving him with no other option than bankruptcy.

It is also alleged that, on 10 June 2014, Mr. Ngerng was fired from his employment, as senior HIV Programme Coordinator at Tan Tock Seng Hospital. It is reported that the Hospital issued a press release on their decision to fire Mr. Ngerng, blaming him for his statements on the Prime Minister Lee. It is alleged that the Ministry of Health issued a similar statement supporting the decision of the Hospital.

It is reported that Mr. Ngerng was also subject of a defamatory campaign in the media and acts of intimation and harassment on the Internet.

Mr. [REDACTED]

On 29 March 2015, Mr. [REDACTED] was arrested for questioning by eight plain clothes officers from Singapore Police Force. Although he was only 16 years old at the time of arrest, the police handcuffed him during his arrest. On 31 March 2015, [REDACTED] was charged for disseminating "obscene" images (under 292(1) of the penal code), deliberately "wounding the religious feelings of Christians" (under Section 298 of the penal code), in relation to the posting in March 2015 of a cartoon portraying former UK Prime Minister Margaret Thatcher and Singapore's founder Prime Minister Lee Kuan Yew, following the death of the latter, and for a video in which he express opinions criticizing the former Prime Minister, comparing him to Jesus Christ. He was also charged under Section 4 (1) (b) of the Protection from Harassment Act in relation to the

posting of a video containing remarks about Mr. Lee Kuan Yew, former Prime Minister of Singapore.

On 31 March 2015, [REDACTED] was released on bail set at S\$20,000 on the condition that he would not comment or distribute any content online during the trial. On 14 April 2015, he allegedly flouted his initial bail conditions by asking for public donations to fund his legal fees on both on his blog and Facebook page. On 17 April 2015, [REDACTED]'s police bail was converted to court bail of the same amount on the conditions that he would remove the *Facebook* and blog posts through which he publicly requested support for his bail amount, remove the video posted in March 2015 and report to the local police station at 9 a.m. every day. The parents of [REDACTED] declined to pay the bail mentioning that the conditions were too harsh and unnecessary. [REDACTED] was sent to Changi Remand Centre the same day for failing to deposit the bail amount. He remained in prison for four days and was released on 21 April 2015, after a youth counsellor filed the bail on his behalf. Also the same day, three lawyers agreed to represent him pro-bono. Prior to this, he was not represented by a lawyer. On 29 April 2015, Mr. [REDACTED] allegedly breached his bail conditions by posting two blog posts about his bail conditions and for accusing his father of being abusive. On 30 April 2015, the youth counsellor withdrew himself as bailor following the alleged breach of [REDACTED]'s bail conditions.

On 30 April 2015, [REDACTED] was again sent to Changi Remand Centre after he refused to pay the bail because of the harsh bail conditions. He remained in Changi Remand Centre until 12 May 2015. On that date, the district court found [REDACTED] guilty for disseminating "obscene" images (under 292(1) of the penal code) and deliberately "wounding the religious feelings of Christians" (under Section 298 of the penal code). The third charge under the Protection of Harassment Act was dropped by the prosecutor. The Court decided that sentencing would be on 2 June 2015 following probation report.

On 21 May 2015, [REDACTED] allegedly republished the online image and video pertaining to the case and he also allegedly denied cooperating with probation officers. He was arrested again on 27 May 2015 and was sent to Changi Remand Centre for three weeks. On 2 June 2015, the district court ordered an assessment for his transfer to a Reformative Training Centre, a place of detention where young offenders aged between 16 and 18 are held for 18-30 months when not considered apt for probation. On 23 June 2015, the district court asked for a psychological assessment at the Institute of Mental Health to determine if he has an autism-spectrum condition and if Mandatory Treatment Order should be considered as sentencing options. [REDACTED] was not granted the possibility of carrying out these assessments as outpatient and was sent to the remand centre at the Institute of Mental Health for initial two weeks.

It is alleged that the assessment at the Institute of Mental Health of his mental condition had been completed the week of 29 June 2015. However, [REDACTED] reportedly continued being held at Institute of Mental Health until on 5 July 2015, when [REDACTED] was reportedly sent to the hospital, due to the severe deterioration of his health conditions. It is alleged that although his lawyers had filed an urgent appeal to release

him on bail due to his deteriorating health conditions, this could not proceed due to the courts tight schedule.

On 6 July 2015, he was sentenced to four weeks of imprisonment. He was released the same day, having already spent more than 50 days in detention. He was sentenced to three weeks imprisonment for wounding religious feelings, under Section 298 of the penal code, in relation to the video criticising and comparing former Prime Minister Lee Kuan Yew to Jesus Christ; and to one week imprisonment for disseminating "obscene" images, under 292(1) of the penal code, in relation to the posting of a drawing of former Prime Minister Lee Kuan Yew and former British Prime Minister Margaret Thatcher.

In relation to his treatment in custody, it is reported that during his detention in Changi Remand Centre, a high security detention center, he was held in a cell, under constant video monitoring, with adult inmates. It is alleged that he was strapped to a bed for a day and a half; a practice that stopped following the complaints of his lawyer. It is alleged that he was locked in his cell for 23 hours per day and was only allowed to access a court yard for one hour a day, but counsellors and psychiatrists visits were often scheduled during that hour. It is reported that lights were kept on during the night, seriously disrupting his sleep. It is alleged that he was shackled and handcuffed when presented at the court and during the court hearings.

It is reported that at the Institute of Mental Health, he was allowed to receive visits from his mother three times a week, but the rest of the time he was held under a regime akin to solitary confinement during the 24 hours of the day, in a cell that did not comply with the minimum standards for the detention for a child. It is reported that his physical and psychological health have quickly deteriorated, but has not been examined by a medical doctor. It is alleged that the costs of the mandatory "treatment" fall on the parents of the child detained. It is also alleged that the public prosecutors instead of taking into consideration the juvenile status of [REDACTED] has been demanding harsher sentences such as Reformatory Training which are incarcerative in nature and are applied only against serious juvenile offenders.

It is also alleged that [REDACTED] had been physically abused at the district court on 30 April 2015 and he allegedly also received threats of physical violence, including threats of rape, since the proceedings against him had started.

It is also reported that [REDACTED] is subject of a defamatory campaign in the media, presenting him as mentally instable, lacking social skills or empathy. While being a child, it is alleged that the government did not take sufficient precautions in not revealing his identity.

We express serious concern regarding the allegations related to the civil prosecution of **Mr. Ngerng** by the Prime-Minister of Singapore for defamation as a result of the legitimate exercise to his right to freedom of opinion and expression, as enshrined in article 19 of the Universal Declaration of Human Rights. We also express concern at

the disproportionate amount he could be ordered to pay in concept of damage, exerting an excessive restriction to his right to freedom of opinion and expression. We also express concerns at the allegations that indicate that the decision of the Hospital, backed by the Health Ministry, to fire Mr. Ngerng resulted from the statements he posted on his blog and his criticism to the Government.

We express grave concerns regarding the prosecution and detention of Mr. [REDACTED], which criminalized his legitimate exercise to the right to freedom of opinion and expression, as enshrined in article 19 of the Universal Declaration of Human Rights and article 13 of the UN Convention on the Rights of the Child. [REDACTED] is a child under international human rights law, which heightens our grave concerns about the use of custodial measures in this case. We also express grave concerns regarding the allegations of [REDACTED] treatment in detention, including incarceration with adult inmates, a regime akin to solitary confinement, sleep deprivation, being handcuffed and shackled when presented at the court and being strapped to a bed, among other allegations of ill-treatments in detention. Considering his age and the impact these conditions of detention and treatment could have on children, we consider that what he is experiencing in detention would amount to torture. We are also extremely concerned at the reports on the quick deterioration of his physical and psychological health while in detention.

We are further concerned that these prosecutions not only aim at silencing Mr. Ngerng and Mr. [REDACTED], but will also impair the right of others to seek, receive and access information, and will also have a deterrent effect on the exercise of the right to freedom of opinion and expression, as many in Singapore will fear criminalization and severe consequences for freely expressing their opinions, in particular for criticizing the government or its policies.

We would like to emphasize that freedom of expression plays a central role in the effective functioning of a vibrant democratic political system. International human rights law provides States' responsibility to ensure an environment in which a diverse range of political opinions and ideas can be freely and openly expressed and debated. In all cases, restrictions to the exercise of the right freedom of expression, including under defamation grounds, must be provided by law and necessary and proportionate to achieve one of these legitimate aims.

We take note that the recommendations of the Universal Periodic Review relative to the revision of the defamation law did not enjoy the support of Singapore as the State considered that these were based on incorrect assumptions or premises. In this regard, we would like to bring to the attention of your Excellency's Government that civil sanctions for defamation should generally be avoided and, in any event, not be so large as to exert a chilling effect on the right to freedom of expression. Any sanctions must be consistent with international human rights norms and standards and in all cases be designed to restore the reputation harmed, not to compensate the plaintiff or to punish the defendant. Pecuniary awards should be strictly proportionate to the actual harm caused, and the law should prioritize the use of a range of non-pecuniary remedies. In addition, defamation should not be used to protect abstract or subjective notions or concepts, such as the State,

national symbols, national identity, cultures, schools of thought, religions, ideologies or political doctrines. Public figures, as in Roy Ngerng case the Prime Minister, are required to accept a greater degree of criticism than private citizens. (see E/CN.4/2000/63 and E/CN.4/2001/64)

In relation to the detention of [REDACTED], while we do not wish to prejudge the accuracy of these allegations or to express an opinion yet, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of [REDACTED], in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 37 of the Convention on the Rights of the Child, ratified by Singapore on 5 October 1995. In particular, we recall that the deprivation of liberty of children is intended to be an *ultima ratio* measure, to be used only for the shortest possible period of time, only if is in the best interests of the child, and limited to exceptional cases. In all cases solitary confinement of children, of any duration and for any purpose, should be prohibited (see A/HRC/28/68). The United Nations Rules for the Protection of Juveniles Deprived of their Liberty, which provides the minimum standards for the protection of children in detention, indicate among others that every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age, and that children in detention should be kept separate from adults.

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified, inter alia, in Human Rights Council Resolution 25/13 and paragraph 1 of General Assembly Resolution 68/156.

In this context, we wish to draw the attention of your Excellency's Government to the most recent thematic report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in which it is stated that the imposition of solitary confinement, of any duration, on children constitutes cruel, inhuman or degrading treatment or punishment or even torture, and recommended that solitary confinement of any duration and for any purpose be prohibited (A/HRC/28/68). In this regard, we also wish to reiterate the recommendations of the Committee on the Rights of the Child in relation to the prohibition of the use of solitary confinement for juvenile offenders (CRC/C/SGP/CO/2-3, 2011).

Regarding the situation of [REDACTED], we are deeply concerned about the reported deterioration of his health that started in detention. International human rights instruments, such as article 24.1 of the Convention on the Rights of the Child, recognize that children and adolescents have the right to the enjoyment of the highest standard of health. In this connection, we would like to underline that article 3 of the Convention places obligations on public and private institutions, courts of law administrative authorities and legislative bodies to ensure that the best interests of the child are assessed and taken as primary consideration in all decision affecting them. This principle must be observed in all health-related decisions concerning children (CRC/C/GC/15, para. 12).

We would also like to refer to 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, 2, 6 and 12.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the legal justification for the civil defamation suit against Mr. Ngerng by the Prime-Minister for criticizing the Government, and details of the imposition by the High Court of the injunction to restrain Mr. Ngerng from issuing subsequent blog posts, indicating how these measures are in conformity with above-mentioned international human rights norms and standards.
3. Please provide information regarding the damage awards imposed on Mr. Ngerng, indicating the measure taken to insure these are proportionate, do not impose excessive restrictions and do not exert a chilling effect on the right to freedom of expression, in conformity with above-mentioned international human rights norms and standards.
4. Please provide information on the legal grounds for the prosecution and detention of [REDACTED], indicating how these measures are in conformity with above-mentioned international human rights norms and standards.
5. Please provide detailed information, and where available, the results of any medical examinations, investigation, judicial or other inquiries carried out in relation to their allegations of torture, ill-treatment and abuse in detention. If no inquiries have taken place, or if they have been inconclusive, please explain why.
6. Please provide information on the legal grounds for the prosecutor to demand harsh penalty against a child as well as the treatment and conditions of detention of [REDACTED], since his first arrest, indicating how these are in conformity with above-mentioned international human rights norms and standards. Please also indicate which measures have been taken to ensure that [REDACTED] is not subject to torture or other cruel, inhuman or degrading treatment or punishment in detention, and to ensure that his rights and special protection that he should be afforded as a child, are respected at all times.
7. Please provide detailed information on the measures taken towards the implementation of the above-mentioned recommendations of the Committee on the

Rights of the Child, in relation to the right to freedom of expression and the treatment of children in detention.

8. Please provide information regarding the health condition of Mr. [REDACTED] and his access to health services and treatment while in detention. In this connection, please explain the need of the psychological assessment at the Institute of Mental Health, summarize its results if available, and provide information on any decision taken regarding his situation on the basis of such assessment.

9. Please information on any measures taken towards the ratification of the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

10. Please provide information in relation to the measures taken to ensure that the legislation of Singapore is in conformity with international human rights norms standards, including in relation to the legislative provisions relative to defamation laws.

While awaiting a reply, and in view of the seriousness of the matter, we urge your Excellency's Government to take the necessary measures to review the sentencing against Mr. [REDACTED] ensuring that all the guarantees of due process will be respected in the proceedings brought against him in relation to the legitimate exercise to his right to freedom of opinion and expression. We also urge your Excellency's Government to take all necessary measures to guarantee the rights of Mr. Ngerng and prevent the imposing civil penalties and disproportionate damage awards which would leave him to bankrupt which in turn would infringe a number of his fundamental rights including his right to freedom of opinion and expression.

As the information before me is sufficiently reliable and serious to indicate a matter warranting immediate attention, we will publicly express the abovementioned concerns through the press release attached, due to be issued tomorrow. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issues 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

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freedom of opinion and expression

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