

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; the Special Rapporteur on the situation of human rights defenders; and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

REFERENCE:
AL SGP 3/2017

11 July 2017

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; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 34/18, 32/32, 25/18, A/HRC/RES/32/2.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the recent amendments adopted to the Public Order Law on 3 April 2017, which could significantly restrict the right to freedom of peaceful assembly in the country, including its significant impact on the organization of the annual 'Pink Dot' festival.

According to the information received:

'Pink Dot', an open-air, annual LGBTQ event was held on 16 March 2009 for the first time at the Speaker's Corner in Hong Lim Park. The event has been organized every year since then, with an ever growing attendance each year. In 2016, it attracted close to 30,000 participants.

On 7 June 2016, following the 'Pink Dot' event, the Ministry of Home Affairs (MHA) issued a statement stating that "[t]he Government's general position has always been that foreign entities should not interfere in our domestic issues, especially political issues or controversial social issues with political overtones. These are political, social or moral choices for Singaporeans to decide for ourselves. LGBT issues are one such example" (MHA Statement on Foreign Sponsorship for Pink Dot 2016). The MHA further stated that "foreigners are not allowed to organise or speak at the events, or participate in demonstrations"; and that "foreign entities should not fund, support or influence such events held at Speakers' Corner".

On 9 March 2017, amendments to the Public Order Act (Chapter 257A 2012) were tabled in Parliament and the Public Order (Amendment) Act was passed on 3 April 2017.

Section 7 of the Public Order Act was amended to allow the Commissioner ‘to refuse to grant a permit for a public assembly or public procession (...) if he has reasonable ground for apprehending that the proposed assembly of procession may be:

- (h) directed towards a political end and be organised by, or involve the participation of any of the following persons:
 - (i) an entity that is not a Singapore entity
 - (ii) an individual who is not a citizen of Singapore’.

Failure to comply with the act will result in the person found guilty of an offence and shall be liable on conviction to a fine not exceeding \$ 10,000 or to imprisonment for a term not exceeding 6 months, or both.

Prior to the amendments of 3 April 2017, foreigners were allowed to observe demonstrations but not to actively participate in them. With these recent amendments, not only will foreigners be prevented from participating in the demonstration, but also companies that have traditionally financially sponsored the ‘Pink Dot’ festival, such as Google Singapore, will be prohibited from doing so or will be punished with a fine.

Concerns are expressed regarding the fact that the right to freedom of peaceful assembly in Singapore, which has been already narrowly defined and did not meet international human rights standards, was further restricted by the adoption of the amendments of 3 April 2017 to the Public Order Act. The amendments adopted effectively prevent foreigners from participating in assemblies in general, and impact the capability of organizers of the festival to raise necessary funds due to the fact that foreign entities are banned from financially supporting the event.

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

As 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 how the amendments introduced to the public Order Act on 3 April 2017 are compatible with international human rights standards, in particular as concerns the prohibition of foreigners to exercise their right to freedom of assembly in Singapore. Please indicate what measures have been taken to ensure that the legitimate right of freedom of expression and opinion, as well as freedom of assembly and association are respected in the country.

3. Please explain what measures have been taken to ensure that the amendment to the public Order Act does not disproportionately impact on the rights of freedom of expression and peaceful assembly of lesbian, gay, bisexual and transgender persons

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations of the right to freedom of peaceful assembly and to ensure that the right can be fully enjoyed without unnecessary restrictions.

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

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Vitit Muntarbhorn
Independent Expert on protection against violence and discrimination based on sexual
orientation and gender identity

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 the relevant international norms and standards that are applicable to the issues brought forth by the situation described above. In particular, we would like to refer to international standards further developing the already mentioned articles 20 of the UDHR, and 2 (2)(i) of the ASEAN Charter.

The right to peaceful assembly has been reaffirmed by a number of Human Rights Council resolutions as well, including resolutions 15/21, 21/16 and 24/5. Furthermore, in its resolution 24/5, the Human Rights Council reminded 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 those rights. This has been reaffirmed in the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association in 2014 (A/HRC/26/29, para 22).

While the right to freedom of peaceful assembly is not an absolute right under international human rights law, and it 'can be subject to certain restrictions, which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others' (Human Rights Council resolution 15/21, OP 4); these restrictions should be the exception and not the rule.

Additionally, the principles of equality and non-discrimination are part of the foundations of the rule of law and human rights. Sexual orientation and gender identity are prohibited grounds of discrimination under international law. Under article 1 of the Universal Declaration of Human Rights, '[a]ll human beings are born free and equal in dignity and rights', and '[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status' (article 2 of the Declaration).

Furthermore, we wish to call the attention of your Excellency's Government to the provisions contained 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 Declaration on Human Rights Defenders, adopted by the General Assembly in its resolution 53/144, which in its article 5 declares that, '[f]or 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: (a) To meet or assemble peacefully'.

Additionally, we would like to refer to recommendations addressed to your Excellency's Government in the context of the examination of Singapore's human rights

record under the Universal Periodic Review process of the UN Human Rights Council, relating to the right of freedom of assembly, a number of which had been accepted by your Excellency's government. Accepted relevant recommendations included the one proposed by Mexico on behalf of GRULAC, OAS) to '[c]onsider the necessary legislations and policies to effectively guarantee the protection and promotion of freedoms of expression, peaceful assembly and association'; and by France to '[e]nsure freedom of assembly and association, freedom of opinion and expression, including on the Internet, and protect freedom of the press'.

It should also be stressed that sexual orientation and gender identity are prohibited grounds of discrimination under international law. The Human Rights Council, through resolutions 32/2, 17/19 and 27/32, has expressed grave concern at acts of violence and discrimination committed against individuals because of their sexual orientation and gender identity.

On the basis of international human rights norms and standards and the work of the United Nations human rights treaty bodies and special procedures, the United Nations High Commissioner for Human Rights has emphasized that States have obligations to, inter alia, protect rights to freedom of thought and expression, association and peaceful assembly without discrimination on the grounds of sexual orientation or gender identity. To that end, they should review and repeal discriminatory provisions in domestic legislation that have a disproportionate impact on the exercise of these rights by LGBT persons and others advocating for their rights. States must also protect the right to take part in the conduct of public affairs, without discrimination, and ensure that LGBT and intersex persons and organizations defending their rights are consulted with regard to legislation and policies that affect their rights. In addition, the High Commissioner for Human Rights has recommended that States repeal laws that impose discriminatory restrictions on freedom of expression, association and assembly and ensure that anti-discrimination legislation includes sexual orientation and gender identity among prohibited grounds (A/HRC/29/23, para. 18, 19 and 79(b)(c)).

Finally, we would like to recall that, in a joint statement on free expression and association, UN and regional human rights experts stated that they "categorically reject arguments that such restrictions to the rights of LGBTI people are necessary to protect public morals, health or the well-being of vulnerable people."¹

¹ Joint statement by UN Special Rapporteurs on freedom of opinion and expression, freedom of peaceful assembly and of association, right to health, and human rights defenders African Commission on Human and Peoples' Rights, Special Rapporteur on Human Rights Defenders in Africa, Inter-American Commission on Human Rights and OSCE Representative on Freedom of the Media, "*Free expression and association key to eliminating Homophobia and Transphobia*" (May 2014), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14602&LangID=E>