

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:
UA SGP 4/2017

22 December 2017

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 situation of human rights defenders, pursuant to Human Rights Council resolutions 34/18 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the criminal prosecution of Mr. **Jolovan Wham** for the peaceful exercise of the right to freedom of expression, and freedom of peaceful assembly in Singapore and the increasingly hostile environment for civil society in the country.

Mr. Jolovan Wham is a human rights defender and social worker. In 2011, he received the Promising Social Worker Award, conferred by the President of the Republic of Singapore.

Concerns about amendments to the Public Order Act severely restricting civil society space were raised in a previous communication by Special Procedures on 11 July 2017 (SGP 3/2017). We thank your Excellency's Government for the reply of 8 September 2017, yet remain concerned at the continued use of the Act's provision for the prosecution of the legitimate exercise of the right to freedom of expression and freedom of peaceful assembly.

According to the information received:

On 13 November 2016, Mr. Wham participated in an event in support of the Bersih 5 rally in Malaysia. During the event, the participants laid a Singapore flag and a Malaysian flag on mats. They also held the flags up and took photos with them. Under the National Emblems (Control of Display) Act, the public display of the national emblem of any country, including flags, is prohibited except by certain people, such as diplomats, and when an order is published in the Government Gazette to allow it.

On 26 November 2016, Mr. Wham organized an indoor public assembly featuring Mr. Joshua Wong, a Hong Kong activist and leader of the Umbrella movement.

According to the police, Mr. Wham lacked a police permit for the indoor public assembly.

On 3 June 2017, Mr. Wham participated in a silent protest on a metro train with eight other individuals, without a police permit. They were protesting against the 1987 detention without trial of 22 people by the Internal Security Department. Mr. Wham and the other protestors were publicizing the 30th anniversary of the event and the publication of a commemorative book which they proceeded to hold before them as they sat in silence, blindfolded.

On 13 July 2017, Mr. Wham had participated in a candlelit vigil held outside Changi Prison in connection with the execution the following day of a Malaysian national for drug trafficking.

On 28 November 2017, Mr. Wham was called to the Cantonment Police Station in connection with ongoing investigations into public order offenses that were being investigated against him. Upon his arrival at the station, seven charges were read out to him and he was arrested and detained. He was released on bail of S\$ 10000.00 (approximately USD 7400) later that afternoon.

A first court hearing took place on 29 November 2017. Following the hearing, he was released on bail of S\$ 8000. His passport was impounded, and he was charged with having organized three separate public assemblies without a police permit contrary to section 5 of the Public Order Act of 2009, for the events described above. If convicted, he would face imprisonment up to 6 months, a fine of up to S\$ 10,000, or both. He faces an additional charge of vandalism under sections 2 and 3 of the Vandalism Act of 1966 for having posted two sheets of A4-sized white paper on a metro train panel for approximately 45 minutes. These sheets were later removed by the protestors leaving no mark or damage. The Vandalism Act provides for the judicial caning of offenders.

During the police investigations of the above three incidents, the Police claimed that Mr. Wham had refused to sign his recorded statement on multiple occasions which amounts to an offence under section 180 of the Penal Code.

It has been reported that the regulations on public order in Singapore were severely tightened in 2009, leading to the denial of permits for public events related to political, human rights or economic issues. In the past few months, at least 25 individuals have reportedly been investigated and interrogated by the police due to their involvement in peaceful assemblies, silent demonstrations and meetings held in Singapore.

We express concern at the charges brought against Mr. Wham on the basis of provisions in the Public Order Act, the Vandalism Act and the Penal Code. These charges appear to target the legitimate exercise of the right to freedom of expression and freedom of peaceful assembly. In addition, the sanctions to the violation of these provisions are neither necessary nor proportionate, and such restrictions to freedom of expression and freedom of peaceful assembly cannot be considered as lawful under international human rights law. We express further concern that the criminal prosecution of Mr. Wham falls into a broader pattern of restrictions on civil society space in Singapore.

Without prejudging the above allegations, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee Mr. Wham's right to freedom of movement, freedom of expression, and freedom of peaceful assembly in accordance with articles 19 and 20 of the Universal Declaration of Human Rights.

In this regard, we would like to refer to the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with the criteria established by international human rights standards. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality.

We would also like to refer your Excellency's Government to 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, and in particular articles 1, 2,5,6, 9 para. 3, 12 para. 2 and 3.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 Mr. Wham in compliance with international instruments.

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 be grateful for your observations on the following matters:

1. Please provide any additional information and comments which you may have on the above mentioned allegations.
2. Please provide information about how section 5 of the Public Order Act and sections 2 and 3 of the Vandalism Act comply with permissible

restrictions to the right to freedom of expression, as guaranteed under international human rights standards.

3. Please provide information about the legal basis upon which Mr. Wham's passport has been confiscated.
4. Please provide information about measures taken to ensure that the trial of Mr. Wham respects the standards of due process and fair trial as guaranteed under international human rights standards.
5. Please provide information about steps taken to reverse the increasing shrinking of civil society space in Singapore including measures 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 retaliation, intimidation or harassment of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

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