

Singapore: Drop All Charges against Jolovan Wham and John Tan Liang Joo

(26 July 2018, Bangkok) – The Asian Forum for Human Rights and Development (FORUM-ASIA) and its member from Singapore, Think Centre, express concern over charges ordered by Attorney General's Chambers (AGC) of Singapore against social worker and human rights activist, Jolovan Wham. FORUM-ASIA and Think Centre call on the Government to drop all charges against him and other individuals, given that they were exercising their fundamental freedoms under Article 14(1) of the Constitution of Singapore.

Jolovan Wham was charged with scandalising the Court under the Administration of Justice (Protection) Act after posting a comment on his Facebook account, in which he said 'Malaysia's judges are more independent than Singapore's for cases with political implications.' Soon after, the AGC initiated a contempt of court charge against him. In their written submission, the AGC argued that Wham's posting 'imputes improper motives to or impugns the integrity, the propriety of impartiality of any courts, and poses a risk that public confidence in the administration of justice would be undermined.' (section 3 (1)(a) of the Act).

During the first hearing of the case, on 17 July, the AGC's Senior State Counsel, Francis Ng reiterated the accusation, stating that Wham has no conceivable reason to question the independence of Singapore's Judiciary. Together with Jolovan Wham, the AGC also charged Singapore Democratic Party politician, John Tan Liang Joo for supporting Jolovan Wham.

The case of the two is the first to be brought to the court after the enactment of the Administration of Justice (Protection) Act in October 2017. Concerns have been raised by lawyers and civil society organisations about the Act, both about it including provisions that are a threat to fundamental rights and that it takes a broad brush approach when it comes to defining 'risk' under section 3(1)(a). This goes against existing case law.

The current version of the Act significantly lowers the standard of proof from 'real risk' to 'risk' in section 3(1)(a), implying that any risk whatsoever can be justified as a standard in determining that public confidence is undermined, thereby scandalising the court. This restricts fundamental freedoms, fair criticism as an element for liability, and reduces the impact of case law, which objectively measures 'real risk' as set down by the Court of Appeal case of *Shadrake Alan v. Attorney-General* (2011).

The Act adds to the list of repressive laws in Singapore, which suppress the freedom of expression, assembly, and association, together with the draconian Public Order Act. Previously, in 2017 Jolovan Wham was charged under the Public Order Act for exercising his rights to peaceful assembly and association.

Recalling the international human rights standard that restriction of the freedom of expression, freedom of assembly, and association can only be legitimated through a three-part test, any restriction without passing those tests is a violation of human rights. The restrictions imposed on Jolovan Wham, and other

people in Singapore, through statute law that seeks to override both case law and the Constitution, are clearly a violation of these rights according to this test.

We call on the Government to drop all charges against Jolovan Wham, and to safeguard all voices in society by protecting the freedom of expression, freedom of assembly and association and all related civil and political rights. The right to exercise fundamental freedoms, especially when they do not threaten national security, public order or the workings of the Judiciary, should not be criminalised by law. We further call on the Government to amend all repressive laws that can be used against fundamental freedoms, including the Public Order Act and the Administration of Judiciary (Protection) Act.

We urge the Government of Singapore to address the recommendations it received during the Universal Periodic Review in 2016 related to guaranteeing freedom of assembly and association, freedom of opinion and expression, including on the Internet, and to protect freedom of the press. This is the time for the Government to realise its commitments.

About FORUM-ASIA:

FORUM-ASIA is a regional human rights group with 58 member organisations in 19 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta, Geneva and Kathmandu. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expression, assembly and association, human rights defenders, and democratisation.

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