

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 situation of human rights defenders

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) G/SO 214 (107-9)
SGP 4/2013

12 December 2013

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 16/4 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the contempt of court charge against Mr. **Alex Au Wai Pang**, a Lesbian, Gay, Bisexual and Transgender (LGBT) and migrants' rights activist and blogger in Singapore.

According to the information received:

On 25 November 2013, Mr. Au was allegedly informed through news agencies that a case was filed against him by the Attorney General's Chambers. Mr. Au and his lawyers subsequently learned that the "ex-parte" hearing was to be held as a response to two postings on his blog, Yawning Bread, where he has discussed Singapore's political, social and cultural issues since 1996. The articles in question are the following;

- "377 Wheels Come Off Supreme Court's Best-Laid Plans", dated 5 October 2013. This article allegedly miswrote the hearing dates of the cases involving constitutional challenge to Penal Code, Section 477 (A) which criminalizes consensual sex between men.
- "Church Sacks Employee and Sues Government – On One Ground Rights, On Another Ground Wrong", dated 12 October 2013. This article allegedly expressed doubts about the judiciary's capacity to make independent judgments.

On 26 November 2013, Mr. Au's lawyers requested the court to convert the hearing to "inter-parties", but were only allowed "watching briefs", meaning that they could be present at the hearing but could not make any submission.

On 27 November 2013, the High Court reportedly granted leave to the Attorney General to file the charge against Mr. Au based on the 5 October article. If Mr. Au is found guilty, he could face imprisonment and/or a fine. There is no maximum sentence prescribed under the Supreme Court of Judicature Act that authorizes the High Court to punish for contempt of court.

It is also reported that the Government has previously objected some of Mr. Au's articles posted online. In July 2012, the Attorney General requested Mr. Au to post an apology letter concerning his 18 June 2012 article "Woffles Wu case hits a nerve", in which he had reportedly alleged that the courts are biased towards well-connected people. Following the request, he withdrew the article and made an apology.

It is reported that the pre-trial hearing is scheduled on 18 December 2013.

Grave concerns are expressed that the charge against Mr. Alex Au Wai Pang is directly related to his writings posted online. Further concerns are expressed that this could negatively affect the work of human rights defenders promoting LGBT and migrants' rights who exercise their legitimate right to freedom of opinion and expression.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer to Human Rights Council resolution 20/8 on the promotion, protection and enjoyment of human rights on the Internet adopted on 5 July 2012, which "affirms that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice." It further called upon all States to "promote and facilitate access to the Internet and international cooperation aimed at the development of media and information and communications facilities in all countries."

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights 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."

In this connection, we would 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 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental

freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.
- article 7 which states that "Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance."

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 person in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, 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 above summary of the case accurate?
2. Has a complaint been lodged by the victim or on his behalf?
3. Please provide information on the legal basis of the charge against Mr. Alex Au Wai Pang and how that this is compatible with the international norms and standards on the right to freedom of expression.

We undertake to ensure that your Excellency's Government's response will be available 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 person are respected.

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders