



General Assembly

Distr.
GENERAL

A/HRC/4/25/Add.1
5 April 2007

ENGLISH/FRENCH/SPANISH

Human Rights Council
Fourth session
Agenda item 2

**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Report of the Special Rapporteur on the independence of judges and lawyers,
Leandro Despouy**

Addendum

Situations in specific countries or territories*

*The present document is being circulated in the languages of submission only as it greatly exceeds the page limitations imposed by the relevant General Assembly resolutions.

of the chiefs, who usurp judiciary powers, routinely issue rulings that violate the human rights of women and basic precepts of gender equality. In some criminal cases referred to them by community members, chiefs have reportedly carried out the functions of both prosecutor and judge. Examples include chiefs who have levied arbitrary charges against women such as “witchcraft” (a charge that does not exist in Sierra Leonean law). Reportedly, there have also been cases where chiefs have determined guilt without evidence, imposed arbitrary and exorbitant fines, imprisoned women unlawfully in their homes or in illegal “tribal prisons”, or threatened to, or actually did expel women from the community as a form of punishment. Moreover, chiefs also routinely fail to bring to the attention of the competent State authorities cases of rape, which members of local communities often first refer to the chiefs. Moreover, many chiefs also condone violence against women committed by their husbands. The customary law, as applied in the Local Courts, furthers these attitudes since it also condones domestic violence below a certain intensity threshold, regarding it as a justified “chastisement” of the wife.

Communications received

323. None.

Special Rapporteur’s comments and observations

324. The Special Rapporteur regrets the absence of an official reply to the joint allegation letter of 25 August 2006 and urges the Government of Sierra Leone to provide substantive detailed information at the earliest possible date, and preferably before the end of the fourth session of the Human Rights Council.

Singapore

Communications sent

325. On 20 March 2006, the Special Rapporteur sent a joint urgent appeal together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression regarding Dr. Chee Soon Juan, the Secretary-General of the Singapore Democratic Party (SDP) and the Chairman of the NGO Alliance for Reform and Democracy for Asia (ARDA), who is facing a court hearing on 16 March 2006 for contempt of court. According to the information received, Dr. Chee has strongly and consistently criticized the Government’s policies. In 1993, when he was a lecturer at the National University of Singapore, he was fired for misusing his research funds. It is alleged that this occurred because he joined the SDP. When he disputed the dismissal, he was sued by the head of the department of the university and two other staff members for defamation, which resulted in a judgement against him and a fine of approximately US\$ 71,000. In November 1995, Dr. Chee was censured by the Parliament for endorsing attacks on the judiciary during a forum held in the United States in September 1995. It is alleged that these attacks were made by Francis Seow, former Solicitor General, and Christopher Lingle, but the Government affirmed that Dr. Chee’s failure to contradict the attacks constituted positive assent by “clever omission”. In 1996, the Parliament fined him and

other SPD members approximately US\$ 25,000 for contempt of Parliament in the context of a debate on health care. In addition, it is reported that in 1999 Dr. Chee was imprisoned on two occasions for making public speeches without a permit. Moreover, Dr. Chee was fined S\$ 3,000 for speaking on a religious topic at Singapore's Speaker's Corner and S\$ 4,500 under Public Entertainment Acts. However, it is reported that he chose to serve a five-week jail term instead of paying these fines. In 2001, during the national election campaign, Dr. Chee raised questions about alleged government financial support to Indonesia over the previous four years. Dr. Chee was sued for defamation by former Prime Ministers Lee Kuan Yew and Goh Chok Tong. On 11 January 2002, Dr. Chee filed an application asking for Stuart Littlemore to be admitted as his attorney. Mr. Littlemore is an Australian Queen's Counsel and a defamation expert. It is alleged that Dr. Chee submitted this application because he could not find a local lawyer to represent him because they were afraid of government reprisal. It is reported that on 18 January 2002, the High Court ruled that Mr. Littlemore was not a fit person to practise in the country, because he had criticized the judiciary in an earlier case involving another opposition leader when he was an observer for the International Commission of Jurists. Dr. Chee made a second application to admit Martin Lee of Hong Kong and William Nicholas of Australia, both Queen's Counsels. It is reported that the tribunal dismissed the application, declaring that the case was not complex enough to warrant the assistance of Queen's Counsels. Moreover, it is alleged that in the meantime, Lee Kuan Yew and Goh Chok Tong engaged a Senior Counsel, which is Singapore's equivalent to Queen's Counsel, whereas Dr. Chee represented himself. On 19 August 2002, the court allowed a summary judgement, which allegedly took place in the Registrar's private chambers. It is reported that as result of this procedure the two former Prime Ministers were awarded approximately US\$ 300,000 in damages. Dr. Chee appealed the decision, but his appeal was rejected on 4 April 2003. It is reported that Lee Kuan Yew and Goh Chok Tong submitted to the courts a bankruptcy petition against Dr. Chee when he failed to pay. It appears that on 10 February 2006, during the bankruptcy hearing, Dr. Chee accused the judiciary of not being fair and independent, especially when it decides defamation cases involving opposition politicians. It is alleged that the courts declared Dr. Chee bankrupt, a consequence of which is that he would be barred from standing in future elections. Finally, it appears that the Attorney General applied for a hearing to commit Dr. Chee to prison for contempt of court and that the trial took place on 16 March 2006. The details of the hearing are not yet known. Serious concern is expressed at the Government's recourse to criminal sanctions for Dr. Chee's legitimate exercise of his right to freedom of opinion and expression.

326. On 27 October 2006, the Special Rapporteur sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders concerning Mr. Ravi, a human rights lawyer who is the defence counsel for 11 Falun Gong practitioners in four separate cases brought by the authorities. According to the information received, on 19 September 2006 Mr Ravi was arrested by the police near MacDonald's restaurant in Yishun, Singapore, while eating with his niece and nephew. He was taken to And Mo Kui Police Station and interrogated without legal counsel. Neither at the time of arrest nor subsequently did the police notify him of any charges against him. The police then sent him to Changi Hospital, and informed the family only after having taken Mr Ravi

there. Mr Ravi's youngest sister complained to the police and questioned the authority on which they did so. The police replied that they were still investigating Mr. Ravi, without specifying the charge. Mr. Ravi's family and friends were informed that they would have to wait for the report of the doctor at Changi Hospital. Mr. Ravi was examined by a doctor on the same day and was declared to be healthy. He was released conditionally into the care of his family. However, two days later, despite the medical results, the police threatened Mr. Ravi's family that unless they sent him to a mental hospital, the police would put Mr. Ravi in jail where they would have no access to him. The family agreed, and Mr. Ravi was forcibly committed to Adam Road Hospital and sedated against his will. He remains in the mental hospital. Concern is expressed that the alleged threats made by the authorities against Mr. Ravi may represent an attempt to prevent him from carrying out his human rights work, in particular his ability to legally represent 11 Falun Gong practitioners whose cases are pending.

327. On 22 December 2006, the Special Rapporteur sent an allegation letter regarding Madasamy Ravi, who was already the subject of a joint urgent appeal of 27 October 2006 sent by the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention (see above). According to the information received, Mr. Ravi had not requested a defence counsel. The Supreme Court of Singapore also suspended Mr. Ravi's licence to practice law. It is alleged that the suspension is related to an exchange in court between Mr. Ravi and a judge, Ms. Wong Chun Ngee, three years ago during which it was alleged that Mr. Ravi showed disrespect for judicial authority. According to the information received, there was no evidence to prove the allegation since the judge concerned was unwilling to testify. In addition, it has been reported that Mr. Ravi was told that if he would drop the current controversial cases he is handling, he would be able to return to the bar after a short period of time. The suspension decision seems disproportionate, all the more so that on 20 June 2006, the disciplinary committee of the court had already condemned Mr Ravi to pay US\$ 2,000 to the Law Society. While taking note of the Government's assurances that the arrest of Mr Ravi had nothing to do with his professional activities, concern is expressed that the decision to suspend Mr Ravi's licence may represent an attempt to prevent him from carrying out his human rights work as a lawyer, and in particular impair his ability to legally represent 11 Falun Gong practitioners whose cases are pending.

Communications received

328. On 4 April 2006, the Government replied to the joint allegation letter sent by the Special Rapporteur on 20 March 2006, stating that the information received by the Special Rapporteur was not fully accurate and even misleading to some extent. It pointed out that Singapore has an open and transparent legal system, enabling critics of the Government and political opponents to freely express their views. According to the Government, many opposition politicians in Singapore are openly vocal in criticizing the Singapore Government, both within and outside Parliament, and are not sued or prosecuted purely because of the expression of their views. It added, however, that no one who commits breaches of the law, including contempt of Parliament or contempt of court, can claim

immunity from prosecution on account of being a politician. Singapore's defamation law follows the common law model. Those who have been defamed without justification have the right to seek legal redress to protect their reputations, since, according to the Government, the right to freedom of speech does not include a right of defamation. In the August 2002 proceedings, a defamation order was made summarily by a Senior Assistant Registrar in chambers. This is a standard procedure by a Senior Assistant Registrar in chambers and in many common law countries. A plaintiff who feels that the defendant does not have a defence may apply for summary judgement under Order 14 of the Rules of Court. In that case, the plaintiff made such an application and the Registrar was satisfied that the defendant did not have a defence. The Government indicated that on 16 March 2006, the High Court found Dr. Chee to be in contempt of court. He compounded his contemptuous statement in court and was sentenced to one day's imprisonment and fined \$6,000 (approximately US\$ 3,700). Dr. Chee chose not to pay the fine and was jailed for another seven days in lieu of the fine. The Government asserted that with respect to the Basic Principles on the Role of Lawyers, Dr. Chee has never been prevented from having legal representation. In the most recent proceedings relating to contempt of court, a lawyer addressed some issues on his behalf while Dr. Chee chose to address the court directly on other points. In earlier cases, Dr. Chee had applied for Queen's Counsels to represent him. The ad hoc admission of Queen's Counsels (QC) in Singapore is provided for by the Legal Profession Act, which sets out the conditions for such admissions, one of which is that the difficulty and complexity of the case should warrant the employment of a QC. One of Dr. Chee's applications was rejected because the case did not comply with this condition. Another application was rejected by the court because the QC in question had, on several previous occasions, made statements that showed contempt and disrespect for the Singapore judiciary, and would thus not have been of assistance to the court in its deliberations upon the proceedings. The Government concluded by stating that Singapore's legal and judicial system is internationally recognized to be independent, efficient and honest and that if Dr. Chee Soon Juan insisted on intentionally flouting the laws of Singapore, he should be prepared to face the courts and answer for his actions.

329. On 6 December 2006, the Government replied to the joint urgent appeal sent by the Special Rapporteur on 27 October 2006 stating that the allegations contained in the letter were completely untrue and that Mr. Ravi's arrest had nothing to do with his professional activities, including his work with the 11 Falungong practitioners, or any of his other activities connected with human rights matters. According to the Government, Mr. Ravi was arrested by the police for disorderly behaviour in public, after a member of the public called the police on 18 September 2006 and reported that a barefoot man was making a nuisance of himself in public. Police allegedly responded to the call and found Mr. Ravi, who was involved in an apparent argument with another individual. Despite advice from his female relative and a female friend who were at the scene, as well as several warnings from the police to behave himself, Mr. Ravi did not do so and continued to shout incoherently. After failing to heed repeated warnings by the police, Mr. Ravi was arrested. At the time of his arrest, Mr. Ravi was informed that he was being placed under arrest for the offence of disorderly behaviour. The police had not decided at the time of arrest whether to charge Mr. Ravi in court. Mr. Ravi was interviewed while in police custody. During this interview, Mr. Ravi allegedly did not request the presence of a lawyer. While

in police custody, Mr. Ravi was examined by a doctor who wrote a referral letter for Mr. Ravi to be further examined at the Institute of Mental Health. This referral letter was allegedly handed to a female relative of Mr. Ravi who bailed him out. She told the police that she did not wish to send him to IMH for examination. The Government asserted that the police did not commit Mr. Ravi to a mental institution, forcibly or otherwise, nor was his family compelled by the police to do so, but a male relative of Mr. Ravi had caused Mr. Ravi to be admitted to Adam Road Hospital (a specialist private hospital offering psychiatric and psychological services) for treatment. The Government stated that Mr. Ravi has since been discharged from Adam Road Hospital.

Special Rapporteur's comments and observations

330. The Special Rapporteur thanks the Government of Singapore for its replies to his communications of 20 March 2006 and 27 October 2006. The Special Rapporteur appreciates the Government's cooperation and its detailed information in response to the allegations.

331. With respect to the reply to the communication of 27 October 2006, the Special Rapporteur wishes to be advised whether Mr. Ravi had been informed immediately upon arrest of his right to be assisted by a lawyer, in accordance with the Basic Principles on the Role of Lawyers, in particular principle 5.

Sri Lanka

Communications sent

332. On 8 December 2006, the Special Rapporteur sent a joint allegation letter together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders regarding the arrest of and charges brought against Fr. Jesuratnam Jude Bernard Omi, Director of the Centre for Peace and Reconciliation (CPR) in Jaffna, Sri Lanka. According to the information received, on 24 November 2006, Fr. Omi was arrested after he intervened in a matter concerning a young man, Mariyanayaham Godfry Morris Gnanageethan, who had been detained for allegedly distributing leaflets issued by the Justice Peace Commission (JPC) concerning the humanitarian situation in Jaffna. It is reported that Mr. Mariyanayaham had been queuing for food at the 6 CLI army camp when his cousin, Ms. Alanday Dinoshia, spoke with him and gave him one of the aforementioned leaflets to read. Members of the Sri Lankan Army (SLA) reportedly confiscated the leaflet and asked Mr. Mariyanayaham questions relating to its origin. When he referred to his cousin, troops allegedly went to her house in order to arrest her, but she had gone to seek the assistance of Fr. Omi, who immediately contacted and informed the JPC of the situation. A member of the JPC, Fr. Francis Xavier Jeyasegaram, accompanied Fr. Omi, Ms. Alanday and her mother to the army camp where Mr. Mariyanayaham was detained. They were allegedly photographed by SLA troops and threatened by Colonel Manjula who said, "If you all can organize a campaign against the forces we will also do things against you all. You all will face the consequences soon." As