HUMAN RIGHTS WATCH

“Kill the Chicken to Scare the Monkeys”

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Glossary

FEER	*Far Eastern Economic Review*
ISA	Internal Security Act
MDA	Media Development Authority
NAR	"Not allowed for all ratings"
NParks	National Parks Board
NPPA	Newspaper and Printing Presses Act
PAP	People's Action Party
PEMA	Public Entertainments and Meetings Act
POA	Public Order Act
POHA	Protection from Harassment Act
PPSSO	Preservation of Public Security Ordinance
SPH	Singapore Press Holdings
TOC	*The Online Citizen*
TRS	*The Real Singapore*

Summary

> In Singapore, there is this culture of fear. Don't speak up against the government or the government will "fix" you.
> —Leslie Chew, cartoonist, Singapore, October 2015

> In Singapore, even if it is true you aren't supposed to say it.
> —Alan Shadrake, author, London, November 2015

Singapore promotes itself as a bustling, modern city-state and a great place to do business. Beneath the slick surface of gleaming high-rises, however, it is a repressive place, where the government severely restricts what can be said, published, performed, read, or watched. Those who criticize the government or the judiciary, or publicly discuss race and religion, frequently find themselves facing criminal investigations and charges, or civil defamation suits and crippling damages. Peaceful public demonstrations and other assemblies are severely limited, and failure to comply with detailed restrictions on what can be said and who can participate in public gatherings frequently results in police investigations and the threat of criminal charges.

The suppression of speech and assembly is not a new phenomenon in Singapore. Leaders of the ruling Peoples' Action Party (PAP), which has been in power for more than 50 years, have a history of bankrupting opposition politicians through civil defamation suits and jailing them for public protests. Suits against and restrictions on foreign media that report critically on the country have featured regularly since the 1970s and restrictions on public gatherings have been in place since at least 1973.

Although there has been some relaxation in the rules on public assemblies, they remain extraordinarily strict, and restrictions on participation by foreigners have only increased over time. The government has also enacted new regulations to control online media. The government now uses a combination of criminal laws, oppressive regulatory restrictions, access to funding, and civil lawsuits to control and limit critical speech and peaceful protests. And the courts have not provided a significant counterweight to executive and legislative branch overreach.

Criminal Penalties for Peaceful Speech

The laws most frequently used to prosecute peaceful expression in Singapore are contempt, sedition, and the Public Order Act, although the government has also resorted to laws against public nuisance, "wounding religious feelings," and display of flags, among others, to silence dissent. Laws that impose criminal penalties for peaceful expression are of particular concern because of their broader chilling effect on free speech.

Singapore's contempt laws include the archaic form of contempt known as "scandalizing the judiciary," which is frequently used to penalize those who speak critically of the courts or allege they are somehow under government control. Author Alan Shadrake was sentenced to six weeks in prison in 2011 for "scandalizing the judiciary" in his book about the application of the death penalty in Singapore. Contempt proceedings for scandalizing the judiciary were brought against cartoonist Leslie Chew in 2013 for satirical cartoons about events in the fictional country of "Demon-cratic Singapore." The proceedings were only terminated when he deleted the cartoons. In 2015, blogger Alex Au was fined S$8,000 for a blog post in which he speculated about the reasons for Supreme Court delays in scheduling argument of two challenges to Singapore's law banning sodomy.[1]

In 2016, the Singapore government codified the law of contempt by passing the Administration of Justice (Protection) Act. Not only does that act entrench the offense of "scandalizing the judiciary," it also broadly prohibits discussion of pending court proceedings by anyone other than the government itself. According to one lawyer, the restriction is so broad that "If anyone is charged, it is anybody's guess as to what you can and cannot say, so it is best not to say anything." The act also allows the government to obtain a court order to remove potentially contemptuous content without notifying either the author or the person who will be required to take it down.

Those who are outspoken on issues of race or religion have been targeted with Singapore's broadly worded sedition law. In 2016, the editors of the popular online news portal *The Real Singapore* were prosecuted for sedition for posting articles that cast Chinese and Filipino ethnic groups in a bad light. While the authors pled guilty, acknowledging that the challenged articles had "a tendency to promote feelings of ill will and hostility," none of

[1] At time of writing, the Singapore dollar was worth US$.73. Check websites such as www.xe.com for accurate conversion from local currency.

the articles encouraged public disorder, much less incited violence or overt discrimination against any particular religion or ethnic group. Even so, editor Ai Takagi was sentenced to 10 months in prison and her husband and co-editor to eight months in prison, and the authorities ordered the website shut down. In 2008, two Chinese Christians were sentenced to eight weeks in prison for distributing pamphlets that were found to be offensive to Muslims, even though they had been distributing similar tracts promoting Christianity for almost 20 years.

When teenager Amos Yee posted a video online criticizing the late prime minister Lee Kuan Yew after his death in 2015, the authorities turned to a provision of the penal code and prosecuted him for "wounding religious feelings" based on a 30-second segment in the nearly nine-minute-long video in which he compared the former prime minister and Jesus Christ, criticizing both as "power-hungry and malicious" and stating that the followers of both had been misled. He was convicted and sentenced to three weeks in prison for wounding religious feelings and an additional week on a separate obscenity charge.

The authorities have also used investigations under Singapore's Parliamentary Elections Act to target and harass outspoken activists and opposition supporters. In May 2016, the police questioned Teo Soh Lung, who had been detained under the abusive Internal Security Act (ISA) in the 1980s, and blogger and political activist Roy Ngerng for hours, searching their homes and seizing computers, phones, and other devices on the grounds that comments they had posted on their personal Facebook pages violated rules on advertising during the "cooling off period" before a by-election that month in Bukit Batok. The publisher of online news site *The Independent Singapore,* Kumaran Pillai, was similarly questioned, as was the news site's editor Ravi Philemon, and Alfred Dodwell, a director of *The Independent* and one of the few lawyers in Singapore who is willing to represent activists in speech-related cases. All three were given "stern warnings" in lieu of prosecution. When asked about the impact of the warning, Pillai responded, "I think the warning is for people not to associate themselves with me and *The Independent*. If they do and go down that path this is what they will get themselves into. It is a warning for the rest."

Restrictions on Peaceful Assembly

The right to peaceful assembly is extraordinarily restricted in Singapore. The only place a resident of Singapore can hold a public assembly without a permit from the government is

at “Speakers’ Corner,” an area of tiny Hong Lim Park. Even then, a police permit is required if foreigners are involved in any way, if the topic in any way touches on religion, or if the topic is one that “may cause feelings of enmity, hatred, ill will or hostility between different racial or religious groups in Singapore.”

Indoor meetings require a permit unless no foreigners are involved, the topic to be covered is in no way related to race or religion, and the organizer is present at all times.

The definition of “public assembly” in the Public Order Act is extremely broad, and has been interpreted to encompass everything from handling out leaflets on the death penalty to an individual standing silently holding a placard. Even a candlelight vigil to support the family of a man about to be executed has been treated as a “public assembly” that requires a permit. Said one activist:

> If five people are together, they are an assembly and they can question you. If you try walking two by two they say you are a protest. If you all wear the same color t-shirt in a shopping center to protest something, they can arrest you.

Permits for “cause-related” assemblies outside of Hong Lim Park are rarely, if ever, granted. Among the many applications denied by the authorities were applications to hold a march for workers’ rights on Labour Day in 2012 and a one-woman march in March 2011 to draw attention to the fact that single women are not allowed to purchase flats in public housing buildings until they are 35. In April 2017, the Public Order Act was specifically amended to authorize the commissioner of police to deny a permit for any “cause-related” assembly if non-citizens are to be involved in any way.

Even assemblies at Speakers’ Corner that do not require a permit face numerous restrictions. On October 31, 2016, the rules governing Speakers’ Corner were amended to prohibit any foreign company from sponsoring events in that space, and to expand the ban on participation by foreigners. Under the new rules, someone merely observing the protest is considered a “participant” and thus any foreign observer is at risk of criminal prosecution, as is the organizer of the assembly. The police informed the organizers of the 2017 annual gay pride event, Pink Dot — the first major event to be held after the rule

change — that they would be required to place barricades around Speakers' Corner and check the identification card of every attendee in order to comply with the law.

Participating in a protest at Speakers' Corner can be intimidating for many. The area is covered by CCTV cameras and assemblies are frequently subject to intrusive police surveillance. As one activist noted, "At every protest, there will be plainclothes officers around. They will make their presence known, so people feel the fear that they are being watched." According to another activist, the aggressive police presence and use of CCTV stigmatizes participation in protests: "It makes people look at these kinds of activities in a very negative light and discourages participation."

Those who hold protests at Speakers' Corner frequently find themselves the targets of police scrutiny. Jolovan Wham was investigated and given a "stern warning" by the police after two citizens of Hong Kong participated in a gathering he held in support of Occupy Hong Kong in October 2014, despite having repeatedly informed those attending the event that non-citizens were not permitted to participate. Most of the participants at a "Yellow Sit-in" held in support of the Malaysia Bersih rally in November 2016 were held and questioned by the police when the rally ended. The organizers of a protest in September 2014 over the handling of the country's Central Provident Fund were charged with holding an unauthorized protest because they had checked the box marked "speeches" rather than the box marked "protest" on the online National Parks Board application form.

Violations of the restrictions on public assemblies are criminal offenses and the authorities routinely question and harass those who participate. As a result, many are afraid to do so. As one activist said, "There are people who say 'I support you, but I don't dare come to your protests.'"

The few who attempt to hold protests without a permit outside of Hong Lim Park are generally arrested and frequently prosecuted, including two men who were simply standing outside the complex that houses the prime minister's office in April 2015 holding placards that stated "Injustice" and "You can't silence the people." In November 2017, activist Jolovan Wham was criminally charged for his involvement in three events held outside Hong Lim Park without a police permit.

Non-Criminal Penalties for Peaceful Speech

The most frequently used tool to penalize speech critical of the government in Singapore is civil defamation, which has been used extensively by Prime Minister Lee Hsien Loong and his predecessors to sue, and often bankrupt, their critics, and to intimidate foreign media reporting on Singapore. The repeated award of large, disproportionate damages against those who oppose government policies and practices has for many years had a severe chilling effect on critical speech and news reporting in Singapore. Foreign and Singaporean journalists, such as Terry Xu, editor-in-chief of *The Online Citizen,* concede that the country's defamation laws have curtailed their reporting.

In 2014, for example, Prime Minister Lee Hsien Loong sued blogger Roy Ngerng for defamation over a blog post about the government's handling of the Central Provident Fund (CPF), the country's mandatory pension fund. In one blog post, Ngerng included two charts comparing the way the CPF was being invested in other funds with the way City Harvest, a church prosecuted for financial fraud, had invested its funds. Lee sued, claiming that the post implied he had misappropriated money from the fund. Although Ngerng contended that his criticism was focused on the lack of transparency in the government's management of the money and not intended as a criticism of the prime minister, the court awarded Lee S$100,000 in general damages, S$50,000 in aggravated damages, plus S$29,000 in legal costs. Ngerng, who was fired from his job in the wake of the defamation suit, has agreed to a payment plan under which he is going to be paying off the damages for the next 17 years.

Regulatory Restrictions on Online Media

With the print and broadcast media effectively under government control, alternative voices have turned to the internet. In response, the government has increased its regulation of internet content providers.

Internet content providers are automatically given a license under the Broadcast Act and are required to comply with the Condition of Class License and the Internet Code of Practice. Under the license conditions, the internet service provider must remove any material that the Media Development Authority determines is against the public interest, public order, or national harmony, or offends against good taste or decency. Singapore's Internet Code of Practice also requires an internet content provider to ensure that material

posted online does not include any "prohibited content," which is defined broadly to include material that is objectionable "on the grounds of public interest, public morality, public order, public security, national harmony, or is otherwise prohibited by applicable Singapore laws."

Websites found to be engaged in discussion of political or religious issues relating to Singapore can be required to undertake additional registration procedures and are subjected to additional restrictions. Several socio-political websites, including *The Independent Singapore,* have been required to register under this provision. They are subject to detailed financial reporting requirements and precluded from accepting any foreign funding.

On June 1, 2013, Singapore tightened restrictions on the most popular news websites. Under the revised rules, the Media Development Authority can choose to exclude from the automatic licensing provision any website that is accessed from at least 50,000 different internet protocol addresses in Singapore in a month and that contains at least one Singapore news program or article per week. Websites receiving notification of such exclusion are required to individually register, to remove content that is in breach of content standards within 24 hours, and to post a performance bond of S$50,000. In July 2015, socio-political website *Mothership.sg* was notified that it met the criteria for individual licensing and was required to post a performance bond.

The government can also unilaterally declare that a website is a "political association" under the Political Donations Act and thus subject to stringent reporting requirements. Socio-political website *The Online Citizen* was gazetted as a political association in 2011. According to one individual involved, "The forms and reporting obligations are quite onerous… It is pretty difficult even for regular civil society activists to figure this stuff out."

Access to Funding and Venues, and "OB" Markers

Another tool used by the government to control expression is to restrict access to funding and venues. Singapore is a small country and the government owns or controls many of the arts venues and studio spaces. The National Arts Council is a major source of funding for many playwrights, directors, filmmakers, and authors. Funding or use of a venue comes

with its own set of rules and regulations, violation of which can lead to loss of funding or loss of use of the space.

Many of the rules are broad and ambiguous, such as forbidding "offensive" material. According to theatre director Sasitharan Thirulanan, "It is much more onerous and difficult to work with this ambiguous situation. I think it is deliberately kept ambiguous to make people be even more cautious. The more established you are, the more pressure you feel. The problem in Singapore is that so much of it is invisible and unclear."

While the government has no obligation to fund the arts, the support that it does provide should not be allocated on discriminatory grounds nor violate the free expression rights of those provided support. In practice the government uses funding and the threat of withdrawal of funding to try to control content. In the best-known example, funding for Sonny Liew's book *The Art of Charlie Chan Hock Chye,* which tells the history of Singapore in graphic novel form, was withdrawn the day before the scheduled book launch in May 2015. The National Arts Council stated that, "The retelling of Singapore's history in the work potentially undermines the authority or legitimacy of the Government and its public institutions, and thus breaches our funding guidelines." The author and publisher had to return more than S$6,400, the portion of the grant that had already been disbursed to them.

Even beyond the written regulations are the unwritten "OB markers" or "out of bounds markers" that demarcate the boundary between what is permitted. According to Thirunalan,

> At least one MP [member of parliament] said that the OB markers are like wearing a pair of UV glasses — if you have them on you know where the lines are... For most of us, we don't know where those lines are. Often those lines are enforced through whispers in the air, or telephone calls, or quiet conversations saying, "you shouldn't be doing this."

Fear and Self-Censorship

The existence of criminal penalties for any form of speech that crosses an often-unclear line has been described as a "sword of Damocles" hanging over everyone's head. The government appears to resort to criminal investigation or defamation lawsuits at every

deemed affront, and it wields the laws in a manner so harsh that it creates a real sense of fear and has a chilling effect on critical speech.

According to one student activist, the level of self-censorship and fear is so high that when he tried to organize an informal session to discuss politics and the issues during the 2015 election, students told him they would rather not because they might get into trouble. "That is the genius of the system," he said. "It is really about a culture of fear, rather than throwing people in jail."

The fear is heightened by the fact that many of the speech and assembly-related offenses have been made "arrestable" offenses within the meaning of the Code of Criminal Procedure. Alleged arrestable offenses permit the police to search homes, offices, or other locations without a warrant and seize anything they deem relevant to an alleged offense. As noted above, when activists Roy Ngerng and Teo Soh Lung were investigated for allegedly violating the rules on posting election advertising the day before a by-election, the police searched their homes and seized mobile phones, computers, thumb drives, and other items, even though neither denied posting the comments that were the subject of the investigations. Similarly, when Rachel Zeng was investigated for helping to organize a forum in November 2016 at which a foreigner spoke via Skype without obtaining the appropriate permit, the police searched her home and seized her laptop, even though they had already seized the borrowed computer that she had used for the event.

One activist noted that, when deciding whether a permit was needed for a particular film screening, "The question wasn't whether we needed a permit for a film screening. The question was 'Am I okay with the risk of having my house searched, my laptop examined, etc.,' because it is an arrestable offense. There is definitely a chilling effect."

Through careful selection of both those targeted and the laws used against them, the government effectively silences its critics and sends a message to others who might consider speaking out. As cartoonist Leslie Chew told Human Rights Watch in October 2015, "It is less that they want to sue someone than that they want to send a message to others not to say things—to perpetuate the culture of fear… They slaughter the chicken to scare the monkeys."

The pervasive fear that the government will retaliate in some way was repeatedly cited as a reason for self-censorship. Whether accurate or not, there is a real sense that, if you challenge the government of Singapore, you will pay a price. Whether it is criminal prosecution, a government job, funding from the Arts Council for a theatre company or access to studio space, grants from the government for a project, or the imposition of additional regulatory burdens, there are many ways the government can penalize people for dissent.

Key Recommendations

To the Prime Minister and the Government of Singapore

- Develop a clear plan and timetable for the repeal or amendment of all laws inconsistent with international human rights standards, as recommended at the end of this report. Where legislation is to be amended, consult thoroughly with civil society groups in a transparent and public way.
- Drop all prosecutions and close all investigations that violate the rights to freedom of expression or peaceful assembly.
- Instruct all police departments that it is their duty to facilitate peaceful assemblies, not to hinder them. Persons and groups who are organizing assemblies or rallies should be permitted to hold their events within sight and sound of their intended audience, and the police should take appropriate steps to protect the safety of all participants.
- End the use of warrantless arrests and searches for offenses relating to peaceful expression and assembly.

Methodology

This report was researched and written between August 2015 and November 2017. It is based on an analysis of Singaporean laws used to restrict freedom of expression and peaceful assembly, and on interviews as described below. It also draws on court judgments and news reports concerning criminal and civil proceedings in relevant cases, and public statements by the government.

Human Rights Watch interviewed in Singapore 34 lawyers, opposition politicians, journalists, activists, members of nongovernmental organizations, and academics, some of them multiple times. Further in-person interviews were conducted in London. Telephone and Skype interviews and email correspondence continued until the time of publication. Interviews were conducted in English; no incentives were offered or provided to interviewees. A Singaporean lawyer provided guidance on Singapore laws and an outside review of the report.

Some of those interviewed requested that they not be quoted by name due to fear of possible repercussions. In such cases, the interviewees are identified by their role (i.e. activist or lawyer) and the month of the interview. Prior to publication of the report, Human Rights Watch sought to reconfirm with all those who had indicated a willingness to be quoted by name whether that was still acceptable. Several individuals indicated that, given the situation in Singapore, they had changed their minds and wished not to be quoted by name. For those with Chinese names, Human Rights Watch has followed the convention of placing the individual's surname first.

In October 2017, Human Rights Watch sent a letter to four members of the Singapore government requesting their input. The latter, a copy of which is contained in Appendix 1, was sent by fax, email, and registered mail to Prime Minister Lee Hsein Loong, Minister for Home Affairs K. Shanmugam, Minister for Communications and Information Yaacob Ibrahim, and Minister for Foreign Affairs Vivian Balakrishnan. Human Rights Watch had not received a response at time of publication.

This report is not a comprehensive review of all laws that criminalize free speech in Singapore, but discusses the laws that have proven to be most prone to misuse and abuse.

Background

The city-state of Singapore has been ruled by the People's Action Party (PAP) since gaining independence from Great Britain in 1959, with Lee Kuan Yew serving as prime minister for the first 31 years. His son Lee Hsien Loong has been prime minister since 2004.

No member of an opposition party served in Parliament from independence until 1981, when J.B. Jeyaretnam of the Workers' Party was elected in a by-election. There have never been more than six members of the opposition among the 89 elected members of Parliament at any one time.[2] The PAP's political dominance has been maintained, in part, through strict limitations on election campaigning, the use of criminal laws and civil suits against prominent opposition figures and political activists, and control over the mainstream media.

Detention Without Trial in Singapore's First Decades

Singapore became a self-governing Crown Colony in 1959 under the leadership of Lee Kuan Yew and the PAP. Dissension within the party, however, led to a split and to the formation on July 29, 1961 of the Barisan Sosialis ("Socialist Front") under the leadership of Lim Chin Siong. The left-leaning Barisan Sosialis opposed the government's proposed merger with Malaya, Sarawak, and North Borneo and called for its supporters to cast blank ballots in a referendum to be held on the terms of the merger. After a hard-fought campaign, the referendum passed in a vote held on September 1, 1962.[3]

In the early hours of February 2, 1963, the Singapore security services arrested 107 opposition politicians, trade union leaders, and others, including Lim Chin Siong and 23

[2] In 1984, the Singapore Constitution was amended to permit a maximum of six losing opposition candidates to take seats as Non-Constituency Members of Parliament, with limited voting rights. In 1990, the Constitution was again amended to permit nine Nominated Members of Parliament to be appointed by the President to represent different sectors such as the arts. NMPs are expected to be independent and non-partisan. Parliament of Singapore, "Historical Developments in Parliament," https://www.parliament.gov.sg/history/historical-development (accessed June 30, 2017). See also Sureka A. Yadhav, "Singapore's government wants more opposition?," *Malay Mail Online,* February 7, 2016, http://www.themalaymailonline.com/opinion/surekha-a-yadav/article/singapores-government-wants-more-opposition (accessed June 30, 2017).

[3] The territories merged on September 16, 1963 to form Malaysia. Singapore withdrew from the merger on August 9, 1965, at which time it became an independent state.

members of Barisan Sosialis. The government justified the arrests, code named "Operation Cold Store," as necessary "to safeguard the defense of Singapore and of the territories of the proposed federation of Malaysia," accusing those arrested of being communists.[4] Those apprehended were detained without trial under the Preservation of Public Security Ordinance (PPSSO), some for many years. Said Zahari, the former editor of *Utusan Melayu* who had been elected head of opposition Parti Rakyat Singapura a few days before his arrest, was detained without trial for 17 years.

When Singapore merged with Malaya on September 16, 1963, Malaya's Internal Security Act (ISA), enacted in 1960 during a national state of emergency as a temporary measure to fight a communist rebellion, came into force in Singapore. Like the PPSO, the ISA permitted detention without charge or trial. Between 1963 and 1965, the Singapore legislature passed laws to replace various sections of the PPSO with provisions of the Malayan ISA. Finally, when Singapore announced its independence from Malaysia on August 9, 1965, the Malayan ISA was made applicable to Singapore.[5]

The government conducted a wave of arrests of people for alleged communist subversion through the 1970s and 1980s, with at least 690 people detained without trial under the ISA. Among those detained under the ISA were four executives of the leading Chinese language daily *Nanyang Siang Pau,* who were arrested and held without trial starting in May 1971 for "glamourizing the communist system and working up communal emotions over Chinese language and culture."[6]

In May 1987, the government launched "Operation Spectrum," a crackdown on political dissent, arresting 16 social activists and volunteers, many of them lay members of the Catholic church, accusing them of being part of a "Marxist conspiracy" to undermine the government. Another six activists were arrested in June 1987. After releasing 21 of the 22

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[4] "107 Held in Singapore Dawn Drive," *The Straits Times*, February 3, 1963, http://eresources.nlb.gov.sg/newspapers/Digitised/Article/straitstimes19630203-1.2.2 (accessed June 22, 2017).

[5] Jack Tsen-Ta Lee, "The Past, Present and Future of the Internal Security Act," post to "Singapore Public Law," (blog), June 2, 2012, https://singaporepubliclaw.com/2012/06/05/internal-security-act/ (accessed June 22, 2017).

[6] Singapore Government Statement, May 2, 1971, http://www.nas.gov.sg/archivesonline/data/pdfdoc/SGPress_7_22.5.71.pdf (accessed June 30, 2017); Cherian George, "Singapore Journalists and Legal Reform," in Andrew D. Kenyon et al., eds*., Democracy, Media and Law in Malaysia and Singapore* (London and New York: Routledge, 2014), p. 47. At least eight other members of the media were detained under the ISA between 1966 and 1977. Cherian George, *Freedom from the Press* (Singapore: NUS Press 2012), p. 103.

by the end of 1987, subject to restrictions on their freedom of movement and association, the authorities rearrested eight in April 1988 after they signed a public statement denying the accusations against them and describing their mistreatment in detention. The government also arrested two lawyers who had defended the detainees, as well as another former detainee who had not signed the April statement but was accused of helping to draft and distribute it.[7]

On December 8, 1988, the Singapore Court of Appeal ordered four of the detainees released on technical grounds, in a decision that suggested that Singapore courts had some power to review the substantive grounds of ISA detention.[8] The authorities responded by immediately re-arresting all four detainees and amending both the Constitution and the ISA to limit judicial scrutiny to purely technical grounds.[9] At the same time, the government amended the ISA to abolish the right to appeal such cases to the Judicial Committee of the Privy Council in London, removing the last possibility of independent judicial review.[10] Ultimately, lawyer Teo Soh Lung was detained for more than two years without trial, and social activist Vincent Cheng was detained for three years.

Thirty years later, Operation Spectrum continues to cast a long shadow over Singapore's civil society. The ISA appears to currently be used primarily against those accused of being Muslim militants, but fear of the law remains widespread. While specific numbers of detainees are difficult to access, as of October 2016, at least 17 individuals were being held without trial under the ISA, some of whom have been detained for more than 15 years.[11]

Use of Defamation and Contempt Laws against Political Opponents

The Singapore government has long targeted opposition politicians with civil suits and criminal charges, often related to statements made during political campaign rallies.

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[7] Human Rights Watch, World Report 1989, https://www.hrw.org/reports/1989/WR89/Singapor.htm.

[8] *Chng Suan Tze v. Minister for Home* Affairs, [1988] SGCA 16, [1988] 2 S.L.R.(R.) 525. The detainees ordered released were Chng Suan Tze, Kevin Desmond de Souza, Teo Soh Lung and Wong Souk Yee. Though the case was decided on a narrow, technical ground, the court also held that the fact that an executive decision was based on national security considerations did not preclude the judicial function of determining whether the decision was in fact based on grounds of national security.

[9] Jack Tsen-Ta Lee, "The Past, Present and Future of the Internal Security Act," post to "Singapore Public Law," (blog), June 2, 2012, https://singaporepubliclaw.com/2012/06/05/internal-security-act/ (accessed June 22, 2017).

[10] Jack Tsen-Ta Lee, "The Past, Present and Future of the Internal Security Act," post to "Singapore Public Law," (blog), June 2, 2012, https://singaporepubliclaw.com/2012/06/05/internal-security-act/ (accessed June 22, 2017).

[11] Human Rights Watch email correspondence with Teo Soh Lung, Function 8, May 16, 2017.

The late J.B. Jeyaretnam became secretary-general of the opposition Workers' Party in 1971. In 1976 he faced the first of a several defamation suits filed by members of the ruling party, most notably by then-Prime Minister Lee Kuan Yew. The suit claimed that Lee had been defamed when Jeyaretnam stated during an election rally that a bank for which Lee's brother was a director had been given a banking license when other companies applying for banking licenses had been unable to obtain them. Jeyaretnam was found liable and ordered to pay Lee damages of S$130,000, with total costs amounting to S$500,000 (equivalent to S$1,185,741 or $US872,895 in 2017).

When Jeyaretnam was re-elected to Parliament in 1984 he became the target of a series of criminal charges that he alleged were intended to remove him from Parliament and prevent him from taking part in future elections. In 1986, he was found guilty of misrepresenting his party accounts and fined S$5,000 — a sentence sufficient to disqualify him from serving in Parliament and prevent him from standing in parliamentary elections for a period of five years. He appealed to the Privy Council in London, then Singapore's highest court of appeal.[12] The Judicial Committee of the Privy Council reversed the judgment in 1988, finding that Jeyaretnam had suffered "a grievous injustice."[13] However, the president of Singapore refused to lift the convictions and Jeyaretnam was barred from running for office until 1991.

Despite the ban, he campaigned for Workers' Party candidates during the 1988 election. Lee Kuan Yew again sued him for defamation, this time over statements made at an election rally during which he questioned the government's handling of the suicide of the minster for national development. A court found Jeyaretnam liable and ordered him to pay Lee damages of S$260,000, together with interest and costs.[14]

In 1990, contempt of court proceedings were bought against Workers' Party candidate Gopalan Nair for an election rally speech in which he allegedly cast aspersions on the system of promotion of judges. A court found him guilty and fined him S$8,000, and later

[12] As discussed above, appeal to the Privy Council was abolished for ISA cases in 1989, and such appeals were abolished in all cases in 1994.

[13] "Singapore Opposition Leader Dies," *BBC*, September 30, 2008, http://news.bbc.co.uk/2/hi/asia-pacific/7643379.stm (accessed June 20, 2017).

[14] James Gomez, "Restricting Free Speech: The Impact on Opposition Parties in Singapore," *The Copenhagen Journal of Asian Studies*, vol. 23 (2006), 119; *Jeyaretnam Joshua Benjamin v. Lee Kuan Yew* [1992] 2 SLR 310; [1992] SGCA 27.

ordered him to pay S$13,000 to the government in legal costs.[15]

In 1995, PAP officials sued Jeyaratnam for defamation over an article criticizing the organizers of a campaign to promote use of the Tamil language that had been published in the Workers' Party newsletter when Jeyaretnam was its editor. He was again found liable and ordered to pay damages of S$235,000.[16]

In 1997, Tang Liang Hong, a Workers' Party parliamentary candidate, filed police reports alleging that the PAP leadership had defamed him during the campaign by publicly labeling him an "anti-Christian, Chinese chauvinist." The PAP leaders listed in the police reports alleged they had been defamed by Tang Liang Hong, sued, and were awarded damages of S$8.08 million, reduced on appeal to S$4.53 million. Tang Liang Hong was subsequently declared bankrupt.[17]

Jeyaretnam re-entered Parliament after the 1997 elections, when the Workers' Party selected him as a Non-Constituency Member of Parliament. In the wake of the election, he faced multiple defamation suits by then-Prime Minister Goh Chok Tong, PAP ministers, and members of Parliament for saying at an election rally that Tang Liang Hong had just handed him two police reports he had made against the prime minister and "his people."[18] He was ordered to pay damages of S$20,000 to Goh, who described the amount as "derisory" and appealed. On appeal, the court increased the damages to S$100,000 and ordered Jeyaretnam to pay the full costs of the appeal.[19]

In 2001, after he was unable to pay the final installment on the damages from the 1995 defamation case, Jeyaretnam was declared bankrupt. As undischarged bankrupts are

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[15] James Gomez, "Restricting Free Speech: The Impact on Opposition Parties in Singapore," *The Copenhagen Journal of Asian Studies,* vol. 23 (2006), pp. 119-120.

[16] James Gomez, "Restricting Free Speech: The Impact on Opposition Parties in Singapore," *The Copenhagen Journal of Asian Studies*, vol. 23 (2006), pp. 121.

[17] "About JB Jeyaretnam," Lawyers Rights Watch Canada news release, March 26, 2012, http://www.lrwc.org/j-b-jeyaretnam/ (accessed June 19, 2017).

[18] "JB Jeyaretnam, the Use of Defamation for Political Purposes," Amnesty International news release, October 15, 1997, http://www.hartford-hwp.com/archives/54b/001.html (accessed June 19, 2017).

[19] "JB Jeyaretnam, Defamation Suits Assault Freedom of Expression," Amnesty International news release, July 22, 1998, https://www.amnesty.org/download/Documents/152000/asa360051998en.pdf (accessed June 19, 2017).

barred from serving in Parliament, he lost his non-constituency seat.[20] Jeyaretnam was not discharged from bankruptcy until May 2007. He died in September 2008.[21]

The leader of the second major opposition party, Chee Soon Juan of the Singapore Democratic Party, has also been repeatedly sued for defamation by members of the ruling party. Then-Prime Minister Goh and Lee Kuan Yew sued Chee for defamation in 2005 for remarks questioning the propriety of a US$10 billion loan to the Suharto government of Indonesia. He was found liable and the court assessed damages of S$300,000 to Goh and S$200,000 to Lee.[22] In February 2006, he was declared bankrupt for failing to pay the damages, rendering him ineligible to serve in Parliament.[23]

When Chee challenged the fairness of the bankruptcy proceedings, he was held in contempt of court and sentenced to one day in jail and a fine of S$6000.[24] He refused to pay the fine and was sentenced to another seven days of imprisonment.[25] In 2008, Chee and his sister Chee Siok Chin were ordered to pay Lee Kuan Yew, who then held the title of Minister Mentor, and Prime Minister Lee Hsien Loong US$416,000 in damages for a 2006 article in the SDP's newsletter. The article had compared how the Singapore government was run to a scandal at a well-known charity.[26] When Chee said that justice had been "kicked" and "raped" during the defamation case against him, he was again held in contempt of court and sentenced to 12 days in jail.[27]

Restrictions on Public Assemblies

Singapore has long imposed strict controls over public gatherings, whether held indoors or

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[20] "About JB Jeyaretnam," Lawyers Rights Watch Canada news release, March 26, 2012, http://www.lrwc.org/j-b-jeyaretnam/ (accessed June 19, 2017).

[21] "Singapore Opposition Leader Dies," *BBC*, September 30, 2008, http://news.bbc.co.uk/2/hi/asia-pacific/7643379.stm (accessed June 20, 2017).

[22] *Lee Kuan Yew v. Chee Soon Juan*, [2005] SGHC 2, at 96; *Goh Chok Tong v. Chee Soon Juan*, [2005] SGHC 3 at 72.

[23] "Singapore opposition figure declared bankrupt," *Taipei Times*, February 11, 2006, http://www.taipeitimes.com/News/world/archives/2006/02/11/2003292538 (accessed June 20, 2017).

[24] *Attorney-General v. Chee Soon Juan*, [2006] 2 SLR 650; [2006] SGHC 54.

[25] *Attorney-General v. Chee Soon Juan*, [2006] 2 SLR 650; [2006] SGHC 54.

[26] "Singapore: Damages set in political case," *New York Times*, October 14, 2008, http://www.nytimes.com/2008/10/15/world/asia/15briefs-DAMAGESSETIN_BRF.html (accessed June 20, 2017).

[27] "Singapore opposition leader sentenced to jail for contempt," Reuters, June 2, 2008, http://www.reuters.com/article/domesticNews/idUSSIN32641420080602 (accessed September 18, 2008).

outside. The Public Entertainments Act 1973 required groups or organizations to apply for a police permit to hold any gathering open to the public. The law had a serious impact on political speech since it required those wishing to speak publicly to apply for a license, which was often denied. Despite arguments that political speeches were not "entertainment," the law was repeatedly used to bar speeches by opposition political figures. For example, in 1999 Chiam See Tong of the Singapore Progressive Party was denied a license to make a political speech at a dinner held by his party. He was only permitted to make a short thank-you speech.[28]

Chee Soon Juan was repeatedly charged with violating the act. In 1998, he was charged with giving a talk without a license and challenged the law on constitutional grounds. The court rejected his argument and he was found guilty and fined S$1400. He chose to spend seven days in jail rather than pay the fine.[29] On January 5, 1999, he spoke at Raffles Place without a permit. He was charged with violating the Public Entertainments Act, convicted and fined S$2,500. He refused to pay the fine and instead spent 12 days in jail.[30]

In September 2000, the government made a concession to public demands for more freedom of speech by establishing "Speakers' Corner" as an ostensible "free speech" venue. However, the venue came with strict rules: any speaker must be a Singapore citizen, must register with the police before speaking, and must not speak "on any matter which relates directly or indirectly to any religious beliefs or religion," or on any matter "that may cause feelings of enmity, hatred, ill will or hostility between different racial or religious groups in Singapore.[31]

A few months later, the Public Entertainments Act was amended to include the term

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[28] James Gomez, "Restricting Free Speech: The Impact on Opposition Parties in Singapore," *The Copenhagen Journal of Asian Studies,* vol. 23 (2006), p. 110.

[29] James Gomez, "Restricting Free Speech: The Impact on Opposition Parties in Singapore," *The Copenhagen Journal of Asian Studies*, vol. 23 (2006), pp. 111-112.

[30] James Gomez, "Restricting Free Speech: The Impact on Opposition Parties in Singapore," *The Copenhagen Journal of Asian Studies*, vol. 23 (2006), p. 112.

[31] "The Evolution of Speakers Corner," *Today Online*, October 21, 2016, http://www.todayonline.com/singapore/evolution-spores-speakers-corner (accessed June 21, 2017); Public Entertainments and Meetings (Speakers' Corner) (Exemption) Order, September 1, 2000, http://statutes.agc.gov.sg/aol/search/display/view.w3p;ident=2b40c120-e964-47f6-bfd3-382c897e2e74;page=0;query=CompId%3A2b40c120-e964-47f6-bfd3-382c897e2e74%20ValidTime%3A20020701000000%20TransactionTime%3A20150805000000;rec=0#legis.

"meetings" and became the Public Entertainments and Meetings Act (PEMA). Fines for holding public talks without a police permit were increased from S$5000 to S$10,000.[32] The police clarified in December 2000 that Speakers' Corner could not be used for demonstrations or marches without a permit, noting that the freedom to speak at the venue without applying for a Public Entertainment license "does not give anyone the right to shout slogans or make wild gesticulations."[33]

Prosecutions for violation of the act continued. In 2002, Chee Soon Juan applied for a permit to hold a May Day rally in front of the presidential palace but was denied on "law and order" grounds. He went ahead with the rally, was charged under the PEMA and convicted. Chee was fined S$4,000 for breaching PEMA and S$500 for trespassing, and jailed for five weeks after refusing to pay the fines.[34] SDP official Gandhi Ambalam was fined S$3000 for lack of a permit and "disorderly behaviour" and served one night in jail before paying his fine.[35]

In 2004, newly installed Prime Minister Lee Hsien Loong announced that the rules on indoor gatherings would be relaxed.[36] This relaxation, however, was limited. Indoor talks could be held without a license only if they were in an enclosed space not within the hearing or view of any person who was not attending, organized by Singapore citizens, and did not involve discussion of religion or "any matter which may cause feelings of enmity, hatred, ill-will or hostility between different racial or religious groups in Singapore." A meeting license was still required if the event involved foreign speakers.[37]

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[32] Public Entertainments (Amendments) Act 2000, http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=DocId%3A%22b7c54190-a227-481c-a350-29d7cbe5469a%22%20Status%3Apublished%20Depth%3A0%20TransactionTime%3A20170622000000;rec=0.

[33] "The Evolution of Speakers Corner," *Today Online*, October 21, 2016, http://www.todayonline.com/singapore/evolution-spores-speakers-corner (accessed June 21, 2017).

[34] Human Rights Watch, "Hellman Hammett Grants: Short Biographies of 2003 Recipients," https://www.hrw.org/legacy/about/info/hellman2003.html; *Chee Soon Juan v. Public Prosecutor*, [2003] SGHC 122, http://www.singaporelaw.sg/sglaw/laws-of-singapore/case-law/free-law/high-court-judgments/22235-chee-soon-juan-v-public-prosecutor (upholding conviction and sentence for breach of PEMA).

[35] James Gomez, "Restricting Free Speech: The Impact on Opposition Parties in Singapore," *The Copenhagen Journal of Asian Studies*, vol. 23 (2006), p. 114.

[36] Prime Minister's Office Singapore, "Prime Minister Lee Hsien Loong's National Day Rally 2004," August 22, 2004, http://www.pmo.gov.sg/newsroom/prime-minister-lee-hsien-loongs-national-day-rally-2004-english (accessed June 21, 2017).

[37] James Gomez, "Restricting Free Speech: The Impact on Opposition Parties in Singapore," *The Copenhagen Journal of Asian Studies*, vol. 23 (2006), 115.

Chee Soon Juan continued his campaign to challenge the restrictions on free speech. On June 20, 2006, the authorities filed eight cases against him for speaking in public without a license in violation of PEMA between November 13, 2005 and April 22, 2006. In each instance, he spoke in a public area with street vendors for four to five minutes about upcoming elections and encouraged people to purchase copies of the *The New Democrat*, the party newspaper, as a way to support his party.[38] Two other SDP members were also charged. Chee was convicted in the first case and fined S$5000. He chose to serve five weeks in jail rather than pay the fine.[39] He was convicted of four additional charges, and sentenced to a fine of S$20,000 or, in the alternative, 20 weeks in prison.[40]

In 2006, a World Bank-International Monetary Fund Summit drew protests from those opposed to its policies.[41] Two years later the authorities charged Chee Soon Juan and six others with violating PEMA by handing out flyers and holding a public procession without a permit during the meetings.[42] In 2007, an ASEAN summit in Singapore led to small-scale demonstrations by Singapore activists.[43] In response, in January 2009, the government announced a review of public order laws and consideration of new laws to address civil disobedience as a means to manage and restrict demonstrations against such "mega-events."[44]

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[38] "Singapore: Drop Charges Against Opposition Leader," Human Rights Watch news release, February 8, 2011, https://www.hrw.org/news/2011/02/08/singapore-drop-charges-against-opposition-leader.

[39] "Singapore opposition leader fined for public speech," Reuters, May 30, 2008, http://global.factiva.com/ha/default.aspx (accessed

[40] *Chee Soon Juan and another v. Public Prosecutor*, [2011] SGHC 17 (affirming his conviction and sentence); "Singapore: Drop Charges Against Opposition Leader," Human Rights Watch news release, February 8, 2011, https://www.hrw.org /news/2011/02/08/singapore-drop-charges-against-opposition-leader. SDP supporters raised money to pay the fine to ensure that Chee would not be in prison during the upcoming elections. Human Rights Watch interview with Chee Soon Juan, Singapore, November 2015; "IBAHRI gravely concerned by conviction and sentence of Dr Chee Soon Juan, leader of the opposition Singapore Democratic Party," International Bar Association news release, February 14, 2011, https://www. ibanet .org/Article/NewDetail.aspx?ArticleUid=568B54B5-F316-4BA3-96E4-410A6C3AAA77 (accessed June 19, 2017).

[41] "Singapore deters IMF protesters," *New York Times*, September 17, 2006, http://www.nytimes.com/2006/09/17 /world/asia/17iht-protests.2836270.html (accessed June21, 2017).

[42] "Seven charged in Singapore over IMF-World Bank protests: activist," *AFP*, August 21, 2008, http://www.angop.ao /angola/en_us/noticias/internacional/2008/7/34/Seven-charged-Singapore-over-IMF-World-Bank-protests-activist,0b7d1078-b6ec-4bfb-8b41-69e125e2019e.html (accessed July 1, 2017).

[43] Jothie Rajah, *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore* (Cambridge: Cambridge University Press, 2012) at 261.

[44] Jothie Rajah, *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore* (Cambridge: Cambridge University Press, 2012) at 261.

In April 2009, Parliament passed the Public Order Act (POA), which served in part as a consolidation of PEMA and the Miscellaneous Offences Act.[45] The POA goes beyond its predecessors by requiring police permits for any gathering or meeting of one or more persons intending to demonstrate for or against a group or government; publicize a cause or campaign; or mark or commemorate any event.[46] Prime Minister Lee Hsien Loong offered a national security rationale for the law, stating that the new POA was required because "stability for us is an existential issue — both economically and as a society."[47] Speakers' Corner was designated an "unrestricted" area, thus retaining its status as the one place where a permit was not required.[48] However, the restrictions on use of Speakers' Corner were also retained.

Control Over the Media

The late Lee Kuan Yew once declared that freedom of the press must be "subordinate to the primacy of purpose of an elected government."[49] Pursuant to that aim, the Newspaper and Printing Presses Act (NPPA) requires yearly renewal of licenses and empowers the authorities to limit the circulation of foreign newspapers alleged to "engage in the domestic politics of Singapore."[50]

Singapore's print media is dominated by Singapore Press Holdings (SPH). While not government owned, it is closely supervised by the government. Under the NPPA, newspapers must issue management shares to government nominees, opening the door to government intervention over editorial direction and senior editorial appointments.[51]

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[45] Public Order Act 2009, http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?CompId:9d496929-2842-4770-bf05-05b69cca26a7.

[46] Ibid.; Jothie Rajah, *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore* (Cambridge: Cambridge University Press, 2012) at 263.

[47] Jothie Rajah, *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore* (Cambridge: Cambridge University Press, 2012) at 263.

[48] Public Order Act (Unrestricted Area) (No. 2) Order, 2009.

[49] Lee Kuan Yew, Address to the General Assembly of the International Press Institute, Helsinki, June 9, 1071, quoted in Cherian George, *Freedom from the Press: Journalism and State Power in Singapore* (Singapore: NUS Press, 2012), p. xiii.

[50] Newspaper and Printing Presses Act, http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?CompId:f133d1c3-b0aa-4fae-a1f6-278381457ff8.

[51] Cherian George, "Why Singapore journalists don't press for legal reform," in Andrew Kenyon et al., eds., *Democracy, Media and Law in Malaysia and Singapore* (London and New York: Routledge, 2014), pp. 47-48.

MediaCorp, which is owned by a government investment company, is the sole provider of free-to-air television channels and the main radio station operator. MediaCorp also publishes the only non-SPH Singapore daily newspaper.[52]

Civil defamation suits have also been repeatedly used to contain the media. In August 2006, Lee Kuan Yew and Prime Minister Lee Hsien Loong sued the publisher of the Hong Kong-based *Far Eastern Economic Review* (*FEER*) and editor Hugo Restall for defamation based on an article titled "Singapore's Martyr," based on interviews with Chee Soon Juan. The article, published in the magazine's July/August issue, compared the way the Singapore government was run with a scandal at a national charity and noted that Singaporean officials "have a remarkable record of success in winning libel suits against their critics."[53] In the same month, *FEER,* along with a number of other foreign publications, was ordered to appoint a person "within Singapore authorized to accept service of any notice or legal process on behalf of the publication," and to submit a security deposit of S$200,000 by September 11.[54] When the publication did not comply with the order, Singapore banned it and made it illegal even to possess a copy of *FEER* for sale or distribution in Singapore.[55]

In September 2008, the High Court ruled that *FEER* and its editor had defamed the Lees, rejecting arguments that the article was based on facts and fair comment, concerned matters of public interest, and was a neutral report.[56] Numerous other publications, including the *Economist*, the *New York Times, Bloomberg, Asia Week*, and *Time* magazine have faced defamation suits filed by Lee Kuan Yew or Lee Hsien Loong.[57]

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[52] Terence Lee, "Media governmentality in Singapore," in Kenyon et al., eds., *Democracy, Media and Law in Malaysia and Singapore* (London and New York: Routledge, 2014), p. 30.

[53] "Prime Minister and his father sue Far Eastern Economic Review," Reporters Without Borders news release, September 15, 2006, https://rsf.org/en/news/prime-minister-and-his-father-sue-far-eastern-economic-review (accessed June 21, 2017); *Review Publishing Co Ltd and Another v Lee Hsien Loong and Another Appeal*, [2009] SGCA 46, para. 10-13.

[54] "Prime Minister and his father sue Far Eastern Economic Review," Reporters Without Borders news release, September 15, 2006, https://rsf.org/en/news/prime-minister-and-his-father-sue-far-eastern-economic-review (accessed June 21, 2017).

[55] "Singapore bans Far Eastern Economic Review," *Agence France Presse*, September 28, 2006, http://www.singapore-window.org/sw06/060928A1.HTM (accessed June 21, 2017).

[56] "Editor 'defamed' Singapore leader," *BBC*, September 24, 2008, http://news.bbc.co.uk/2/hi/asia-pacific/7632830.stm (accessed June 21, 2017); *Lee Hsien Loong v Review Publishing Co Ltd and Another and Another Suit* [2007] 2 SLR 453; [2007] SGHC 24. By the time the decision was upheld on appeal in October 2009, the *Far Eastern Economic Review* had closed.

[57] "The Economics of Defamation in Singapore," *The Irrawaddy*, September 5, 2013, https://www.irrawaddy.com/news/asia/in-singapore-the-economics-of-defamation.html (accessed June 21, 2017).

The government has also used contempt laws against foreign media in Singapore. The Singapore authorities brought a claim against both *Wall Street Journal* Deputy Editor Melanie Kirkpatrick and Dow Jones, the owner of the paper, for contempt of court in 2008 for publishing a letter to the editor from Chee Soon Juan and two editorials that questioned the independence of the Singapore judiciary. Dow Jones was ordered to pay S$25,000 plus costs of S$30,000 and, in March 2009, Kirkpatrick was ordered to pay S$10,000 plus costs of S$10,000.[58]

[58] "Singapore court fines WSJ editor for contempt," Reuters, March 19, 2009, http://www.reuters.com/article/singapore-wsj-idINSP43660720090319 (accessed June 21, 2017).

I. International and Domestic Legal Standards

The rights to freedom of expression, association, and peaceful assembly are universally protected under international human rights conventions and customary law. These rights are not only important liberties in themselves, but they are crucial for helping to ensure that all other rights — civil, political, economic, social, and cultural — are accessible to all persons.[59]

The Universal Declaration of Human Rights, which has the endorsement of every member state of the United Nations, is considered broadly reflective of customary international law.[60] It sets out rights to "freedom of opinion and expression" (article 19) and "peaceful assembly and association" (article 20).[61] The Universal Declaration defines the right to freedom of expression to include "freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."[62]

These rights are found in regional human rights treaties, including the European Convention on Human Rights, the African Charter on Human and Peoples' Rights, and the American Convention on Human Rights, all of which draw upon the Universal Declaration of Human Rights. The 2012 ASEAN Human Rights Declaration, adopted by all 10 ASEAN states including Singapore, commits each state to uphold all of the civil and political rights

[59] The UN Human Rights Committee has stressed the importance of freedom of expression in a democracy: "[T]he free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.... [C]itizens, in particular through the media, should have wide access to information and the opportunity to disseminate information and opinions about the activities of elected bodies and their members." UN Human Rights Committee, Decision: *Gauthier v. Canada*, Communication No. 633/1995, U.N. Doc. CCPR/C/65/D/633/1995, May 5, 1999, http://www1.umn.edu/humanrts/undocs/session65/view633.htm (accessed March 18, 2014), para. 13.4.

[60] See UN General Assembly, Vienna Declaration and Programme of Action, July 12, 1993, UN Doc. A/CONF.157 /23, http://www.refworld.org/docid/3ae6b39ec.html (accessed March 17, 2016) (emphasizing that the Universal Declaration of Human Rights, "which constitutes a common standard of achievement for all peoples and all nations, is the source of inspiration and has been the basis for the United Nations in making advances in standard setting as contained in the existing international human rights instruments, in particular the International Covenant on Civil and Political Rights."). Singapore participated in the Asia Regional Preparatory meeting for the 1993 Vienna World Conference on Human Rights that led to the adoption, by consensus, of the Vienna Declaration.

[61] Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A (III), 3 UN GAOR, UN Doc. A/810, at 71 (1948).

[62] UDHR, art. 19.

in the Universal Declaration of Human Rights, including the rights to freedom of speech and assembly.[63]

These treaties, declarations, and the court judgments deriving from them demonstrate the global acceptance of the rights guaranteed by the Universal Declaration, and provide useful perspectives on the appropriate interpretation of those rights.

The rights to free expression, association, and assembly can be found in several widely ratified international human rights conventions, mostly notably the International Covenant on Civil and Political Rights (ICCPR).[64] While Singapore is not a state party to the ICCPR, commentary from the UN Human Rights Committee, UN special procedures, and other authoritative bodies make clear that these fundamental rights can only be limited in specific ways. The ICCPR, in article 19(3), permits governments to impose restrictions or limitations on freedom of expression only if such restrictions are provided by law and are necessary for respect of the rights or reputations of others, or for the protection of national security, public order, public health, or morals.[65]

Article 21 of the ICCPR similarly provides for the right of peaceful assembly, and states that no restrictions can be placed be placed on this right "other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public)*, the protection of public health or morals or the protection of the rights and freedoms of others."[66]

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[63] ASEAN Human Rights Declaration, General Principles 10, 23, and 24, https://www.aichr.org/documents (accessed June 3, 2016).

[64] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976.

[65] ICCPR, art. 19(3). The same three-part test has been applied by, among others, the African Court of Human and Peoples' Rights to cases under article 9 of the African Charter on Human and Peoples' Rights, see, e.g., *Lohe Issa Konate v. Burkina Faso*, Application no. 004/2013, December 5, 2014, http://www.african-court.org/en/images/documents/Judgment/Konate%20Judgment%20Engl.pdf (accessed June 17, 2015); the European Court of Human Rights to cases under article 10 of the ECHR, see, e.g. *Goodwin v. United Kingdom*, [GC] (No. 17488/90), 22 EHRR 123 (1996), paras. 28-37, the Canadian Supreme Court to cases under the Canadian Charter of Rights and Freedoms, see, e.g., *R. v. Oakes*, [1986] 1 SCR 103, 138-139, and the Kenyan High Court, Constitutional and Human Rights division, to cases under the Kenyan Constitution, see, e.g., *Coalition for Reform and Democracy v. Republic of Kenya*, Petitions 628 and 630 of 2014 and 12 of 2015 (consolidated), February 23, 2015, http://kenyalaw.org/caselaw/cases/view/106083/ (accessed June 23, 2015).

[66] ICCPR, art. 21.

The UN Human Rights Committee, the independent expert body that monitors state compliance with the ICCPR, in its General Comment No. 34 on the right to freedom of expression, states that restrictions on free expression should be interpreted narrowly and that the restrictions "may not put in jeopardy the right itself."[67] The government may impose restrictions only if they are prescribed by legislation and meet the standard of being "necessary in a democratic society." This implies that the limitation must respond to a pressing public need and be oriented along the basic democratic values of pluralism and tolerance. "Necessary" restrictions must also be proportionate, that is, balanced against the specific need for the restriction being put in place. The general comment also states that "restrictions must not be overbroad."[68] Rather, to be provided by law, a restriction needs to be formulated with sufficient precision to enable an individual to regulate their conduct accordingly.[69]

Restrictions on freedom of expression to protect national security "are permissible only in serious cases of political or military threat to the entire nation."[70] Since restrictions based on protection of national security have the potential to completely undermine freedom of expression, "particularly strict requirements must be placed on the necessity (proportionality) of a given statutory restriction."[71]

With respect to criticism of government officials and other public figures, the Human Rights Committee has emphasized that "the value placed by the Covenant upon uninhibited expression is particularly high." The "mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties." Thus, "all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition."[72] The Human Rights Committee has further stressed that the scope of

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[67] UN Human Rights Committee, General Comment No. 34, Article 19, Freedoms of Opinion and Expression, CCPR/C/GC/34 (2011).

[68] UN Human Rights Committee, General Comment No. 34, para. 34.

[69] Ibid., para. 25; see also, European Court of Human Rights, *Sunday Times v. United Kingdom*, Judgment of 26 April 1979, Series A, no. 30, www.coe.echr.int, ECHR 1, para. 49.

[70] Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Kehl am Rhein, Germany: N.P. Engel, 2d ed. 1993), pp. 463-64.

[71] Ibid., pp. 465-66.

[72] UN Human Rights Committee, General Comment No. 34, para. 38.

the right to freedom of expression "embraces even expression that may be regarded as deeply offensive."[73]

International law permits governments to take action against advocacy of national, racial, or religious hatred that constitutes incitement to violence, discrimination, or hostility.[74] Such action should be limited as a matter of law, proportionality, and necessity like other restrictions on freedom of expression.[75] Human Rights Watch considers incitement to be an encouragement to cause imminent harm, which is not merely possible or potential harm but harm likely to be directly or immediately caused or intensified by the speech in question. "Violence" refers to a physical act and "discrimination" refers to the actual deprivation of a benefit to which similarly situated people are entitled.

When analyzed pursuant to these standards, a number of laws currently in effect in Singapore impose limitations on expression that go far beyond the restrictions that are permitted by international law.

Constitution of Singapore

Singapore's Constitution appears to ensure respect for the rights to freedom of expression and assembly.[76] Article 14 states that every citizen "has the right to freedom of speech and expression." However, the Constitution expressly permits Parliament to impose on that right,

> such restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or to provide against contempt of court, defamation or incitement to any offence.

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[73] UN Human Rights Committee, General Comment No. 34, para. 11; see also European Court of Human Rights, *Handyside v. United Kingdom*, (no. 5493/72), Judgment of 7 December 1976, ECHR 1976-V, www.echr.coe.int, para. 49 (freedom of expression "is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population"); *R. v. Central Independent Television plc*, [1994] 3 All ER 641 ("Freedom of [speech] means the right to [say] things which the government and judges, however well-motivated, think should not be [said]. It means the right to say things which 'right-thinking people' regard as dangerous or irresponsible.").

[74] ICCPR, art. 20.

[75] UN Human Rights Committee, General Comment No. 34, para. 50.

[76] The 1965 Constitution falls short of the human rights protections afforded by international law in a number of respects. This report does not purport to analyze all of the ways in which it does not meet international standards.

Article 14 also states that every citizen "has the right to assemble peacefully and without arms," but subjects that right to such restrictions as Parliament "considers necessary or expedient in the interest of the security of Singapore or any part thereof or public order." These restrictions allow a much broader basis for restrictions than under the Universal Declaration of Human Rights or the ICCPR and are thus contrary to the requirements of international law. In addition, the Constitution does not require that the restrictions be "necessary" to protect one of the interests listed, a key element of international legal protection for freedom of expression.

II. Criminalization of Peaceful Expression

The Singapore government has used a range of broadly worded laws to arrest, harass, and prosecute critical voices. Some of these laws are carried over from the British colonial era, while others have been enacted only recently. This section describes those laws, identifying provisions that do not meet international standards for the protection of freedom of expression and assembly, and examines how they have been used to criminalize the peaceful exercise of those rights.

Contempt

Until recently, contempt in Singapore was a matter of common law, not of legislation. In August 2016, Singapore "codified" and expanded the offense of contempt by enacting the controversial Administration of Justice (Protection) Act.[77] The new law, which had not yet come into force at the time of writing, provides penalties of up to S$100,000 and three years in prison for several forms of contempt of court, including the archaic offense of "scandalising the court," a form of contempt that has been repeatedly used against those alleged to have criticized Singapore's judiciary.[78] Moreover, contempt is made an "arrestable" offense – an offense that permits suspects to be subjected to warrantless searches and arrests.[79]

The purpose of criminal contempt laws is to prevent interference with the administration of justice. While there is no doubt that courts can restrict speech where that is necessary for

[77] Administration of Justice (Protection) Act, http://statutes.agc.gov.sg/aol/search/display/printView.w3p;page=0;query=CompId%3Aaae1c9e6-46e5-4db1-8f6d-3ade2f2ab6cc;rec=0;resUrl=http%3A%2F%2Fstatutes.agc.gov.sg%2Faol%2Fbrowse%2FyearResults.w3p%3BpNum%3D1%3Btype%3DactsSup%3Byear%3D2016.

[78] The law came into effect on October 1, 2017. Administration of Justice (Protection) Act 2016 (Commencement) Notification 2017, http://statutes.agc.gov.sg/aol/search/display/view.w3p;orderBy=date-rev,loadTime;page=0;query=Id%3A9cddf272-c528-49f9-ac5d-b91d1497c414;rec=0;resUrl=http%3A%2F%2Fstatutes.agc.gov.sg%2Faol%2Fsearch%2Fsummary%2Fresults.w3p%3Bpage%3D0%3Bquery%3DCOMPLIED%2520MajorSubject%253A%2522bankruptcy%2522;whole=yes#legis.

[79] Administration of Justice (Protection) Act, sec. 22; Criminal Procedure Code, http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=DocId%3A%223b4efefc-6d61-43ac-8b1c-8ccd8b86a972%22%20Status%3Ainforce%20Depth%3A0;rec=0.

the orderly functioning of the court system,[80] the Administration of Justice (Protection) Act is so broadly worded as to allow for easy abuse.

Scandalizing the Court

Under the Administration of Justice (Protection) Act, it is deemed contempt to publish anything that: (1) imputes improper motives to or impugns the integrity, propriety, or impartiality of any court; and (2) poses a risk that public confidence in the administration of justice would be undermined.[81] While the accompanying explanatory notes state that "fair criticism" is not contempt, what constitutes "fair criticism" is not defined and the determination of what is in essence a subjective test is left to the discretion of the court. Moreover, under the act it is not an acceptable defense to contend that one did not intend to scandalize the court.[82]

The statute is broader than the common law it purports to codify since, as interpreted by Singapore's courts, to prove the common law offense of "scandalising the court" the government needed to prove that the publication carried a "real risk" of undermining public confidence in the administration of justice — a remote or fanciful risk would not suffice.[83] By contrast, under the Administration of Justice (Protection) Act, all that is required is that the publication "poses a risk" — however remote — of undermining confidence in the administration of justice.

The reliance on interpretation by individual judges also makes the scope of the violation extremely uncertain. What one judge may view as "impugning the integrity of the court" may be shrugged off by another judge. The law thus does not give clear guidance to those wishing to express opinions about the conduct of the court, contrary to the standard that laws restricting expression be formulated "with sufficient precision to enable an individual to regulate his or her conduct accordingly."[84] Moreover, the lack of clarity as to what

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[80] UN Human Rights Committee, General Comment No. 34, para. 31 (noting that contempt of court proceedings could be warranted in the exercise of the court's power to maintain orderly proceedings, but must not be used to restrict legitimate defense rights).

[81] Administration of Justice Act, sec. 3(1)(a).

[82] Administration of Justice Act, sec. 3(2).

[83] *Shadrake v. Attorney-General*, Court of Appeal [2011] 3 SLR 778, para.30.

[84] UN Human Rights Committee, General Comment No. 34, para. 25.

expression may be considered to scandalize or lower the authority of the court leaves wide scope for the restriction of speech simply on the basis that it is critical of the court and its rulings.[85] The vagueness of the offense, combined with the harshness of the potential penalty, increases the likelihood of self-censorship to avoid possible prosecution, curtailing open discussion of the administration of justice in Singapore.

The UN Human Rights Committee has stated that "all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition… States parties should not prohibit criticism of institutions, such as the army or the administration."[86] Other international bodies interpreting freedom of expression, including the Inter-American Commission on Human Rights, have also disfavored laws that penalize criticism of public authorities.[87] The Inter-American Court for Human Rights has specifically held that contempt is not compatible with the Inter-American Convention on Human Rights,

> because it could be abused as a way to silence ideas and opinions, suppressing debate, which is critical for the effective operation of democratic institutions. Moreover, contempt legislation dissuades people from criticizing for fear of being subject to judicial actions that, in some cases, may bear monetary penalties.[88]

The United Kingdom and several other Commonwealth countries, including New Zealand, Canada, and Brunei Darussalam, have long since ceased to prosecute this type of contempt charge. As the Law Commission of the United Kingdom noted in recommending abolition of the offense of scandalizing the court,

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[85] UN Human Rights Committee, General Comment No. 34, para. 25 ("A law cannot confer unfettered discretion for restriction of freedom of expression on those charged with its execution.").

[86] UN Human Rights Committee, General Comment No. 34.

[87] Inter-American Declaration on Principles of Freedom of Expression, https://www.cidh.oas.org/declaration.htm, para. 11 ("Laws that penalize offensive expressions directed at public officials … restrict freedom of expression and the right to information.")

[88] "Special Rapporteur for Freedom of Expression Urges the Government of Chile to Abolish the Contempt/"Descacato" Laws," Organization of American States news release 66/02, http://www.oas.org/en/iachr/expression/showarticle.asp?artID=85&lID=1, citing to IACHR, Report on the Compatibility of "Desacato" Laws with the American Convention on Human Rights, OEA/Ser. L/V/II.88, doc. 9 rev., 17 February 1995, 197-212.

> [p]reventing criticism contributes to a public perception that judges are engaged in a cover-up and that there must be something to hide. Conversely, open criticism and investigation in those few cases where something may have gone wrong will confirm public confidence that wrongs can be remedied and that in the generality of cases the system operates correctly.[89]

Discussion of "Pending" Proceedings

The Administration of Justice (Protection) Act's broad restrictions on discussion of ongoing court matters are also problematic. The law states that a person is guilty of contempt if he or she intentionally publishes any matter that:

> prejudges an issue in a court proceeding that is pending and such prejudgment prejudices, interferes with, or poses a real risk of prejudice to or interference with, the course of any court proceeding that is pending; or otherwise prejudices, interferes with, or poses a real risk of prejudice to or interference with, the course of any court proceeding that is pending.[90]

Under the law, a case is deemed "pending" from the earliest of the time a notice or summons is issued or an arrest is made until the conclusion of the final possible appeal in the case.[91] One lawyer told Human Rights Watch that "the *sub judice* [pending case] rule is so broad, when someone is charged it is anybody's guess what you can and can't say, so it is best not to say anything. As a lawyer, I would have to advise clients not to say anything, as I can't tell whether or not they would fall foul of the law."[92]

While restrictions on speech that poses a substantial risk of prejudice to a fair trial are permissible under international law, they should be narrowly drawn to interfere with good faith reporting as little as possible. As the European Court of Human Rights recognized in the seminal case *Sunday Times v. United Kingdom*, this is of particular concern with respect to the media:

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[89] The Law Commission, Contempt of Court: Scandalising the Court, para. 27, http://lawcommission.gov.uk/docs/lc335_scandalising_the_court.pdf. (accessed June 16, 2014).

[90] Administration of Justice Act, sec. 3(1)(b).

[91] Administration of Justice Act, sec, 2(2).

[92] Interview with lawyer, Singapore, April 2017.

> There is general recognition of the fact that the courts cannot operate in a vacuum. Whilst they are the forum for the settlement of disputes, this does not mean that there can be no prior discussion of disputes elsewhere, be it in specialised journals, in the general press or amongst the public at large. Furthermore, whilst the mass media must not overstep the bounds imposed in the interests of the proper administration of justice, it is incumbent on them to impart information and ideas concerning matters that come before the courts just as in other areas of public interest. Not only do the media have the task of imparting such information and ideas: the public also has a right to receive them.[93]

In particular, it should be presumed that a professional judge is generally capable of ignoring or resisting improper influence from commentary outside the courtroom.[94] Singapore abolished jury trials in 1969.

In contrast, while citizens are prohibited from discussing ongoing proceedings under the proposed new law, the government is permitted to comment whenever it feels it "is necessary in the public interest," regardless of whether doing so could prejudice the ongoing proceedings and the presumption of innocence.[95] The examples provided by the law provide a troubling demonstration of the imbalance created by this provision:

> A statement made by a person on behalf of the Government factually describing the circumstances of a riot, when criminal proceedings against a person charged with participation in that riot are pending, which the

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93 European Court of Human Rights, *Sunday Times v. United Kingdom*, Judgment of 26 April 1979, Series A, no. 30, www.coe.echr.int, para. 65.

94 In the UK case of *Vine Products Ltd. v. MacKenzie & Co. Ltd.*, (1965) 3 All ER 58, the court ruled: "It has generally been accepted that professional judges are sufficiently well equipped by their professional training to be on their guard against allowing [a prejudging of the issues] to influence them in deciding the case."

95 Administration of Justice Act, sec. 3(4) ("A statement made by a person on behalf of the Government about the subject matter of or an issue in a court proceeding that is pending is not contempt of court … if the Government believes that such statement is necessary in the public interest."). Public interest is defined broadly in section 3(5) to include "matters that are necessary in the interests of the security of Singapore or any part of Singapore, public order, public health or public finances."

> Government believes is necessary in order to inform the public of the riot, is not contempt of court.[96]

Since the "circumstances" of the riot are very likely to be one of the key issues in a prosecution for participating in a riot, allowing the government to make public statements about those circumstances, while the defendant, the defendant's lawyer, and others present at the event are silenced until after the final appeal on pain of contempt creates a real risk that the government's perspective will dominate and prejudice to the defendant will ensue.

Removal Provisions

Finally, the Administration of Justice (Protection) Act gives the attorney general the power to seek a court order requiring the removal of potentially "contemptuous" material without giving notice of his application to those most affected.[97] In fact, the law *requires* that the application be heard "without the presence" of the author or the person who will be ordered to take down the material.[98] The court "must" grant the order if the government makes a prima facie case that the material falls within the law's broad definition of contempt.[99] While the author or person directed to take down material can appeal the order, an appeal does not stay the order itself.[100] Failure to comply with the order can result in a sentence of up to 12 months in prison and a fine of S$20,000.[101]

Given the breadth of the law's definition of contempt, the scope of material potentially affected by this provision is extremely broad, allowing the government to seek removal of material simply because it is critical of the judiciary or of court decisions. Because the order is issued without informing the author of the content, the result will be a suppression of internationally protected speech, including comments on matters of public interest. The requirement that a court issue the order provides insufficient protection given that the law requires the court to do so whenever the attorney general makes a prima facie case that material falls within the broad definition of contempt.

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[96] Administration of Justice Act, sec. 3(4), illustration 1.

[97] Administration of Justice Act, sec. 1.

[98] Administration of Justice Act, sec. 13(8)(a).

[99] Administration of Justice Act, sec. 13(7).

[100] Administration of Justice Act, sec. 13(9), 13(10) and 13(11).

[101] Administration of Justice Act, sec. 13(5).

Common Law Contempt Proceedings

Singapore's common law of contempt has been used repeatedly against members of the political opposition and, more recently, against political cartoonists and bloggers.

Contempt Proceedings for Kangaroo T-shirts

Following the 2008 decision holding Chee Soon Juan liable for defaming Lee Kuan Yew and Lee Hsien Loong, discussed above, Isrizal Bin Mohamed Isa, Muhammad Shafi'ie Syahmi Bin Sariman, and Tan Liang Joo John attended the hearing on damages wearing t-shirts depicting kangaroos wearing judicial robes. All three were charged with and convicted of contempt for "scandalizing the judiciary." Isa and Sariman were sentenced to seven days in jail, while Tan Liang Joo John received 15 days. Each man was also ordered to pay costs of S$5,000.[102]

Contempt Proceedings Against Author Alan Shadrake

Author Alan Shadrake was sentenced to six weeks in jail and a S$20,000 fine for "scandalizing the court" in his book *Once a Jolly Hangman,* about the application of Singapore's mandatory death penalty for drug trafficking offenses. The book, based on interviews with a long-time executioner in Singapore's Changi prison, review of case files, and interviews with dozens of lawyers and death penalty opponents, alleges that the death penalty has been disproportionately applied to the young, the poor, and the less educated.

The book was printed in Malaysia and launched in Kuala Lumpur in April 2010.[103] On July 16, 2010, the day before a planned book launch in Singapore, Singapore's Media Development Authority filed a police complaint against Shadrake for criminal defamation.[104] On the same day, the attorney general submitted an affidavit recommending that Shadrake be prosecuted for writing a book that contains passages that "scandalize the judiciary."

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[102] "Singaporeans jailed for kangaroo T-shirts in court," Reuters, Nov. 27, 2008, http://uk.reuters.com/article/oukoe-uk-singapore-kangaroo-idUKTRE4AQ1V920081127 (accessed June 6, 2017).

[103] Human Rights Watch interview with Alan Shadrake, London, November 2015.

[104] In September 2016, the Media Development Authority merged with the Infocomm Development Authority to form the Infocomm Media Development Authority (IMDA). The IMDA is a statutory board under the Ministry of Communications and Information and regulates broadcast, print and other media, including movies, video and music.

Although the book launch went ahead as scheduled, in the early hours of the following morning the police came to the guest house where the 75-year-old Shadrake was staying and arrested him. As Shadrake describes it:

> A while after I went to bed, there was a loud banging at the door. Then they stormed in like commandos — looking under the bed, turning the mattress upside down. I was bundled down a corridor to a side entrance, like in a movie. We went whizzing through town with a siren.[105]

The police interrogated Shadrake intensively for two days, during which he was denied access to counsel. Questioning continued for a week after he was released on bail late in the day on July 19. He was ultimately charged with criminal defamation and with "scandalizing the court" in 14 different passages in the book. Although the attorney general said he would mitigate the charges if Shadrake apologized, he refused to do so: "I wouldn't apologize for something I believe in and something I knew to be true… In Singapore, even if it is true, you are not supposed to say it."[106] The attorney general's office stated that it viewed his refusal to apologize as an "aggravating fact."[107]

At his hearing, Shadrake contended that the book constituted "fair criticism" on matters of compelling public interest. The high court rejected that defense and held 11 statements to be contemptuous, finding that "if the matter had been left unchecked, some members of the public might have believed Mr. Shadrake's claims, and in doing so, would have lost confidence in the administration of justice in Singapore."[108] Shadrake was sentenced to six weeks in prison, a fine of S$20,000 and court costs. The Court of Appeal affirmed the conviction with regard to nine of the statements and affirmed the sentence.[109]

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[105] Human Rights Watch interview with Alan Shadrake, London, November 2015.

[106] Human Rights Watch interview with Alan Shadrake, London, November 2015.

[107] "Singapore: Drop Charges Against Author Who Raised Rights Concerns," Human Rights Watch news release, November 8, 2010, https://www.hrw.org/news/2010/11/08/singapore-drop-charges-against-author-who-raised-rights-concerns.

[108] *Attorney-General v. Alan Shadrake*, (2010) SGHC 327, para. 136.

[109] *Alan Shadrake v. Attorney-General*, (2011) SGCA 26.

Shadrake served five-and-a-half weeks in prison before being released early for good behavior.

Contempt Proceedings Against Cartoonist Leslie Chew

In May 2011, Chew Peng Ee (known as Leslie Chew), started drawing political cartoons about the fictitious country of "Demon-cratic Singapore," which he posted on a Facebook page bearing the same name. On his Facebook page, it stated that "all characters, political parties, places and events portrayed in all my comics are purely fictional."[110] On December 13, 2012, he received a complaint from the attorney general that one of his cartoons was disrespectful of the court. According to Chew, the cartoon depicted "the leader of my fictitious country" telling a judge to take early retirement.[111] The notice told him to take down the cartoon and apologize or he would be charged with contempt.[112] Chew refused.

On the morning of April 19, 2013, police officers came to Chew's home and arrested him for sedition. The police confiscated his phone, computer, and hard disk, and he was held in police custody for three days before finally being released on bail the evening of April 21.[113] The sedition investigation centered on two cartoons posted on his Facebook page – the one that had been the subject of the letter of complaint, and a second one that implied that ethnic Malay population statistics in Singapore were being suppressed by the government.[114] Three months later, on July 29, 2013, the government announced that it was dropping the case.[115]

Four days before dropping the sedition case, the attorney general's chambers commenced proceedings against Chew for contempt of court based on four cartoons posted between

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[110] Human Rights Watch interview with Leslie Chew, Singapore, October 2015.

[111] Human Rights Watch interview with Leslie Chew, Singapore, October 2015.

[112] Human Rights Watch interview with Leslie Chew, Singapore, October 2015.

[113] "Singapore Cartoonist Arrested for alleged sedition," *Yahoo Singapore News*, April 23, 2013, https://sg.news.yahoo.com/blogs/singaporescene/pore-cartoonist-arrested-alleged-sedition-143415161.html (accessed February 15, 2017).

[114] Human Rights Watch interview with Leslie Chew, Singapore, October 2015; "Singapore Cartoonist Arrested for alleged sedition," *Yahoo Singapore News*, April 23, 2013, https://sg.news.yahoo.com/blogs/singaporescene/pore-cartoonist-arrested-alleged-sedition-143415161.html (accessed February 15, 2017). The sedition charge is further discussed below on page 48.

[115] Singapore Attorney General's office, "Criminal Investigations against Chew Peng Ee," news release, July 29, 2013, https://www.agc.gov.sg/DATA/0/Docs/NewsFiles/AGC%20MEDIA%20STATEMENT_CRIMINAL%20INVESTIGATIONS%20AGAINST%20CHEW%20PENG%20EE_29%20JULY%202013.pdf; "AGC drops action under Sedition Act against cartoonist Leslie Chew," *The Straits Times*, July 29, 2013, http://www.straitstimes.com/singapore/agc-drops-action-under-sedition-act-against-cartoonist-leslie-chew (accessed March 9, 2017).

June 2011 and July 2012.[116] The cartoons that were the basis of the charges satirized court decisions for allegedly favoring foreigners, ruling for a celebrity and against a serviceman, imposing disparate sentences for the same offense, and joining a government vendetta against an opposition politician.[117] Charges were dropped in August 2013 only after Chew agreed to delete the four cartoons and publicly apologize. "Since they were early ones, I decided I will apologize for these four," said Chew. "So they dropped the charges. I had to take down the ones I apologized for."[118]

Contempt Proceedings Against Blogger Alex Au

In 2015, blogger and activist Au Wai Pang (known as Alex Au) faced contempt proceedings for "scandalising the court" in two articles he had posted on his blog in 2013. One article, posted on October 5, 2013, discussed an application for a judicial declaration that article 12 of the Singapore Constitution provides protection against discrimination on the basis of sexual orientation. The application was filed by Lawrence Wee after his suit claiming that he had been harassed into resigning from his employment at Robinsons Department Store because he was gay was dismissed by the courts. Au stated, among other things, that:

> I don't have high hopes for this new suit, mostly because my confidence in the Singapore judiciary is as limp as a flag on a windless day… In fact I think Robinsons was wrong to make life so difficult for him that he had little choice but to resign (but the court found Robinsons right)… While I haven't yet seen the details of the judgment in his suit against unfair dismissal (is it out in the public realm?) I can't understand how the court arrived at the decision it did.[119]

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[116] "Singapore Charges Cartoonist for Alleged Contempt of Court," *Wall Street Journal*, July 25, 2013, http://blogs.wsj.com/indonesiarealtime/2013/07/25/singapore-charges-cartoonist-for-alleged-contempt-of-court/ (accessed March 9, 2017).

[117] "Singapore: End 'Scandalizing the Judiciary' Prosecutions," Human Rights Watch news release, August 7, 2013, https://www.hrw.org/news/2013/08/07/singapore-end-scandalizing-judiciary-prosecutions.

[118] Human Rights Watch interview with Leslie Chew, Singapore, October, 2015; "Singapore drops contempt of court charges against political cartoonist Leslie Chew," *Yahoo Singapore News*, July 25, 2013, updated August 6, 2013, https://sg.news.yahoo.com/singapore-sues-political-cartoonist-leslie-chew-for-contempt-of-court-102538645.html (accessed March 9, 2017).

[119] *Attorney-General vs. Au Wai Pang* (2015), SGHC 16, para. 85.

While the government argued that Au's statements constituted scandalizing contempt because they implied that Singapore's courts were biased against homosexuals, the High Court disagreed with that analysis and held that the government had failed to prove that the statements posed a real risk of undermining confidence in the administration of justice.

The second article, posted on October 5, 2013, and titled "377 wheels come off Supreme Court's best-laid plans," commented on the scheduling of two constitutional challenges to Singapore's sodomy law. Au noted that the High Court ruling in the first case had been delayed and speculated that the reason might be so that the new chief justice, who had been the attorney general at the time the first case was filed, could sit on the bench hearing the challenge. "Basically, I speculated on the inner workings of the court calendar and I was charged with scandalizing the judiciary," he said.

> When I heard about the charge it was not a happy place to be. My biggest concern was the cost angle. Cost is a major barrier to freedom of speech — you may lose a lot of money trying to defend yourself. There are very few pro bono lawyers, and even paid lawyers, willing to take these cases.[120]

Au contended that his post did not imply that the outcome of the case was predetermined in any way and that there was nothing improper with the chief justice wanting to sit on a case of constitutional importance.[121] The court disagreed, finding that the post suggested that the chief justice was partial and that the courts had acted improperly in arranging the schedule to enable him to sit on the case.[122] Au was convicted and fined S$8,000. His conviction was upheld on appeal.[123]

Contempt Proceedings Against Lawyer Eugene Thuraisingam

Lawyer Eugene Thuraisingam has represented a number of individuals on death row in Singapore. On May 19, 2017, after learning that his client Mohamed Ridzuan would be executed the following morning for trafficking 72.5 grams of heroin, he posted an

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[120] Human Rights Watch interview with Alex Au, Singapore, October 2015.

[121] Human Rights Watch interview with Alex Au, Singapore, October 2015.

[122] *Attorney-General vs. Au Wai Pang* (2015) SGHC 16, para. 84.

[123] "Blogger Alex Au loses appeal against conviction for contempt of court," *The Straits Times*, December 1, 2015, http://www.straitstimes.com/singapore/courts-crime/blogger-alex-au-loses-appeal-against-conviction-for-contempt-of-court (accessed December 1, 2015); Au Wai Pang v. Attorney-General (2015) SGCA 31.

emotional poem on his Facebook page. On May 26, the attorney general's chambers filed an application to begin contempt proceedings against him, on the grounds that the following lines scandalized the judiciary:

> With our million dollar men turned blind.
> Pretending not to see.
> Ministers, Judges and Lawyers.
> Same as the accumulators of wealth.
> Hiding in the dimness, like rats scavenging for scraps.
> When does the new car come?
> Our five stars dim tonight.
> For a law that makes no sense.
> A law that is cruel and unjust.[124]

On June 5, after receiving notice from the attorney-general that his post was considered contemptuous, Thuraisingam deleted the poem and posted an apology.[125] Despite doing so, the contempt proceedings went forward. Thuraisingam pled guilty to contempt and, on August 7, the court imposed a fine of S$6,000 and costs of S$6,000.[126]

Contempt Proceedings Against Li Shengwu

On July 15, 2017, following an acrimonious public dispute between his parents and Prime Minister Lee Hsien Loong over the disposition of Lee Kuan Yew's home, Lee Hsien Loong's nephew Li Shengwu posted the following on his private Facebook page: "If you've been watching the latest political crisis in Singapore from a distance, but would like a summary, this is a good one. (Keep in mind, of course, that the Singapore government is very litigious and has a pliant court system. This constrains what the international media can

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[124] "Criminal and Human Rights Lawyer Fined $6,000 for a Poem on Death Penalty that "Scandalised the Judicary'," *The Online Citizen*, August 7, 2017, https://www.theonlinecitizen.com/2017/08/07/criminal-and-human-rights-lawyer-fined-6000-for-a-poem-on-death-penalty-that-scandalised-the-judicary/ (accessed August 7, 2017).

[125] "Lawyer Eugene Thuraisingam fined $6,000 for contempt of court over Facebook post on death penalty," *The Straits Times,* August 7, 2017, http://www.straitstimes.com/singapore/courts-crime/lawyer-fined-6000-for-contempt-of-court-over-facebook-post-on-death-penalty (accessed August 7, 2017).

[126] "Criminal and Human Rights Lawyer Fined $6,000 for a Poem on Death Penalty that "Scandalised the Judicary'," *The Online Citizen*, August 7, 2017, https://www.theonlinecitizen.com/2017/08/07/criminal-and-human-rights-lawyer-fined-6000-for-a-poem-on-death-penalty-that-scandalised-the-judicary/ (accessed August 7, 2017).

usually report.)" The post contained a link to an April 2010 editorial published by the *New York Times*, entitled "Censored in Singapore."[127]

The private post was subsequently shared widely without Li's consent. On July 21, Li received a letter from the attorney general's chambers demanding that he purge the contempt by deleting the post from his Facebook page and issuing a public apology.[128]

Li responded in a letter, which he also posted on Facebook, that the attorney general's chambers had misunderstood his private post, adding he had amended the post to remove any misunderstanding, but would not take it down. Li said his criticism was directed not at the judiciary but at the Singapore government's "aggressive use" of legal rules like defamation laws to constrain reporting by international media.[129] In response the attorney general sought permission to commence contempt proceedings against Li, and the High Court granted permission on August 22.[130] The case was pending at time of writing.

Recommendations to the Singapore Government

- Repeal section 3(1)(a) of the Administration of Justice (Protection) Act to abolish the offense of "scandalizing the judiciary."
- Amend section 3(1)(b) of the act to narrow the restriction on statements that "prejudge" a pending proceeding to those that create a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced, and to make the rule equally applicable to the government and to private citizens.

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[127] "AGC starts committal proceedings against Li Shengwu for contempt of court," *The Online Citizen*, August 5, 2017, https://www.theonlinecitizen.com/2017/08/05/agc-starts-committal-proceedings-against-li-shengwu-for-contempt-of-court/ (accessed August 7, 2017).

[128] "AGC to start proceedings against Li Shengwu for contempt of court over Facebook post," *Channel News Asia*, August 4, 2017, http://www.channelnewsasia.com/news/singapore/agc-to-start-proceedings-against-li-shengwu-for-contempt-of-9094174 (accessed August 4, 2017).

[129] "AGC given permission to continue contempt of court proceedings against Li Shengwu," *The Straits Times*, August 21, 2017, http://www.straitstimes.com/politics/agc-given-permission-to-continue-contempt-of-court-proceedings-against-li-shengwu (accessed August 21, 2017).

[130] "AGC given permission to continue contempt of court proceedings against Li Shengwu," *The Straits Times*, August 21, 2017, http://www.straitstimes.com/politics/agc-given-permission-to-continue-contempt-of-court-proceedings-against-li-shengwu (accessed August 21, 2017).

- Repeal section 3(4) of the act to eliminate the government's discretion to make even prejudicial statements about ongoing proceedings when the government determines it is "in the public interest" to do so.
- Amend section 13 of the act to give the author of allegedly contemptuous content notice and an opportunity to be heard before the court decides whether such content must be removed.

Sedition Act

Singapore's Sedition Act, which has its origin in the 1948 sedition ordinance enacted by the British colonial authorities during a period of emergency rule, imposes criminal penalties on any person who:

> (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act which has or which would, if done, have a seditious tendency;
> (b) utters any seditious words;
> (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication; or
> (d) imports any seditious publication.[131]

The law further makes it criminal to possess any seditious publication "without lawful excuse."[132]

The law never actually defines sedition. Instead, "seditious," as used in the law, is said to qualify the act, speech, words, publication, or other things referred to as "having a seditious tendency."[133] "Seditious tendency" is broadly defined in section 3(1) of the act to include speech having a tendency to "bring into hatred or contempt or to excite disaffection against" the government, or the administration of justice in Singapore, to "raise discontent or disaffection" among the inhabitants of Singapore, or to "promote feelings of ill-will and hostility between different races or classes of the population of

[131] Sedition Act 1948, section 4(1).
[132] Sedition Act, sec. 4(2).
[133] Sedition Act, sec. 2.

Singapore.[134] Violation of the law carries of penalty of up to three years in prison and a fine up to S$5,000 for a first offense, and up to five years in prison for a subsequent offense.[135]

The Sedition Act goes well beyond the standard definition of sedition, which has generally been interpreted to require an intention to incite the public to violence against constituted authority or to create a public disturbance or disorder against such authority.[136] With the possible exception of subsection 3(1)(b), the law does not even require that the expression encourage unlawful activity or public disorder, much less that it pose a real risk of causing such impact.[137] Instead, it penalizes expression that simply "has a tendency" to cause ill-will, hatred, disaffection, or discontent, regardless of whether it actually has such an impact, and regardless of whether or not any of those who feel "disaffection" or "discontent" as a result are inspired to do anything other than sit at home and nurse their discontent.

Moreover, under Singapore's Sedition Act, the intent of the speaker is *irrelevant* if the speech, publication, or act has a "seditious tendency."[138] This effectively permits the imprisonment of citizens who had no intention of "exciting disaffection," much less of undermining national security or public order, simply because someone else views their statement as having the "tendency" to do so.

The Sedition Act is further problematic in that it fails to formulate the restrictions it imposes on speech "with sufficient precision to enable the citizen to regulate his

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[134] Sedition Act, sec. 3(1)(a), (c), (d) and (3).

[135] Sedition Act, sec. 4(1). Possession of a seditious publication is punishable by up to 18 months in prison and a fine of up to S$2,000 for a first offense. Sedition Act, sec. 4(2).

[136] The Oxford English Dictionary defines sedition as "(1) a concerted movement to overthrow an established government; a revolt, rebellion, rioting; (2) conduct or language inciting to rebellion against the constituted authority in a state." Oxford English Dictionary (Oxford University Press, 1971). See also Supreme Court of Canada, *Boucher v. The King*, [1951] S.C.R. 265, 288; Supreme Court of India, Kedar Nath v. State of Bihar (1962) SCR Supl. (2) 769, 809. Subsection 3(1)(b) defines seditious tendency to include speech that has a tendency "to excite" individuals to try to change laws "other than by lawful means." But even this provision goes far beyond what international law allows; someone who might be tempted to attend a banned rally or violate public order laws by carrying a sign in traffic would be disproportionately penalized by a charge under "sedition" that does not consider either the necessity or proportionality of the restriction on expression.

[137] In *Public Prosecutor v. Ong Kian Cheong* [2009] SGDC 163, the District Court, though acknowledging that the tracts in that case did not cause public disorder, rejected the argument that the prosecution should be required to prove that the speech threatened the maintenance of the government or public order, holding that, "There is no requirement in the section that proof of sedition requires intent to endanger the maintenance of the government. It would be clearly wrong to input such intent into the section. All that is needed to be proved is that the publication is question had a tendency to promote feelings of ill will and hostility between different races or classes of the population in Singapore."

[138] Sedition Act, sec. 3(3).

conduct."[139] "Seditious tendency" is loosely defined with vague and subjective terms such as "ill-will," "discontent," and "disaffection."[140] When a law is so vague that individuals do not know what expression may violate it, it creates an unacceptable chilling effect on free speech. Vague provisions not only give insufficient notice to citizens, but also leave the law subject to abuse by authorities.[141]

As a New Zealand law commission recommending abolition of the country's sedition law concluded:

> People may hold and express strong dissenting views. These may be both unpopular and unreasonable. But such expressions should not be branded as criminal simply because they involve dissent and political opposition to the government and authority.[142]

The Sedition Act provides that speech will not be considered seditious solely on the basis that it "has a tendency to point out errors or defects in Government or in legislation… with a view to the remedying of such errors or defects."[143] However, that limitation applies only if "the act, speech, words, publication or other thing has not otherwise in fact a seditious tendency." It thus does little to limit the application of the law to critics of the government or those commenting on sensitive issues.

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[139] UN Human Rights Committee, General Comment No. 34, para. 25; European Court of Human Rights, *Sunday Times v. United Kingdom*, Judgment of 26 April 1979, Series A no. 30, www.echr.coe.int, para. 49.

[140] See *Mwenda & Eastern Media Institute v. Attorney General* [2010] UGCC 5 (invalidating Uganda's Sedition Law, which is very similar to that of Malaysia: "[T]he way impugned sections were worded have an endless catchment area, to the extent that it infringes one's right [to free speech under Uganda's Constitution].").

[141] See *Report of the special rapporteur on the promotion and protection of the right to freedom of opinion and expression Frank La Rue*, September 2012, UN Doc. A/67/357, at para. 32; See also *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972), at p. 170 (law is void for vagueness if it is a "standardless sweep" that allows law enforcement officials to pursue their own predilections.)

[142] New Zealand Law Commission, Law Commission Reforming the Law of Sedition: Consultation Draft (October 2006), http://www.lawcom.govt.nz/sites/default/files/press- releases/2006/10/Publication_128_343_SEDITION%20 CONSULTATION%20DRAFT.pdf, at para. 18 (recommending abolition of New Zealand's sedition law). New Zealand has abolished its sedition law, as has the United Kingdom. See The Crimes (Repeal of Seditions Offense) Amendment Act of 2007, http://www.legislation.govt.nz/act/public/2007/0096/latest/whole.html and The Coroners and Justice Act 2009, chapter, sec. 73, www.legislation.gov.uk/ukpga/2009/25/section73.

[143] Sedition Act, sec. 3(2)(b) (emphasis added). The act also provides that speech shall not be considered seditious "only because it has a tendency to show that the Government has been mistaken or misled in any of its measures." Sedition Act, sec. 3(2)(a).

Singapore's Sedition Act has primarily been used against those who speak out on issues of race and religion. While the goal of preventing inter-communal strife is an important one, it should be done in ways that restrict speech as little as possible. UN human rights experts have stated that:

> It is absolutely necessary in a free society that restrictions on public debate or discourse and the protection of racial harmony are not implemented at the detriment of human rights, such as freedom of expression and freedom of assembly.[144]

Singapore's broadly worded Sedition Act opens the door for arbitrary and abusive application of the law, and creates an unacceptable chill on the discussion of issues relating to race and religion.[145] The Camden Principles on Freedom of Expression and Equality note that:

> Limiting discussion of contentious issues such as race and religion will not address the underlying social roots of the prejudice that undermines equality… Instead of restrictions, open debate is essential to combating negative stereotypes of individuals and groups and exposing the harm created by prejudice.[146]

While certain types of hate speech can be restricted under international law, the threshold for such restrictions is very high. It has been the view of the UN General Assembly, UN

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[144] Joint submission by Mr. Heiner Bielefeldt, special rapporteur on freedom of religion or belief; Mr. Frank La Rue, special rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Mr. Githu Muigai, special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, to the OHCHR Expert Workshop on the prohibition of incitement to national, racial or religious hatred (July 6-7, 2011, Bangkok), http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Bangkok/SRSubmissionBangkokWorkshop.pdf (accessed June 3, 2016) (discussing similar provision in Singapore's Penal Code).

[145] UN Office of the High Commissioner for Human Rights (OHCHR), Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitements to discrimination, hostility or violence ("Rabat Plan of Action"), October 2012, para. 15, http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf (accessed August 16, 2015).

[146] Article 19, Camden Principles on Freedom of Expression and Equality ("Camden Principles"), http://www.refworld.org/docid/4b5826fd2.html, p. 4 ("The Camden Principles were prepared by Article 19 on the basis of discussions involving a group of high-level UN and other officials, and civil society and academic experts in international human rights law on freedom of expression and equality issues at meetings held in London on 11 December 2008 and 23-24 February 2009. The Principles represent a progressive interpretation of international law and standards, accepted State practice (as reflected, inter alia, in national laws and the judgments of national courts), and the general principles of law recognised by the community of nations.")

special mechanisms, and other experts on international law that the criminalization of hate speech is acceptable only where speech is intended to motivate not just bad feeling in the abstract, but to actually threaten the rights of others. Applying the Sedition Act to speech that "promotes ill-will" where no intention to provoke acts of violence or discrimination or other unlawful acts that threaten the rights of members of such groups can be demonstrated, and indeed, where no such acts have taken place, is incompatible with freedom of expression.

Prosecution of Ong Kian Cheong and Dorothy Chan Hien Leng

In January 2008, Ong Kian Cheong and Dorothy Chan Hien Leng were arrested and charged with violating the Sedition Act for distributing pamphlets that were deemed offensive to Muslims.[147] The two pamphlets, or "tracts" as they are referred to in the court's opinion, were entitled "The Little Bride" and "Who is Allah?" A married couple, Cheong and Leng stated at trial that they had been distributing similar tracts "to spread the Gospel message of Jesus Christ and how one could be saved" on and off for almost 20 years.[148] The court found that the pamphlets had a tendency to "promote feelings of ill-will and hostility between different races and classes" and convicted both defendants.[149] In deciding that they were culpable under section 3(1)(e) of the Sedition Act, the district judge noted that at least two people who received the pamphlets felt offended. Both defendants were sentenced to serve eight weeks in prison.[150]

Prosecution of Cartoonist Leslie Chew

As discussed above, cartoonist Leslie Chew was arrested for sedition in April 2013. Although granted bail, he was not allowed to leave Singapore. Chew told Human Rights Watch:

> They don't like people to talk about [racism], but it exists. Why did they arrest me? I pointed out a fact — that the Malay population was declining. It is a fact. And they arrested me for that. When they finally dropped the case,

[147] District Court of Singapore, Public Prosecutor v. Ong Kian Cheong [2009] SGDC 163.

[148] *Public Prosecutor v. Ong Kian Cheong* [2009] SGDC 163, paras. 29-32.

[149] *Public Prosecutor v. Ong Kian Cheong* [2009] SGDC 163, para. 84.

[150] They were sentenced to four weeks on each of three counts of distributing seditious material, to be served concurrently, and an additional four weeks for possession of seditious material.

> the police said, "I don't want to see you again. There are some things you can't talk about." You can't talk about race. You can't talk about Lee Kuan Yew. You basically can't talk about any fact that doesn't put the government in a good light.[151]

In July 2013, after three months of investigation, the case was dropped without charges. The same month, contempt of court proceedings were brought against Chew.

Prosecution of "The Real Singapore"

The website *The Real Singapore* (TRS) was founded in 2012 by Australian law student Ai Takagi and Singaporean Yang Keiheng, a fellow student. Over the next three years, the website published over 30,000 articles, some written by Takagi but many submitted to the website for publication by others. TRS allowed users to post material anonymously and without censorship. Takagi described the website as being "about citizen journalism so that people could air their views about all sorts of things."[152] As her defense attorney noted in his plea of mitigation of sentence, much of the material posted on the website happened to be political, "because that was the 'content vacuum' that needed to be filled in the Singapore socio-political discussion space."[153] The website, which featured sensationalized headlines and stories, was extremely popular, with more than 13 million views per month.[154]

In February 2015, police arrested the two for offenses under the Sedition Act after complaints were filed in response to an article alleging that a Filipino family's complaints over noise from drumming had been behind an incident at the country's Thaipusam festival.[155] In April 2015, the two were charged with seven counts of sedition, each based

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[151] Human Rights Watch interview with Leslie Chew, Singapore, October 2015.

[152] "Ai Takagi: DFAT breaks silence on Singapore's sedition case against Australian," *Sydney Morning Herald*, March 25, 2016, http://www.smh.com.au/world/ai-takagi-dfat-breaks-silence-on-singapores-sedition-case-against-australian-20160325-gnqyk2.html (accessed September 14, 2016).

[153] Public Prosecutor vs. Ai Takagi, Plea in Mitigation, March 17, 2016.

[154] "Australian behind Singapore anti-foreigner website The Real Singapore convicted of sedition," *ABC Online*, March 8, 2016, http://www.abc.net.au/news/2016-03-09/australian-behind-singapore-hate-site-convicted-of-sedition/7231602 (accessed September 14, 2016).

[155] "Duo from The Real Singapore arrested under Sedition Act," *The Online Citizen*, February 18, 2015, http://www.theonlinecitizen.com/2015/02/18/duo-from-the-real-singapore-arrested-under-sedition-act/ (accessed February 20, 2015).

on one of the more than 30,000 articles posted on the website over the course of three years. In May 2015, the Media Development Authority, stating that TRS had "sought to incite foreigner sentiments in Singapore," notified TRS that the website must shut down within six hours and ordered the owners not to resume any online operations under any other name.[156]

Takagi and Kaiheng were accused of promoting "feelings of ill-will and hostility between different races or classes of the population of Singapore." None of the posts for which they were prosecuted encouraged any sort of public disorder, much less incited violence or overt discrimination against any particular religion or ethnic group.[157]

Takagi pled guilty to four counts of sedition and, on March 24, 2016, was sentenced to 10 months in prison.[158] Although her husband initially contested the charges against him, claiming he had minimal involvement in the website, he ultimately pled guilty as well, and was sentenced to eight months in prison.[159]

Prosecution of Nalla Mohamed Abdul Jameel

On March 2, 2017, the Singapore Police announced that they were opening an investigation into reports that an imam had made insensitive remarks about Christians and Jews in a Friday sermon. The complainant in the case reported that the imam referred

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[156] Media Development Agency of Singapore, "MDA Media Statement on TRS," news release, May 3, 2015, http://www.mda.gov.sg/AboutMDA/NewsReleasesSpeechesAndAnnouncements/Pages/NewsDetail.aspx?news=661#sthash.zhDGIzsB.dpuf (accessed October 9, 2015); "Socio-political site The Real Singapore taken down after MDA suspends editors' licence," *The Straits Times*, May 3, 2015, http://www.straitstimes.com/singapore/socio-political-site-the-real-singapore-taken-down-after-mda-suspends-editors-licence (accessed September 14, 2016),

[157] The articles included, in addition to the article on the Thaipusam procession: (1) an article submitted by an anonymous reader who claimed he quit his job because he found the behavior of his Filipino co-workers unbearable; (2) an article complaining that a woman from China had helped her grandson urinate in a bottle on public transport; (3) an article complaining that a particular company hired more foreigners than it did locals, and questioning whether it was fair in its treatment of Singaporeans; (4) an article from a reader asserting that he had fired two Filipino workers and an Indian worker; and (5) an article asking why the government allowed "strippers" from China to enter the country. See Public Prosecutor v. Ai Takagi, Statement of Facts, March 8, 2016.

[158] "The Real Singapore's former editor Ai Takagi sentenced to 10-months jail," *The Online Citizen,* March 24, 2016, https://www.theonlinecitizen.com/2016/03/24/real-singapores-former-editor-ai-takagi-sentenced-10-months-jail/ (accessed March 25, 2016).

[159] "TRS co-founder Yang Kaiheng jailed 8 months for sedition," *The Straits Times,* June 28, 2016, http://www.straitstimes.com/singapore/courts-crime/trs-co-founder-yang-kaiheng-jailed-8-months-for-sedition (accessed June 29, 2016).

to Christians and Jews using the Arabic word "*fanswerna*," which means "to overcome."[160] On March 31, the imam, Nalla Mohamed Abdul Jameel, made a public apology to Christians and Jews for his remarks in front of a multi-faith audience.[161] On April 3, he pled guilty to promoting enmity between different groups on account of religion and to committing an act prejudicial to religious harmony, and was fined S$4,000.[162] He was subsequently asked to leave the country.

Recommendation to the Singapore government

- Repeal the Sedition Act in its entirety.

Penal Code Section 298: Wounding Religious Feelings

Section 298 of the Penal Code criminalizes expression of any kind that is deliberately intended to wound the religious or racial feelings of any person and carries a possible penalty of up to three years in prison. This provision effectively criminalizes speech that may offend others or be viewed as insulting to their religion. Laws that prohibit "outraging religious feelings" were specifically cited by the former UN special rapporteur on the right to freedom of expression, Frank La Rue, as an example of overly broad laws that can be abused to censor discussion on matters of legitimate public interest.[163]

Freedom of expression is applicable not only to information or ideas "that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population."[164] A prohibition on speech that wounds someone's religious or racial feelings or is perceived as insulting

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[160] "Imam being probed over comments on Christians and Jews," *The Straits Times*, March 2, 2017, http://www.straitstimes.com/singapore/imam-being-probed-over-comments-on-christians-and-jews (accessed July 12, 2017).

[161] "Imam apologizes to Christians, Jews for remark," *Free Malaysia Today*, March 31, 2017, http://www.freemalaysiatoday.com/category/nation/2017/03/31/singapore-imam-apologises-to-christians-jews-for-remarks/ (accessed September 18, 2017).

[162] "Imam who made offensive remarks about Jews and Christians will be asked to leave Singapore," *The Straits Times*, April 3, 2017, http://www.straitstimes.com/singapore/imam-who-made-offensive-remarks-against-christians-and-jews-charged-in-court (accessed September 18, 2017).

[163] La Rue Report, September 2012, UN Doc. A/67/357, para. 52.

[164] European Court of Human Rights, *Handyside v. United Kingdom*, para. 49. See also UN Human Rights Committee, General Comment No. 34, para. 11.

someone's religion or race, reinforced by criminal penalties, is neither necessary to protect a legitimate interest nor is it proportionate to the supposed interest being protected.[165]

Section 298 enables prosecutions based on the subjective response of those who hear the speech, and can be used by the majority to silence those with whom they disagree. The stifling of the discussion of religious differences is likely to lead to discrimination and efforts to silence dissenting voices, rather than to communal harmony. Rather than prosecuting "insulting" speech, government and religious leaders should "actively promote tolerance and understanding towards others and support open debates and exchange of ideas."[166] The Singapore government should counter speech viewed as "insulting" to religion or through affirmative or non-punitive measures, including public education, promotion of tolerance, and publicly countering libelous, or incendiary misinformation.

David Kaye, the UN special rapporteur on the promotion and protection of freedom of opinion and expression, has expressed grave concern about Singapore's use of section 298, noting that:

> Tolerance and the rights of others are legitimate aims for any state to pursue. However, the criminalisation of a broad range of legitimate, even if offensive, expression is not the right tool for this purpose, and may well have the opposite effect. International human rights law allows only serious and extreme instances of incitement to hatred to be prohibited as criminal offences, not other forms of expression, even if they are offensive, disturbing or shocking.[167]

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[165] UN Human Rights Committee, General Comment No. 34, para. 34. See also UN Human Rights Committee, Decision: *Ballantyne v. Canada*, para. 11.4 (restriction on advertising in English not necessary to achieve stated aim of protecting the francophone population of Canada).

[166] La Rue Report, September 2012, UN Doc. A/67/357, para. 85.

[167] OHCHR, "Teenage blogger trial part of Singapore's efforts to erase criticism, UN rights expert warns," news release, August 15, 2016, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20377&LangID=E (accessed August 15, 2016).

Prosecution of Amos Yee

On March 23, 2015, former prime minister Lee Kuan Yew died. Four days later, 16-year-old blogger Amos Yee posted an eight-minute video online entitled, "Lee Kuan Yew is Finally Dead," in which he strongly criticized Lee, referring to him as a dictator and criticizing the ongoing state of mourning.[168] Among other things, he said:

> Lee Kuan Yew was a horrible person, because everyone is scared. Everyone is afraid if they say something like that, they might get into trouble… which, give Lee Kuan Yew credit, that was primarily the impact of his legacy. But I'm not afraid.

Yee's criticism of Lee Kuan Yew included a mocking comparison between the former prime minister and Jesus Christ, lasting approximately 30 seconds, suggesting that both were "power-hungry and malicious" and that the followers of both had been misled.

The video expresses many of the themes Yee had previously explored on his blog, including political indoctrination in Singapore, income inequality, Lee Kuan Yew's history of bankrupting his political opponents, and the lack of spending on public services. He concluded by expressing the hope that, with Lee Kuan Yew dead and elections upcoming, things might change in Singapore.

The following day, Yee uploaded a line drawing of two people having sex, on which he had pasted the faces of Lee Kuan Yew and Margaret Thatcher, who was once quoted as saying that Lee Kuan Yew was "never wrong."[169]

On March 29, Yee was arrested at his home: "I was sleeping. My father asked me to come out. I opened the door and they came in. They seized my computer, my camera, lots of other things."[170] Two days later, he was charged with insulting Christianity in violation of

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[168] YouTube, "Lee Kuan Yew is Finally Dead," https://www.youtube.com/watch?v=6jMODDfNEoY&feature=youtu.be.

[169] *Public Prosecutor v. Amos Yee Pang Seng*, Decision of District Court, May 12, 2015, paras. 4-5, http://www.dodwell-law.com/wp-content/uploads/2015/05/Amos-Yee-Judgment-dated-12.05.15.pdf.

[170] Human Rights Watch interview with Amos Yee, Singapore, October, 2015.

Penal Code section 298 and transmitting an obscene image electronically in violation of Penal Code section 292(1)(a).[171]

When asked whether he was surprised to be charged with a crime for his posts, he said that he was: "I was especially surprised that it was for religion and for obscenity. I thought that, if anything, I would be charged for criticizing Lee Kuan Yew."[172] He was released on bail under conditions that forbade him to post anything online. Over the next several weeks, Yee violated his bail conditions several times by posting material online, and was ultimately remanded when no one came forward to post bail.

Yee's trial took place on May 7 and 8, 2015. There were no witnesses — just an agreed statement of facts and Yee's post-arrest statement. The judge in the case interpreted section 298 broadly, stating that "to wound the religious feelings simply means to give offence to any person."[173] She found that Yee's statements about Jesus were "clearly derogatory and offensive to Christians" and that by asserting "that Christians have no real knowledge of the bible… is insulting and offensive to the Christian community."[174]

The judge further found that the requisite intent could be inferred if the author knew his expression could offend and his act was premeditated.[175] She rejected the defense's argument that Yee's "real and dominant" intention was not to offend Christians, and that the Jesus analogy "w[as] included in good faith to support the critique of late Lee Kuan Yew."[176] The court's determination that deliberate intent to wound religious feelings can be inferred by the mere fact that Yee "knew" the expression could offend makes section 298 even more susceptible to abuse.

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[171] He was also charged with violation of section 4(1)(b) of the Protection Against Harassment Act, which makes it a crime to make any make any threatening, abusive or insulting communication "which is heard, seen or otherwise perceived by any person (referred to for the purposes of this section as the victim) likely to be caused harassment, alarm or distress." That charge was dropped prior to trial.

[172] Human Rights Watch interview with Amos Yee, Singapore, October 2015.

[173] *Public Prosecutor v. Amos Yee Pang Sang*, para. 32.

[174] *Public Prosecutor v. Amos Yee Pang Sang*, para. 33.

[175] *Public Prosecutor v. Amos Yee Pang Sang*, para. 49.

[176] *Public Prosecutor v. Amos Yee Pang Sang*, para. 48.

On May 12, Yee was convicted of both offenses. After Yee indicated that he did not wish to be placed on probation, the government requested that he be sent for "reformative training."[177] On June 2, he was remanded to Changi Prison for three weeks for an assessment to determine whether he was a suitable candidate for a reformative training. At a pre-sentence hearing on June 23, the court was told that Yee was physically and mentally fit for reformative training, but that he might have an autistic spectrum disorder. The court then ordered Yee remanded at the Institute of Mental Health for two weeks to assess his suitability for a mandatory treatment order.[178]

By the time of his sentencing hearing on July 6, Yee had spent 53 days on remand or at the Institute of Mental Health. He was sentenced to one week in prison for the obscenity charge and three weeks in prison for the section 298 charge, to run consecutively. The sentence was backdated to June 2, meaning that he was considered to have served his full sentence, and he was released from custody. His conviction was affirmed on appeal. As Yee said:

> In my case, the judge said it wasn't freedom of speech, it was a license to offend and annoy. But that is what freedom of speech is. If freedom of speech is not that, you don't need the constitutional rule.[179]

According to Sinapan Samidorai of Think Centre:

> Amos is an extreme case that shows how the government treats people who speak out. They wanted to take him down. He was intelligent and vocal, but

[177] Reformative training lasts from 18 months to three years and is typically used to try to "reform" youthful gang members. On June 21, 2015, the UN Office of the High Commissioner for Human Rights, Southeast Asia, issued a statement calling for the government to withdraw its request for reformative training, noting that a stay in a reformative training center is "akin to detention and usually applied to juvenile offenders involved in serious crimes." Southeast Asia Regional Office, UN Office of the High Commissioner for Human Rights, "United Nations Human Rights Office urges the Singapore Government to consider the best interests of the child in Amos Yee court case," news release, June 22, 2015, http://bangkok.ohchr.org/files/ROB%20Press%20Statement%20220615.pdf.

[178] "Amos Yee remanded at IMH," *The New Paper*, June 24, 2015, http://www.tnp.sg/news/singapore-news/amos-yee-remanded-imh#sthash.RcolCpe4.dpuf (accessed March 10, 2017). Under a mandatory treatment order, Yee could have been involuntarily committed to a psychiatric institution for treatment for up to two years.

[179] Human Rights Watch interview with Amos Yee, Singapore, October 2015.

> there is no space for that in Singapore. When the old man died, many of us felt the same, but only he said it.[180]

Second Prosecution of Amos Yee

After his release from prison, Amos Yee resumed his online activity. He said:

> I have a voracious need to reveal what is stupid and reveal things that are illogical… I understand people might get fearful and traumatized, and I experienced that for a while, but not anymore.[181]

He posted regularly on his blog and on Facebook. On November 27, 2015, he uploaded a post on his personal blog attacking Islam and condemning former Singapore Member of Parliament Calvin Cheng for a statement calling for the killing of terrorists' children. This was one of a number of online posts in which Yee, who describes himself as an atheist, criticized various religions.

On May 11, 2016, he was arrested and questioned about several social media posts that were allegedly offensive to Muslims or Christians. On May 26, Yee was charged with six counts of violating section 298 for posts on social media in November 2015. Five of the charges accused him of offending Muslims, while one accused him of offending Christians.[182] He faced the possibility of up to three years in prison on each charge.

Yee, who was still only 17 years old, represented himself at trial. Before the start of his trial, the special rapporteur on freedom of expression David Kaye expressed grave concern about the prosecution:

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[180] Human Rights Watch interview with Sinapan Samidorai, Singapore, May 2017.

[181] Human Rights Watch interview with Amos Yee, Singapore, October 2015.

[182] "Singapore teenage blogger Amos Yee back in court for 'insulting Islam,'" *International Business Times*, May 26, 2016, http://www.ibtimes.sg/singapore-teenage-blogger-amos-yee-back-court-insulting-islam-1622 (accessed September 15, 2016). He was also charged with two counts of failing to obey orders of a public servant in violation of Penal Code section 174, for failing to appear at the police station when ordered to do so.

First, the trial concerns an expression that is lawful under international human rights law, and second, the person being tried is considered a child under international human rights law.[183]

Yee ultimately pled guilty to six charges of offending religious feelings and, on September 29, was sentenced to six weeks in prison and fined S$2,000, with an additional 10 days in prison if he failed to pay the fine.[184] He spent 21 days in prison and 14 days on home detention.[185] In December, Yee flew to the United States, where he requested political asylum.[186]

Recommendation to the Singapore Government

- Repeal section 298 of the Penal Code to abolish the offense of "wounding religious feelings."

Parliamentary Elections Act

Under Singapore's Parliamentary Elections Act, it is a criminal offense for any person to publish "election advertising" on election day or the day preceding election day ("cooling off day").[187] Violation of the ban is a criminal offense punishable by up to one year in prison and a fine of up to S$1,000. The ban does not apply to the transmission of personal political views by individuals to other individuals, on a non-commercial basis, using the internet, telephone, or electronic means.[188] The law also excludes the publication of news

[183] OHCHR, "Teenage blogger trial part of Singapore's efforts to erase criticism, UN rights expert warns," news release, August 15, 2016, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20377&LangID=E (accessed August 15, 2016).

[184] "Teen blogger Amos Yee gets 6 weeks' jail and $2,000 fine for wounding religious feelings," *The Straits Times*, September 29, 2016, http://www.straitstimes.com/singapore/courts-crime/teen-blogger-amos-yee-gets-six-weeks-jail-and-2000-fine-for-wounding (accessed September 29, 2016).

[185] "Amos Yee to be released on home detention," *Independent*, November 1, 2016, http://theindependent.sg/amos-yee-to-be-released-on-home-detention/ (accessed January 6, 2017).

[186] "Singapore teen critic Amos Yee held in US while appealing for asylum," *Telegraph*, December 24, 2016, http://www.telegraph.co.uk/news/2016/12/24/singapore-teen-critic-amos-yee-held-us-appealing-asylum/ (accessed January 6, 2017). On March 24, 2017, a US immigration judge granted Yee's application for asylum, finding that Yee had been persecuted for his political opinions and was at risk of further persecution if he returned to Singapore. That decision was upheld on appeal on September 26, 2017.

[187] Parliamentary Elections Act, sec. 78B(1), http://statutes.agc.gov.sg/aol/search/display/view.w3p;ident=71bf2e6d-737f-462c-b60e-0ee2f33630af;page=0;query=DocId%3A%228cc6883c-c5f5-4e3c-bad4-e3b6992999a5%22%20Status%3Ainforce%20Depth%3A0;rec=0#pr78B-he-.

[188] Parliamentary Elections Act, sec. 78B(2)(c).

related to the election, but that exception is only applicable to publications covered by the Newspaper and Printing Presses Act and to radio and television stations covered by the Broadcasting Act.[189] The law has been used to harass and intimidate vocal supporters of the opposition and the alternative media.

Investigation of Activists Roy Ngerng and Teo Soh Lung

In May 2016, Singapore held a by-election in Bukit Batok constituency to elect a replacement for a member of Parliament who had resigned over a personal indiscretion. The two candidates in the election were Murali Pillai of the PAP and Chee Soon Juan of the opposition SDP. Blogger and activist Roy Ngerng and activist and former ISA detainee Teo Soh Lung both openly supported Chee's campaign, regularly posting about their support on their personal Facebook pages. According to Teo Soh Lung:

> I posted several pieces to my Facebook page [during the cooling off period]… I was very clear when I posted that I am not subject to cooling off day rules. What made me post them was the 10 p.m. news, which reported a lot on what PAP said at its last rallies, but only gave two minutes to the SDP. It was a very one-sided broadcast. I was very angry about this so I sat down and wrote. By the time I posted it was past midnight, but I wasn't worried because I was sure I wasn't committing any offense. Then I went to sleep.[190]

Similarly, Roy Ngerng posted several pieces about the election on his Facebook page and on his blog.

Several weeks later, both received notices to appear at the police station for investigation. On May 31, both were intensively interrogated by the police over allegations that they had violated the rules against election advertising during the cooling-off period. Although Teo was represented by counsel, Ngerng had no lawyer present during his interrogation. Teo said that the police told her they were going to seize her cell phone:

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[189] Parliamentary Elections Act, sec. 78B(2)(b). By limiting the venues that can post "news" about the election during the cooling-off period to newspapers covered by the Publication and Printing Presses Act and radio and television stations covered by the Broadcasting Act, all of which are required to be controlled by individuals approved by the government, the law effectively tips the balance in favor of pro-government news coverage during the cooling-off period.

[190] Human Rights Watch interview with Teo Soh Lung, Singapore, April 2017.

> It was a new Galaxy 6 bought only two months before. It cost me S$800… I didn't deny posting, but I did it from my computer, not from my phone… Three officers came in and said, "You give it to us or we will handcuff you and have you arrested."[191]

After seizing her phone, four officers accompanied Teo to her home, where they were met by four additional officers. The police searched her home and seized a laptop that she said she never used for Facebook and the CPU for her computer.[192]

At about the same time, the police questioned Ngerng and then took him to his home where the police seized two laptops, three hard disks, memory cards, and his cell phone. He was then taken back to the police station, where he was interrogated further and ordered to provide the passwords for his social media accounts. In total, he was interrogated for almost eight hours.[193]

Ngerng said the police questioned him about 14 posts on his Facebook page and his blog, some of which made no mention of Chee Soon Juan or the by-election. For example, he was questioned about a post discussing taxes and social security, and a post discussing ways to make Singapore a fairer and more equal society.[194] In a Facebook post about the investigation, he said: "In truth, they do not want me to talk about these issues. And they are using the Cooling-Off Day as an excuse to intimidate me from speaking up about these issues."[195]

On February 13, 2017, Teo received a letter from the police informing her that the investigation had been completed and that she should appear at the police station to hear the outcome and retrieve the items seized from her.[196] On July 10, she collected her property from the police station and was served with a "stern warning" for breaching the election advertising ban, and using criminal force to deter a public servant from the

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[191] Human Rights Watch interview with Teo Soh Lung, Singapore, April 2017.

[192] Human Rights Watch interview with Teo Soh Lung, Singapore, April 2017.

[193] Roy Ngerng Yi Ling Facebook post, June 3. 2016.

[194] Roy Ngerng Yi Ling Facebook post, June 3, 2016.

[195] Roy Ngerng Yi Ling Facebook post, June 4, 2016.

[196] Copy of the letter on file with Human Rights Watch.

discharge of his duties.[197] Teo noted on her Facebook page that she had defenses to both alleged offenses but "since the warning has no legal effect, there is no necessity for me to delve into them."[198] She added: "The raid and seizure of my personal computers and mobile phone by eight police officers have caused great distress, inconvenience and expense to me." Ngerng was also informed that the investigation had been concluded and that he could come and collect his seized items, but he has not done so as he has relocated to another country.[199]

Investigation of The Independent Singapore

The police also initiated an investigation of the website *The Independent Singapore* in May 2016 for violation of the cooling off rules in connection with the Bukit Batok by-election.[200] The investigation centered on three articles on the website during the cooling off period: (1) an article reporting on a speech made by Deputy Prime Minister Tharman Shanmugaratnam at a PAP rally indicating that he was willing to debate proposals put forward by the SDP, but not in Parliament; (2) interviews with five members of the Workers' Party, which was not running any candidates, about the election; and (3) a report on a statement about the election by former presidential candidate Tan Cheng Bock. According to Kumaran Pillai, publisher of *The Independent Singapore,* "We did what we thought was plain reporting of things that happened before cooling off day."[201]

Several weeks later, Pillai was called in for police questioning, which lasted 11 hours. Pillai said:

> They asked about 12 questions per article. They would start with, "This article was posted on your website, is that correct? Who wrote it? Who posted it?

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[197] Teo Soh Lung Facebook page, July 25, 2017, https://www.facebook.com/sohlung.teo (accessed August 18, 2017).

[198] Teo Soh Lung Facebook page, July 25, 2017, https://www.facebook.com/sohlung.teo (accessed August 18, 2017).

[199] Jason Chua Chin Seng, founder of the pro-PAP Facebook page "Fabrications about the PAP," a political Facebook page which has about 85,000 followers and openly supports the PAP, was also investigated for violation of the cooling-off rules for calling on people to vote for the PAP candidate. Like the others, he was questioned, had his home searched and had devices seized, and was ultimately issued a "stern warning."

[200] Because online news sites are not governed by the Publication and Printing Press Act, the exclusion from the cooling-off day rules for "publication of news about an election" does not apply. Political Elections Act, sec. 78B(2)(b).

[201] Human Rights Watch interview with Kumaran Pillai, Singapore, April 2017.

> What were you trying to achieve by posting it? Did you think it would put PAP in a negative light? Would it put the opposition in a positive light?"[202]

He was called in for another two rounds of questioning. The second time he went in, "they threw me in a police car and went to my office, my home."[203] The police seized his cell phone and two laptops. "I feel I have been stripped," Pillai said. "They know everything about my life."[204]

The police also called in editor Ravi Philemon and lawyer Alfred Dodwell, who is a director of the company, for questioning. Dodwell, who says he does not play a role in deciding what articles are published, represented Amos Yee in his first case, and has defended various other individuals prosecuted for speech-related offenses. According to Dodwell:

> The police powers are what I have a problem with. It is an arrestable offense. That means they can have a field day looking through your devices, come and seize things… If we say we were hacked, then they can question and see how it was posted and from which computer. But if we accept that we have posted it… the only question is whether these posts violate the rules. There is absolutely no purpose served by arresting the person, taking devices, and going through them. It is a needless violation of a person's privacy… The purpose is to instill fear. If you post, the response won't be a slap on the wrist. You will be arrested, held, your devices seized.[205]

On February 16, 2017, the Singapore Police Force issued a press release stating that Pillai, Philemon, and Dodwell had been given "stern warnings" in lieu of prosecution.[206] The press release further stated that, "Should any of the parties commit similar offences in

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[202] Human Rights Watch interview with Kumaran Pillai, Singapore, April 2017.

[203] Human Rights Watch interview with Kumaran Pillai, Singapore, April 2017.

[204] Human Rights Watch interview with Kumaran Pillai, Singapore, April 2017.

[205] Human Rights Watch interview with Alfred Dodwell, Singapore, April 2017.

[206] Singapore Police Force, "Stern Warnings Issued in Relation to Cooling-Off Day Breaches during the 2016 Bukit Batok By-Election," news release, February 16, 2017, http://www.police.gov.sg/news-and-publications/media-releases/20170216_others_warnings_cooling_days."

subsequent elections, the stern warning that was administered can be taken into consideration in the decision to prosecute."[207]

When asked about the impact of the warning, Pillai responded, "I think the warning is for people not to associate themselves with me and the *Independent*. If they do and go down that path this is what they will get themselves into. It is a warning for the rest."[208]

Recommendations to the Singapore Government

- Amend section 78B of the Parliamentary Elections Act so that violations of the restrictions on election advertising are not considered "arrestable offenses" within the meaning of the Code of Criminal Procedure.
- Amend section 78B(2) to include online news sites among those permitted to publish "news" about an election during the cooling off period.

Regulation of Assemblies: The Public Order Act

The Singapore government maintains severe restrictions on the right to freedom of peaceful assembly through the Public Order Act of 2009 (POA), which requires a police permit for any "cause-related" assembly if it is held in a public place, or if members of the general public are invited. At the time the law was passed, Prime Minister Lee Hsien Loong offered a national security justification, stating that the new POA was required because "stability for us is an existential issue — both economically and as a society."[209]

As the UN Human Rights Council has recognized, the ability to exercise the right of peaceful assembly subject only to restrictions permitted under international law is indispensable to the full enjoyment of the right, "particularly where individuals may espouse minority or dissenting views."[210] The UN special rapporteur on the rights to freedom of assembly and of association has made clear that "freedom is to be considered

[207] Singapore Police Force, "Stern Warnings Issued in Relation to Cooling-Off Day Breaches during the 2016 Bukit Batok By-Election," news release, February 16, 2017, http://www.police.gov.sg/news-and-publications/media-releases/20170216_others_warnings_cooling_days.

[208] Human Rights Watch interview with Kumaran Pillai, Singapore, April 2017.

[209] Thio Li-ann, *A Treatise on Singapore Constitutional Law* 851 (2012), p. 263.

[210] UN Human Rights Council, Resolution 15/21, October 6, 2010, UN Doc. A/HRW/RES/15/21, preamble.

the rule, and its restriction the exception."[211] The Public Order Act and other regulations governing assemblies in Singapore fall far short of these international standards.

Permit Requirement

The Public Order Act requires a police permit for any "public assembly" or "public procession," and makes it a criminal offense to protest without a permit. However, under international law freedom of assembly is a right and not a privilege, and as such its exercise should not be subject to prior authorization by the authorities.[212]

The permit requirement is particularly egregious given the broad sweep of the law. The POA defines an assembly as:

> a gathering or meeting (whether or not comprising any lecture, talk, address, debate or discussion) of persons the purpose (or one of the purposes) of which is (a) to demonstrate support for or opposition to the views or actions of any person, group of persons or any government; (b) to publicize a cause or campaign; or (c) to mark or commemorate any event, and includes a demonstration by a person alone for any such purpose referred to in paragraph (a), (b) or (c).[213]

The only outdoor venue in which an assembly may be held without a police permit is Speakers' Corner, in Hong Lim Park (discussed below).[214]

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[211] Kiai Report, May 21, 2012, UN Doc. A/HRC/20/27, para. 16. See also, Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights, *Guidelines on Freedom of Peaceful Assembly* ("OSCE/ODIHR Guidelines"), 2nd edition, adopted by the Venice Commission on June 4, 2010, http://www.osce.org/odihr/73405, Guideline 2.1 ("As a fundamental right, freedom of peaceful assembly should, insofar as possible, be enjoyed without regulation.").

[212] Joint Report of the special rapporteur on the rights of freedom of peaceful assembly and of association and the special rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, February 4, 2016, UN Doc. A/HRC/31/66, para. 21. Similarly, the Guidelines on Freedom of Peaceful Assembly drafted by the Organization for Security and Co-operation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR) state that "those wishing to assemble should not be required to obtain permission to do so." OSCE/ODIHR Guidelines, Guideline 2.1.

[213] Public Order Act of 2009 (Revised 2012), chapter 257(A) § 2(1), available online at http://statutes.agc.gov.sg /aol/search/display/view.w3p;query=DocId%3A387d5223-4e87-42fb-88bd-1b1b47c61433%20%20Status%3 Ainforce%20Depth%3A0;rec=0;whole=yes (accessed November 9, 2015).

[214] Public Order (Unrestricted Area) Order 2016, sec. 2, enacted pursuant to Public Order Act, sec. 14.

The law covers not just outdoor gatherings, but also those held indoors if they are in a place open to the public, or if the public is invited.[215] Thus, anyone wishing to hold even an indoor discussion or debate that is open to the public is required to obtain a permit, which requires provision of detailed information about the event to the police, including a synopsis of the talk and the curricula vitae (CVs) of all speakers, at least four days in advance.[216] The only exception is for events (1) held wholly inside a building or other enclosed premise, (2) where the organizers and all the speakers are citizens of Singapore, and (3) that do not deal "with any matter which relates (directly or indirectly) to any religious belief or religion, or any matter which may cause feelings of enmity, hatred, ill-will or hostility between different racial or religious groups in Singapore."[217]

The commissioner of police may refuse to grant a permit if he has "reasonable ground" for apprehending that the proposed assembly or procession may:

(a) occasion public disorder, or damage to public or private property;
(b) create a public nuisance;
(c) give rise to an obstruction in any public road;
(d) place the safety of any person in jeopardy; or
(e) cause feelings of enmity, hatred, ill-will or hostility between different groups in Singapore.[218]

[215] An assembly is considered "public" and therefore requires a permit if it is held in "any place (open to the air or otherwise) to which members of the public have access as of right or by virtue of express or implied permission, whether or not on payment of a fee, whether or not access to the place may be restricted at particular times or for particular purposes, and whether or not it is an 'approved place' within the meaning of the Public Entertainments and Meetings Act." Public Order Act, section 2(1). Those wishing to hold a talk, discussion or debate that is open to the public, even if indoors, must provide detailed information to the police, including a synopsis of the talk and the CVs of all speakers at least four days in advance. Singapore Police Force, "Guidelines to hold a public talk, seminar, debate or discussion," April 21, 2016, http://www.police.gov.sg/e-services/apply/licenses-and-permits/police-permit/public-talk/guidelines#content (accessed September 18, 2017).

[216] Singapore Police Force, "Guidelines to hold a public talk, seminar, debate or discussion," http://www.police.gov.sg/e-services/apply/licenses-and-permits/police-permit/public-talk/guidelines#content.

[217] Public Order (Exempt Assemblies and Processions) Order 2009, http://statutes.agc.gov.sg/aol/search/display/view.w3p;ident=3b0154f1-86db-491d-a820-129c2d4cf7fc;query=CompId%3A3b0154f1-86db-491d-a820-129c2d4cf7fc%20ValidTime%3A20140312000000%20TransactionTime%3A20140312000000;rec=0.

[218] Public Order Act, sec. 7(2). Denial of a permit can be appealed to the Minister of Home Affairs, whose decision is deemed final. Public Order Act, sec. 11.

All assemblies and protests cause some inconvenience or nuisance, and many give rise to obstruction of public roads. That is not a basis, under international law, to prevent them.[219]

To comply with international legal standards, the current permit regime should be replaced with, at most, one of prior notification of a planned assembly. The sole purpose of the notice requirement should be to allow the government to facilitate a peaceful assembly by, for example, closing roads or redirecting traffic. It should not function "as a de facto request for authorization or as a basis for content-based regulation."[220] No notice should be required for assemblies or processions that do not require prior preparation by state authorities, such as those where only a small number of participants are expected or where the impact on the public is expected to be minimal.[221]

Moreover, if a notice regime is implemented, the requirements for giving notice should not be overly bureaucratic and the notice period should not be unreasonably long. The law should also provide an explicit exception to any notice requirements where giving such notice is impracticable due to the spontaneous nature of the assembly. Most importantly, the law should make clear that the failure to give notice does not render the assembly unlawful or justify the imposition of criminal penalties on the organizers.

Restrictions on Rights of Non-Citizens to Assemble

In March 2017, the Ministry of Home Affairs proposed amendments to the Public Order Act to provide the commissioner of police with explicit powers to reject permit applications for assemblies or processions directed towards a political end and organized by, or involving the participation of, anyone who is not a citizen of Singapore or a Singapore entity.[222] The phrase "directed towards a political end" is defined extremely broadly and even includes

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[219] Report of the special rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, May 2012, UN Doc. A/HRC/20/27, para. 32 ("A certain level of disruption to ordinary life caused by assemblies, including disruption of traffic, annoyance and even harm to commercial activities, must be tolerated if the right is not to be deprived of substance."); European Court of Human Rights, Sergey Kuznetsoz v. Russia, Judgment of October 23, 2008, [2008] ECHR 117, para. 44.

[220] Joint Report of the special rapporteur on the rights of freedom of peaceful assembly and of association and the special rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, February 4, 2016, UN Doc. A/HRC/31/66, para. 21.

[221] Ibid.

[222] Public Order (Amendment) Bill, Bill No. 16/2017, sec. 4. A Singapore entity is defined as one that is controlled by a management body, the majority of whose members are citizens of Singapore.

efforts to influence public opinion or to bring about changes in the law, whether in Singapore or anywhere else in the world.[223] The stated purpose of the amendment is "to restrict the political space given to a foreign entity or a foreign individual who intends to further, in Singapore, any political cause."[224]

The impact of this amendment is to restrict the ability of foreigners residing in Singapore to exercise their right to freedom of assembly. The Universal Declaration of Human Rights makes clear that "*everyone* shall have the right to peacefully assemble" and makes no distinction between citizens and non-citizens.[225] The UN Human Rights Committee has specifically stated that "aliens receive the benefit of the right of peaceful assembly."[226] The deprivation of the right of non-citizens to peacefully assemble is contrary to international legal standards and should be eliminated.[227]

The restriction on public speakers also impinges on the right of Singaporeans to seek and receive information. As one death penalty activist noted:

> There are experts from overseas with a wealth of knowledge on the death penalty and we want to share that with the public, but it is very difficult to do it… We haven't even bothered to apply [for a permit to feature foreign speakers] because we assume we won't get it, and we don't want to place

[223] "Directed towards a political end" is defined to include influencing or seeking to influence any of the following, whether in Singapore or elsewhere: (a) the interests of a political party or other group organized for political objects; (b) the outcome of elections or referendums; (c) the policies or decisions of national or regional governments; (d) the policies or decisions of persons on whom public functions are conferred by law; (e) the policies or decisions of persons on whom functions are conferred by or under international agreements; and (f) public opinion on any matter of public controversy. It further includes "bringing about or seeking to bring about changes in the law in the whole or a part of Singapore or elsewhere, or otherwise influencing, or seeking to influence, the legislative process in Singapore or elsewhere" and "promoting or opposing political views, or public conduct relating to activities that have become the subject or a political debate, in Singapore or elsewhere." Public Order (Amendment) Bill, sec. 4(c) (amending section 7 of the Public Order Act).

[224] Public Order (Amendment) Bill, 2016, Explanatory Statement.

[225] UDHR, art. 21 (emphasis added).

[226] UN Human Rights Committee, General Comment no. 15, The Position of Aliens Under the Covenant, UN Doc. HRI/GEN/1/Rev.1 at 18 (1994), http://www1.umn.edu/humanrts/gencomm/hrcom15.htm (accessed June 3, 2016), para. 7.

[227] Not only should non-citizens not be denied the right to assemble, particular effort should be made to ensure equal and effective protection of the rights of non-citizens and any groups or individual who have historically experienced discrimination. Joint Report, February 2016, UN Doc. A/HRC/31/66, para. 16.

these people on the government's radar as they may get into trouble the next time they come in.[228]

Banning of Assemblies or Processions

The Public Order Act empowers the minister of home affairs to prohibit the holding of any assembly, even if it has been granted a permit, if the minister is of the opinion that it is in the "public interest" to do so.[229] Such unrestricted discretion to prohibit an assembly is not consistent with international legal standards, which permit restriction of the right to freedom of assembly only where necessary in a democratic society to protect national security or public safety, public order, public health or morals, or the rights and freedoms of others.

The minister may also declare that no public assemblies or processions may be held in a particular public place if the minister feels it is in the "public interest" to do so.[230] The law also permits the minister of home affairs to prohibit the holding of all public assemblies or public processions of a given "class or description" for up to 28 days.[231] Among the factors the minister is permitted to consider are:

> (a) any serious public disorder or serious damage to public or private property which may result from public assemblies or public processions of a particular class or description in that public place during that period;
> (b) any serious public nuisance or obstruction in any public road, or threat to the safety of persons in that public place, that may result from such public assemblies or public processions;
> (c) any serious impact which such public assemblies or public processions may have on relations between different groups in Singapore; and
> (d) any undue demands which such public assemblies or public processions may cause to be made on the police or military forces.[232]

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[228] Human Rights Watch interview with death penalty activist, Singapore, April 2017.

[229] Public Order Act, sec. 13(1).

[230] Public Order Act, sec. 12. Such a declaration has the effect of cancelling any permit already issued to hold an assembly in that public place.

[231] Public Order Act, sec. 13(2).

[232] Public Order Act, sec. 13(2).

The banning of all assemblies of a certain "type" for 28 days is a disproportionate restriction on the right to freedom of assembly.[233] Moreover, the fact that an assembly may "impact relations" between different groups is not a basis to ban it, much less to ban all assemblies of the same type.

Imposition of Criminal Penalties

Section 16 of the Public Order Act authorizes the imposition of criminal penalties for organizing or participating in a public assembly for which no permit has been issued *even if the assembly was peaceful and caused no disruption of public order.* Criminal penalties can also be imposed on both the organizer and any participant in the assembly if the assembly, even though permitted, deviates from the notified date, time, or, for a procession, route, or if the assembly is "not in compliance with any condition imposed under section 8(2) on persons taking part in that assembly or procession."[234] For each such offense an organizer is liable to a fine of up to S$5,000, while any participant is liable to a fine of up to S$3,000, with enhanced penalties for "repeat offenders."

International norms establish that no one should be held criminally liable for the mere act of organizing or participating in a peaceful assembly.[235] The imposition of criminal penalties on individuals who fail to get permission from the government to peacefully assemble, or who deviate from an approved route, date or time, is disproportionate to any legitimate state interest that might be served.[236]

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[233] Joint Report of the special rapporteur on the rights of freedom of peaceful assembly and of association and the special rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, February 4, 2016, UN Doc. A/HRC/31/66, para. 30 ("To this end, blanket bans, including bans on the exercise of the right entirely or on any exercise of the right in specific places or at particular times, are intrinsically disproportionate, because they preclude consideration of the specific circumstances of each proposed assembly.").

[234] Public Order Act, sec. 16(1) and 16(2). Lack of knowledge of the lack of permit, deviation from route or violation of conditions is a defense to a charge against a participant. Public Order Act, sec. 17.

[235] Joint Report, February 2016, UN Doc. A/HRC/31/66, para. 27.

[236] Report of the special rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, May 2012, UN Doc. A/HRC/20/27, para. 29 ("Should the organizers fail to notify the authorities, the assembly should not be dissolved automatically and the organizers should not be subject to criminal sanctions, or administrative sanctions resulting in fines or imprisonment."). See also European Court of Human Rights, *Ezelin v. France*, (no. 11800/85), Judgment of 26 April 1991, Series A, no. 202, http://sim.law.uu.nl/SIM/CaseLaw/hof.nsf/233813e69762002c1256864005232b7/5b6a81da5bdc1790c1256640004c1a8f) (the imposition of penalties after an assembly is an interference with the right to freely assemble that must be justified under article 11(2) of the ECHR).

Impact of Public Order Act on Freedom of Assembly

The impact of the POA is to make it almost impossible to hold a public protest relating to anything remotely political anywhere other than in Hong Lim Park. As activist and opposition political candidate Osman Suleiman noted:

> Other than Speakers' Corner, I don't have a recollection of anyone getting approval for a protest. You are not even allowed to walk with a placard. Say I want to march to Parliament House with a placard. I can't do that. I would need a police permit, which would not be approved.[237]

Even prior to the 2017 amendments, the Singapore authorities routinely denied permits for any assembly or procession with a political focus, regardless of whether non-citizens were involved. A few examples:

- In 2010, the Humanitarian Organization for Migration Economics (HOME) and Transient Workers Count Too (TWC2) applied for a permit to hold a procession of trucks to highlight the fact that migrant workers had died after falling off the back of the open trucks in which they were being transported. The application was to hold the procession on December 18, the 20th anniversary of the United Nations International Convention for the Protection of Migrant Workers and Members of their Families. The groups also sought permission to hand out flyers containing information. Both applications were denied.[238]
- In April 2012, HOME applied for a permit to march on Labour Day. They planned to have migrant workers and locals walk together wearing t-shirts bearing the words: "Walk with Workers: Upholding the dignity of labour." The application for a permit was denied.[239]

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[237] Human Rights Watch interview with Osman Suleiman, Singapore, April 2017.

[238] "Migrant worker NGOs' appeal against rejection for vehicle procession," *The Online Citizen*, December 15, 2010, https://www.theonlinecitizen.com/2010/12/15/migrant-worker-ngos-appeal-against-rejection-for-vehicle-procession/ (accessed May 10, 2017).

[239] Martyn See, "2011-2015: A Chronology of Authoritarian Rule in Singapore," post to "Singapore Rebel" (blog), August 25, 2015, http://singaporerebel.blogspot.co.uk/2015/08/2011-2015-chronology-of-authoritarian.html (accessed September 25, 2015).

- In October 2013, the police denied a permit for a March for a Minimum Wage which was planned for International Human Rights Day. The police cited "risk of public disorder" in denying the permit.[240]
- In 2014, Nicolas Deroose applied for a permit to hold a "Pink Run" as part of an LGBT-pride festival called IndigNation. The police denied the permit, stating that "the act of running in pink is an act of advocacy and LGBT advocacy is socially divisive and thus a threat to public order."[241]
- Activist Rachel Zeng applied in January 2011 to hold a one-woman march on National Women's Day to draw attention to the fact that single mothers are not allowed to buy houses until they are 35. Her application was denied on January 26, 2011, with no reason cited. She appealed but the appeal was rejected.

While these events could, theoretically, have been held at Speakers Corner, the inability to hold assemblies "within sight and sound" of their intended target seriously limits the impact of those assemblies and is an excessive restriction on the right. International standards provide that the government has an obligation to facilitate peaceful assemblies "within sight and sound" of their intended target.[242] As Rachel Zeng, who works with the Singapore Anti-Death Penalty Campaign, said:

> The lack of freedom of assembly and expression seriously affects our ability to work. For example, when the Indonesians are about to execute someone, we can't protest outside the Indonesian embassy — we are limited to Hong Lim Park, which is nowhere near that embassy.[243]

Restricting protests to a venue far from the target of the protests cannot be justified as a reasonable restriction on freedom of assembly, nor can imposing criminal penalties on

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[240] Martyn See, "2011-2015: A Chronology of Authoritarian Rule in Singapore," post to "Singapore Rebel" (blog), August 25, 2015, http://singaporerebel.blogspot.co.uk/2015/08/2011-2015-chronology-of-authoritarian.html (accessed September 25, 2015).

[241] Human Rights Watch email correspondence with Nicholas Deroose, December 12, 2015; "Police turn down permit application for "Pink Run" LGBT event," *The Straits Times*, August 14, 2014, http://www.straitstimes.com/singapore/police-turn-down-permit-application-for-pink-run-lgbt-event (accessed March 10, 2017).

[242] Report of the special rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, April 2013, UN Doc. A/HRC/23/29, para. 60.

[243] Human Rights Watch interview with Rachel Zeng, Singapore, October 2015.

those who deviate from the assigned location when that location undermines the expressive value of the protest.

The "Million Mask March" Case

In November 2013, 10 people were arrested for planning a "Million Mask March," in honor of Guy Fawkes Day,[244] without a permit.[245] The march was part of a global movement that encouraged social protests around the world for a 24-hour period.[246] Though police had "advised the public that it was illegal to organize or take part in public assembly without a permit" that day, one of the prospective protesters and organizers, Jacob Lau Jian Rong, went to Hong Lim Park in the morning.[247] However, when the march did not materialize, he returned to his computer and put up a social media post with the aim of helping to organize the logistics for an evening march.[248] Police arrested Lau and nine others before they could begin the protest.[249]

The government subsequently filed charges against Lau for violating section 16 of the Public Order Act. On September 16, 2014, a court convicted Lau of organizing the event and fined him S$1,000 for violation of the POA permit requirement.[250]

The "President and Prime Minister Protesters"

In April 2015, two men, ages 24 and 25, were arrested for staging a protest without a permit in front of a complex that includes the offices of both the Singapore president and prime minister.[251] The two men were holding placards, one of which reportedly read: "You can't silence the people," while the other read: "Injustice." A Singapore Police Force spokesman

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[244] Guy Fawkes Day, celebrated annually primarily in Britain, originally commemorated the uncovering of the Gunpowder Plot of 1605.

[245] Human Rights Watch, *Singapore: World Report 2015*, https://www.hrw.org/world-report/2015/country-chapters/singapore.

[246] Elena Chong, "Man fined for organising procession in support of Million Mask March," *The Straits Times*, September 16, 2014, http://www.straitstimes.com/singapore/courts-crime/man-fined-for-organising-procession-in-support-of-million-mask-march (accessed November 12, 2016).

[247] Ibid.

[248] Ibid.

[249] Ibid.

[250] Human Rights Watch, *Singapore: World Report 2015*, https://www.hrw.org/world-report/2015/country-chapters/singapore.

[251] "Singapore arrests duo over protest outside PM, President's office, *Daily Mail*, April 6, 2015, http://www.dailymail.co.uk/wires/afp/article-3027120/Singapore-arrests-duo-protest-outside-PM-Presidents-office.html.

was quoted as saying that the pair were arrested after failing to comply with a request that they disperse.[252] No further details have been released regarding the identity of the two individuals or the outcome of their case.

The Jallikattu Protesters

On January 21, 2017, a group of predominantly Indian nationals gathered in Sembawang Park to show their opposition to a ban on the practice of Jallikattu in Tamil Nadu. Jallikattu is a traditional practice in which a bull is released into a crowd, which tries to grab hold of the bull's hump. The police opened an investigation into 30 people for assembling without a permit. The police issued a statement stressing that "foreigners visiting or living in Singapore have to abide by our laws. They should not import the politics of their own countries into Singapore. Those who break the law will be dealt with firmly, and this may include the termination of visas or work passes, where applicable."[253]

Prosecution for Participation of a Foreign Speaker: Civil Disobedience Forum

Community Action Network, a Singapore NGO focusing on civil and political rights, organized a forum on civil disobedience and social movements to be held at the Agora, an indoor venue, on November 26, 2016. The event was open to the public and advertised on Facebook and social media, but those wishing to attend were asked to RSVP. The event was streamed live on Facebook.[254] Speakers at the forum included artist Seelan Paley talking about protests in which he had participated, journalist Kirsten Han talking about what Singapore could learn from social movements elsewhere, and Hong Kong activist Joshua Wong, who participated via Skype from Hong Kong.[255]

The police contacted one of the organizers, Jolovan Wham, a few days before the event to inform him that the event needed a permit because Joshua Wong was a foreigner. Wham was

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[252] Ibid.

[253] "30 people arrested for suspected involvement in a public assembly without a police permit at Sembawang Park," *The Online Citizen*, January 23, 2017, http://www.theonlinecitizen.com/2017/01/23/30-people-arrested-for-suspected-involvement-in-a-public-assembly-without-a-police-permit-at-sembawang-park/ (accessed January 23, 2017).

[254] The video is available at: https://www.facebook.com/theonlinecitizen/videos/10154814857156383/.

[255] Human Rights Watch email correspondence with Kirsten Han, January 14, 2017; "Police launches investigation on public forum on civil disobedience for possible legal violation," *The Online Citizen*, December 23, 2016, http://www.theonlinecitizen.com/2016/12/23/police-launches-investigation-on-public-forum-on-civil-disobedience-for-possible-legal-violation/ (accessed January 3, 2017).

unable to get a permit in time. The organizers decided to proceed with the event anyway because they felt it was "a harmless and straightforward discussion of social movements."[256]

A few weeks later, Wham was called in for police questioning for having a foreign speaker without a permit.[257] Both Tan Tee Seng, who runs the venue, and Rachel Zeng, who helped to organize the forum, were also called in for questioning. Zeng was questioned for more than four hours and subjected to a search of her home. The police seized the laptop used in the event and a non-working laptop they found at Zeng's home. In addition, they took photos of her home, including her bedroom.[258] On November 29, 2017, Wham was charged with violation of the Public Order Act for failing to obtain a police permit for the participation of Joshua Wong.[259]

Prosecution for "Silent Protest"

On June 3, 2017, Jolovan Wham and eight other people held a "silent protest" on a Mass Rapid Transit (MRT) train to commemorate the thirtieth anniversary of the 1987 arrest and detention of 22 social activists and volunteers under the Internal Security Act. The nine people, each blindfolded and holding up a newly-released book, "1987: Singapore's Marxist Conspiracy 30 Years On," stood silently in the train car.[260] They then removed their blindfolds, sat in empty seats in the train car, and proceeded to read the book together.[261] Two sheets of paper calling for justice for the 1987 ISA detainees and opposing detention without trial were taped inside the train car for the duration of the protest.

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[256] "Police launches investigation on public forum on civil disobedience for possible legal violation," *The Online Citizen*, December 23, 2016, http://www.theonlinecitizen.com/2016/12/23/police-launches-investigation-on-public-forum-on-civil-disobedience-for-possible-legal-violation/ (accessed January 3, 2017).

[257] The police guidelines for holding a public talk indicate that a work permit is required for a public speaker, but do not specifically address a speaker who is not present in the country. Singapore Police Force, "Guidelines to hold a public talk, seminar, debate or discussion," para. 4, http://www.police.gov.sg/e-services /apply/licenses-and-permits/police-permit/public-talk/guidelines#content.

[258] Human Rights Watch interview with Rachel Zeng, Singapore, April 2017.

[259] "Charges Cast Spotlight on Singapore's Strict Rules on Public Gatherings," *New York Times,* November 29, 2017, https://www.nytimes.com/2017/11/29/world/asia/singapore-arrest-protests-gatherings.html (accessed November 29, 2017).

[260] The book, released on the 30th anniversary of the 1987 arrests, is a compilation of essays from former ISA detainees. https://www.ethosbooks.com.sg/collections/others/products/1987-singapore-s-marxist-conspiracy-30-years-on.

[261] "Activists protest on MRT to show solidarity for ISA detainees" *The Online Citizen,* June 4, 2017, https://www.theonlinecitizen.com/2017/06/04/activists-protest-on-mrt-to-show-solidarity-for-isa-detainees/. (accessed June 4, 2017).

On June 5, the Singapore Police Force announced that it was investigating, and on November 29, 2017, the police charged Jolovan Wham with organizing a public assembly without a police permit.[262] Wham was also charged with vandalism, which carries a penalty of up to three years in prison, for allegedly taping the two pieces of paper to the inside of the train.[263] The previous day the police had issued a news release stating that he would be charged, and that the other eight participants in the protest were still under investigation.[264]

Prosecution for Candlelight Vigil

The Singapore Police Force has treated even the simple act of holding a candlelight vigil to support the family of a man facing execution as a public assembly requiring a permit. On July 13, 2017, the night before the scheduled execution of Malaysian national S. Prabagaran, a small group gathered outside Changi prison to hold a candlelight vigil with his family. Within 15 minutes, the police arrived and confiscated both the candles and photographs of Prabagaran that had been hung on a fence. However, they told the participants that they did not have to leave if they did not light any more candles.[265]

More than six weeks later, the vigil participants received letters from the Singapore Police Force summoning them for questioning for holding an assembly without a permit.[266] According to the Singapore Police Force, a total of 17 people were being investigated.[267] Those under investigation were told that they could not leave the country until after they appeared for questioning, and that the travel ban could be extended for the duration of the

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[262] "Police looking into silent protest on MRT train," *The Straits Times,* June 5, 2017, http://www.straitstimes.com/singapore/police-looking-into-silent-protest-on-mrt-train (accessed November 28, 2017).

[263] "Charges Cast Spotlight on Singapore's Strict Rules on Public Gatherings," *New York Times,* November 29, 2017, https://www.nytimes.com/2017/11/29/world/asia/singapore-arrest-protests-gatherings.html (accessed November 29, 2017).

[264] "Man To Be Charged In Court For Multiple Offences Of Organising A Public Assembly Without A Police Permit," Singapore Police Force news release, November 28, 2017, https://www.police.gov.sg/news-and-publications/media-releases/20171128_arrest_man_to_be_charged_in_court (accessed November 28, 2017).

[265] Community Action Network, "Police Should Stop Harassing Civil Society Activists," blog post, September 6, 2017, https://singaporecan.wordpress.com/ (accessed September 6, 2017); Human Rights Watch email correspondence with vigil participant, September 6, 2017.

[266] Kirsten Han Facebook post, September 6, 2017 (accessed September 6, 2017).

[267] "17 people under police investigation over possible illegal assembly outside Changi Prison," *The Straits Times*, September 9, 2017, http://www.straitstimes.com/singapore/seventeen-people-under-police-investigation-over-possible-illegal-assembly-outside-changi (accessed September 18, 2017).

investigation.[268] On November 29, Jolovan Wham was charged with organizing a public assembly without a permit.[269] The police announced that the others who participated in the candlelight vigil were still under investigation.[270]

Recommendations to the Singapore Government

- Amend the Public Order Act to specifically recognize the government's obligation to facilitate peaceful assemblies.
- Amend the definition of "public assembly" and "public place" to exclude gatherings held indoors.
- Amend section 5 and repeal section 7 of the act to eliminate the requirement for a permit for an assembly or procession.
- Amend section 5 to require advance notice of an assembly only if it will involve, for instance, more than 50 people and of a procession only if it will involve, for instance, more than 10 people. The purpose of the notice requirement should be to allow the authorities to take steps to facilitate the assembly and should not function as a de facto request for authorization.
- Amend section 6 of the act to limit the information required to be provided in advance of an assembly or procession to that required to facilitate the assembly or procession and ensure public safety, such as date, time, location, and expected number of participants; streamline the notice requirements for an assembly or procession. The notice period should not exceed 48 hours in advance of the planned assembly or procession.
- Amend section 5 of the act to provide an explicit exception to the notice requirement for spontaneous assemblies where it is not practicable to give advance notice.
- Amend sections 12 and 13 of the act to limit the discretion of the Minister of Home Affairs to ban assemblies to instances in which doing so is necessary to prevent violence or serious public disorder.

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[268] Kirsten Han Facebook page, September 8, 2017.

[269] "Charges Cast Spotlight on Singapore's Strict Rules on Public Gatherings," *New York Times,* November 29, 2017, https://www.nytimes.com/2017/11/29/world/asia/singapore-arrest-protests-gatherings.html (accessed November 29, 2017).

[270] "Man To Be Charged In Court For Multiple Offences Of Organising A Public Assembly Without A Police Permit," Singapore Police Force news release, November 28, 2017, https://www.police.gov.sg/news-and-publications/media-releases/20171128_arrest_man_to_be_charged_in_court (accessed November 28, 2017).

- Repeal sections 15 and 16 of the act to eliminate the criminal penalties for organizing or participating in a peaceful assembly or procession without a permit, holding an assembly or procession at a date and time that differs from that stated in the notice, or for failing to comply with conditions imposed on the gathering. No criminal penalties should be assessed for organizing or participating in a peaceful assembly.

"Unrestricted" Areas: Speakers' Corner

The Public Order Act authorizes the minister of home affairs to designate a public place as an "unrestricted area," in which assemblies may be held without giving notice and receiving a permit.[271] Pursuant to that provision, the minister of home affairs designated Speaker's Corner as an "unrestricted area" at the time the Public Order Act was passed.[272] Even within Speakers' Corner, however, the right to freedom of expression and assembly remains sharply restricted. Moreover, the creation of such spaces in no way justifies or balances the excessive restrictions on rights that remain firmly in place in "restricted" areas – that is, the rest of the Singapore city-state.

Exclusion of Non-Citizens

The "unrestricted area" is only unrestricted, by its terms, for those who are citizens of Singapore.[273] Any non-citizen who wishes to organize or speak at an assembly at Speakers' Corner must still comply with the requirements of the Public Order Act.[274]

Prior to October 2016, non-citizens could be present in the park as long as they did not "take part in the demonstration."[275] On October 31, 2016, the rules on the use of Speakers' Corner were further tightened with the issuance of Public Order (Unrestricted Area) (Amendment) Order 2016.[276] Under the new rules, non-citizens are not permitted to

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[271] Public Order Act, sec. 14.

[272] Public Order (Unrestricted Area) (No. 2) Order 2009The area was first opened as Speakers' Corner on September 1, 2000, as the only place in Singapore where citizens could speak or assemble without obtaining a license under the then-applicable Public Entertainment and Meetings Act.

[273] Public Order (Unrestricted Area) (No. 2) Order 2015, sec. sec. 3(1)(a), 4(1)(a), 5(1)(a).

[274] Public Order (Unrestricted Area) (Amendment) Order 2016, sec. 5(1).

[275] Public Order (Unrestricted Area) (No. 2) Order 2015, sec. 4(1)(b).

[276] Public Order (Unrestricted Area) (Amendment) Order 2016, http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=Id%3Ab80d100e-d76e-4467-addo-fceeefb5a1ea%20Depth%3A0%20Status%3Apublished%20Published%3A31%2F10%2F2016;rec=0;resUrl=http%3A%2F%2Fstatutes.agc.gov.sg%2Faol%2Fsearch%2Fsummary%2Fresults.w3p%3Bpage%3D0%3Bquery%3DId%253Ab80d100e-d76e-4467-addo-fceeefb5a1ea%2520Depth%253A0%2520Status%253Apublished%2520Published%253A31%252F10%252F2016.

A map of Speakers' Corner, in Hong Lim Park, Singapore. © 2017, private

"participate" in any "assembly or procession."[277] Non-citizens who "participate" in an assembly or procession face a fine of up to S$3,000, and organizers who permit participation of non-citizens face up to six months in jail or a fine of up to S$10,000. The rules do not define "participation," but the police have made clear that the mere presence of a non-citizen at an assembly will be treated as participation and thus in violation of the law.[278] Prohibiting non-citizens from even entering the venue means that, where a family includes both a Singapore citizen and a non-Singapore citizen, the non-Singapore citizen is prevented from even observing, much less participating in, the event.[279]

[277] Public Order (Unrestricted Area) (Amendment) Order 2016, para. 5.

[278] "Announcement on Speakers' Corner Restrictions for Pink Dot SG 2017," posted on the official Facebook page of Pink Dot SG, May 14, 2017 ("As organisers, we were reminded by the Singapore Police Force that with these changes, the law no longer distinguishes between participants and observers, and regards anyone who turns up to the Speakers' Corner in support of an event to be part of an assembly.")

[279] "Singapore LGBT activists hold rally with no foreigners," *BBC*, July 1, 2017, http://www.bbc.co.uk/news/world-asia-40453547 (accessed July 3, 2017) ("Dozens more were standing beyond the barricades, quietly watching the party. They

In May 2017, the Singapore police informed the organizers of Pink Dot that, to comply with the new regulations, they were required to place barricades around Speakers' Corner during the event and check the identity cards of every participant.[280] Pink Dot is an annual gathering that, since 2009, has brought together Singapore citizens and permanent residents to express support for lesbian, gay, bisexual, and transgender (LGBT) people. Since its inception, the organizers of Pink Dot have been meticulous about complying with Singapore's restrictions on public assemblies. The new requirement substantially increases both the cost and the difficulty of holding an event at Speakers' Corner.

Organizers of Pink Dot reported that the cost of security for the 2017 event was four times that of previous events.[281]

The 2016 amendments also make clear that the restrictions on "public speaking" apply not only to those speaking in person, but also to those speaking via video link or some other form of real-time transmission, whether in Singapore or in another country. They even apply to the exhibition of a recording of an earlier speech.[282]

Finally, the new order stipulates that even sponsorship of an assembly by a non-Singapore entity now requires a police permit. As the Ministry of Home Affairs stated in a press release:

> Singapore entities, such as local companies and non-governmental organisations, can organise or assist in the organising of an event, e.g. by sponsoring, publicly promoting the event or organising its members or employees to participate in the event, without the need for a permit. Conversely, non-Singapore entities will need a permit if they want to engage in such activities relating to a Speakers' Corner event.[283]

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included Martin, a German, and Kian, a Singaporean. Only Kian was allowed to enter, so the couple decided to stay together on the sidelines.").

[280] "Pink Dot 2017 to have barricades, ID checks by security personnel," *Channel News Asia*, May 30, 2017, http://www.channelnewsasia.com/news/singapore/pink-dot-2017-to-have-barricades-id-checks-by-security-personnel-8896310 (accessed May 30, 2017).

[281] "Pink Dot rally draws thousands of people," *The Straits Times*, July 1, 2017, http://www.straitstimes.com/singapore/pink-dot-rally-draws-thousands-of-people (accessed July 3, 2017)(citing Pink Dot spokesman Paerin Choa).

[282] Public Order (Unrestricted Area) (Amendment) Order 2016, para. 3.

[283] Ministry of Home Affairs, "Review of Speakers' Corner Rules," press release, October 21, 2016, https://www.mha.gov.sg/Newsroom/press-releases/Pages/Review-of-Speakers%E2%80%99-Corner-Rules.aspx (accessed October 22, 2016).

A Singapore entity is defined as one that is incorporated or registered in Singapore and majority controlled by Singapore citizens. This "clarification" appears to be aimed at corporate sponsorship of Pink Dot, which in recent years has garnered the support of the local branches of multinational corporations such as Bloomberg, Goldman Sachs, Visa, and Microsoft that recognize LGBT rights and have incorporated them into their non-discrimination policies. Immediately after Pink Dot in June 2016, Home Affairs Minister K. Shanmugam issued a statement that "foreign entities should not interfere in our domestic issues, especially political issues or controversial social issues with political overtones," adding that LGBT issues are "one such example."[284] The Ministry of Home Affairs rejected applications by ten multinational companies for permission to sponsor the 2017 Pink Dot.[285]

The impact of the POA and the restrictions on participation by non-citizens in assemblies and processions at Speakers' Corner is to deny non-citizens present in Singapore their right to freedom of assembly. As noted above, depriving non-citizens of the right to peacefully assemble contravenes international legal standards found in the Universal Declaration of Human Rights.[286]

Restrictions on Content

The order designating Speakers' Corner an "unrestricted area" also contains broad restrictions on the content of assemblies at that location. The organizer must ensure that the assembly "does not deal with a matter that relates, directly or indirectly, to any religious belief or to religion generally" or "is not about a matter that may cause feelings of enmity, hatred, ill will or hostility between different racial or religious groups in

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[284] "MHA says foreign sponsors not allowed for Pink Dot, or other events, at Speakers' Corner," *The Straits Times*, June 7, 2016, http://www.straitstimes.com/singapore/mha-says-foreign-sponsors-not-allowed-for-pink-dot-or-other-events-at-speakers-corner (accessed June 8, 2016). Several months later, the Ministry of Home Affairs issued the new regulations requiring such companies to obtain a permit before sponsoring any event at Speakers' Corner.

[285] "Foreign companies' application to support Pink Dot rejected," *Today Online*, June 16, 2017, http://www.todayonline.com/singapore/foreign-companies-application-support-pink-dot-rejected (accessed June 16, 2017). More than 100 local companies stepped in to sponsor the event, which exceeded its funding targets. Kyle Knight (Human Rights Watch), "Singapore's LGBT Festival Goes Local," July 7, 2017, https://www.hrw.org/news/2017/07/07/singapores-lgbt-festival-goes-local.

[286] Not only should non-citizens not be denied the right to assembly, particular effort should be made to ensure equal and effective protection of the rights of non-citizens and any groups or individual who have historically experienced discrimination. Joint Report, February 2016, UN Doc. A/HRC/31/66, para. 16.

Singapore."[287] Violation of any of these restrictions is a criminal offense, with speakers and organizers facing up to six months in jail or a fine of up to S$10,000.

The restrictions on content are overly broad, and restrict speech in a manner inconsistent with international legal standards. While the government has an interest in ensuring religious and racial harmony, a blanket restriction on discussing any aspect of religion is disproportionate to the harm sought to be prevented.

The restrictions on content appear to be very broadly interpreted. In 2017, Osman Suleiman, an activist who has twice run for Parliament as a Reform Party candidate, learned that Israeli Prime Minister Benjamin Netanyahu would be visiting Singapore. He filled out the National Parks Board (NParks) form to hold a protest at Speakers Corner. He told Human Rights Watch:

> I said it was just a speech, because I didn't have time to organize anything. For the subject I put "stop illegal settlements in Palestine." NParks approved my application.[288]

He received a call from the police the following day saying that he needed a permit to hold his protest as the topic was "sensitive."[289] Unable to obtain a permit, all he was able to do was write a letter and attempt to deliver it to the Israeli embassy.

Additional Regulatory Hurdles

In addition to complying with the restrictions imposed in the order designating Speakers' Corner an unrestricted area, those wishing to assemble there must comply with the terms and conditions imposed by the Commissioner of Parks and Recreation.[290] The Commissioner of Parks and Recreation reserves the right to cancel any approval or disallow any event or activity at any time "where in the Commissioner's opinion the event or activity may endanger or cause discomfort or inconvenience to other park users and/or

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[287] Public Order (Unrestricted Area) (No. 2) Order 2015, sec. 3(2)(a) and 4(2)(a).

[288] Human Rights Watch interview with Osman Suleiman, Singapore, April 2017.

[289] Human Rights Watch interview with Osman Suleiman, Singapore, April 2017.

[290] Terms and Conditions of Approval for Events and Activities Carried Out at Speakers' Corner, Hong Lim Park, https://www.nparks.gov.sg/~/media/nparks-real-content/gardens-parks-and-nature/parks-and-nature-reserve/hong-lim-park/speakers-corner-terms-and-conditions.ashx?la=en (accessed Sept. 30, 2015).

the general public."[291] Since almost any protest will cause "inconvenience" to other park users in a park as small as Hong Lim Park, the rules effectively give the commissioner the power to disallow any event or protest he chooses.

Because it is not possible to apply for and speak at Speakers' Corner on the same day, it is impossible for individuals to use the venue to react quickly to events. When Nicolas Lim wanted to hold a candlelight vigil for the victims of the Pulse nightclub shootings in Orlando in the United States, this limitation prevented him from holding the event on the day after the shootings occurred. The event was instead held two days after the shootings, drawing more than 400 people who wanted to come together to reflect and mourn the victims of the attack.[292] The inability to hold a spontaneous assembly even in the confines of Speakers' Corner is inconsistent with international standards for protection of the right to peacefully assemble.[293]

Singapore authorities discourage protests in Hong Lim Park in other ways as well. In July 2009, they installed CCTV in the park.[294] While the government asserted that it was to provide security, many activists fear that it can and will be used to document and identify those who attend protests. In addition, the Singapore police often openly film those who attend political protests in the park. According to activist Shelley Thio:

> When we did a Bersih protest [in support of Malaysia's Coalition for Clean and Fair Elections], there were 20 police for about 100 people. They had big cameras following everyone there and recording your conversations. They were trying to intimidate people.[295]

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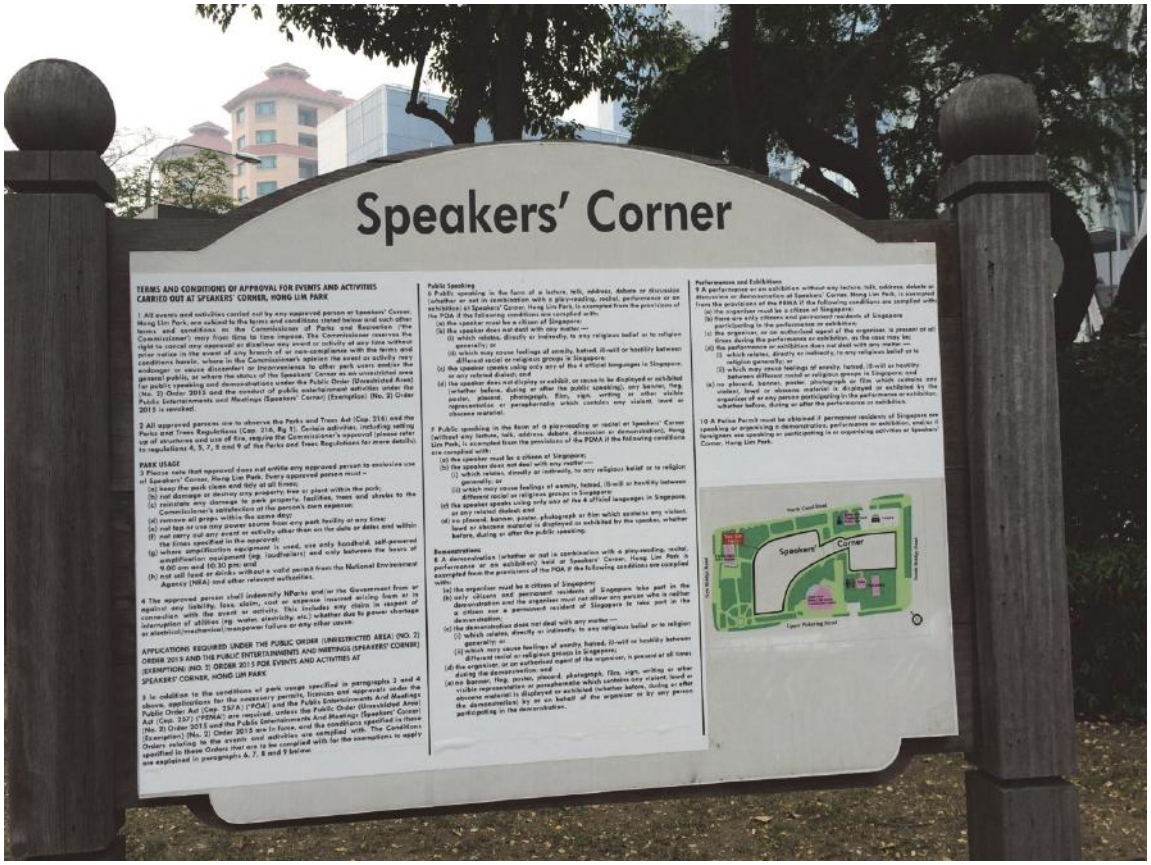
[291] Ibid., sec. 1.

[292] "Candlelight vigil to mourn for the 49 killed at the Orlando shooting," *The Online Citizen*, June 14, 2016, http://www.theonlinecitizen.com/2016/06/candlelight-vigil-to-mourn-for-the-49-killed-at-the-orlando-shooting/ (accessed June 14, 2016). Due to restrictions on open flames in Hong Lim Park, the candlelight vigil was held using light-sticks.

[293] Joint Report, February 2016, UN Doc. A/HRC/31/66, para. 23 ("Spontaneous assemblies should be exempt from notification requirements, and law enforcement should, as far as possible, protect and facilitate spontaneous assemblies as they would any other assembly.")

[294] "Police put up camera at Speakers Corner," Singapore Democrats news release, July 23, 2009, http://yoursdp.org/index.php/component/article/2584-police-put-up-camera-at-speakerskers-corner (accessed October 9, 2009).

[295] Human Rights Watch interview with Shelley Thio and others, Singapore, October 2015.



A list of terms and conditions of approval for events and activities at Speakers' Corner, in Hong Lim Park, Singapore. © 2017, private

Osman Suleiman said:

> At every protest, there will be plainclothes officers around. They will make their presence known, so people feel the fear that they are being watched… They hold cameras, wear a lanyard that says police. People are afraid that something will happen.[296]

The aggressive use of CCTV and police cameras, said one protest participant, "makes people look at these kinds of activities in a very negative light and discourages participation."[297]

[296] Human Rights Watch interview with Osman Suleiman, Singapore, April 2017.

[297] Human Rights Watch interview with participant in Yellow Sit-In, Singapore, April 2017.

"Warning" for Protest in Support of Occupy Hong Kong

In October 2014, Jolovan Wham organized an event at Speakers' Corner in support of the Occupy Hong Kong movement. Before the event, police came and gave him a letter detailing the regulations governing events in the park and told him to read it. Wham told them he did not need to do so because he was familiar with the regulations, which are on the website for Hong Lim Park.[298] Regardless, the police gave him the letter.

Wham took precautions to ensure that no non-citizens of Singapore participated in the gathering. The event was publicized on Facebook, where it stated clearly that anyone who was not a citizen could not participate in the gathering without a permit. At the beginning of the event, Wham announced to those present that only Singapore citizens could participate.[299] Despite his efforts, two individuals from Hong Kong participated in the rally, and Wham was called in for questioning.

He went to the police station and was questioned for about an hour. They asked him the purpose of the event, why he wanted to hold it, and whom he invited, among other things.[300] On March 25, 2015, he was called in again and told that he was being given a "warning." The police handed him a document to sign, but he refused to do so until he could show it to a lawyer. According to Wham, the police refused to let him take a copy and insisted that, if he did not sign, it would be a criminal offense.[301] Wham refused to sign, and the police told him that they would review his case and get back to him.

On May 4, Wham called the police and asked for the outcome of the review. He was told that there was no need for a review because he had "been warned" on March 25. He countered that all they had done was show him a letter that he refused to sign and demanded a letter if, in fact, he was being given an official police warning. A few days later, he received a letter that stated in part:

> Our investigations into the case have been completed. After careful consideration of the circumstances of the case and in consultation with the

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[298] Human Rights Watch interview the Jolovan Wham and others, Singapore, October 2015.

[299] Human Rights Watch interview with Jolovan Wham and others, Singapore, October 2015; *Wham Kwok Han Jolovan v. Attorney-General*, [2015] SGHC 324.

[300] Human Rights Watch interview with Jolovan Wham and others, Singapore, October 2015.

[301] Ibid.

> Attorney-General, we have decided that a Stern Warning would be administered to you in lieu of prosecution.
>
> You are hereby warned to refrain from such conduct or any criminal conduct. If you commit any offence in future, the same leniency may not be shown you.[302]

After his protests regarding the warning to both the police and the attorney-general went unanswered, Wham sought leave to quash the warning, arguing that he would be prejudiced by the warning in future proceedings.[303] His application was denied, with the court ruling that the warning was "no more than an expression of the opinion of the relevant authority that the recipient has committed an offense."[304] Because, in the court's view, he had "failed" in his application, Wham was assessed costs of S$6,063 for seeking to quash the warning.[305]

In light of this decision, the Singapore police can now issue "stern warnings" in lieu of prosecution without having to prove the culpability of the person cited, and without any clarity as to how long the "warning" will remain on record and who will have access to that information. While it may not, as the court held, be a "legally binding pronouncement of guilt,"[306] the use of warnings that cannot be challenged in court and yet may be accessible to those reviewing job or university applications will have a chilling effect on those seeking to speak out on controversial issues in Singapore.[307]

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[302] *Wham Kwok Han Jolovan v. Attorney-General*, [2015] SGHC 324, para. 9.

[303] *Wham Kwok Han Jolovan v. Attorney-General*, [2015] SGHC 324, para. 7. There was some dispute whether the warning was issued on March 25 or in the May 5 letter, or whether there were two warnings. The court ultimately treated the March 25 interview as the warning.

[304] *Wham Kwok Han Jolovan v. Attorney-General*, [2015] SGHC 324, para. 34.

[305] "S$6,063 – The Price of Justice for Jolovan Wham," *The Online Citizen*, February 12, 2016, http://www.theonlinecitizen.com/2016/02/12/s6063-the-price-of-justice-for-jolovan-wham/#_ftn1 (accessed February 12, 2016).

[306] *Wham Kwok Han Jolovan v. Attorney-General*, [2015] SGHC 324, para. 34

[307] In fact, the police press release announcing that stern warnings had been issued in connection with the cooling-off day investigations specifically stated that "Should any of the parties commit similar offences in subsequent elections, the stern warning that was administered can be taken into consideration in the decision to prosecute." Singapore Police Force, "Stern Warnings Issued in Relation to Cooling-Off Day Breaches during the 2016 Bukit Batok By-Election," news release, February 16, 2017, http://www.police.gov.sg/news-and-publications/media-releases/20170216_others_warnings_cooling_days (accessed April 28, 2017).

Investigation of Participants in "Yellow Sit-In"

On November 13, 2016, a group of people held a "Yellow Sit-In" at Speakers' Corner in support of the "Bersih 5" rallies for clean and fair elections planned for the following week in Malaysia. According to one of the participants, plainclothes police were seen walking around the park and taking photographs of the participants.[308] After the conclusion of the rally, which was peaceful and included several speeches, some music, and a photo of the participants with Malaysian and Singaporean flags, the police rounded up and questioned the rally participants.

According to another participant, "They questioned everyone who was still there, went to Tan Tee Seng's place to question him, went to the train station. The Malaysians were quite intimidated. They were just standing around. They didn't sing or anything because they knew they couldn't participate."[309]

Some of those questioned by the police told *The Online Citizen* that they had been questioned about things such as their nationalities, the reasons they were there, how they knew about the event, whether the organizers took any precautions to prevent foreigners from participating, and about the use of the flags of Singapore and Malaysia during the event.[310] Three days later, the police announced that they were investigating participants under the National Emblems (Control of Display) Act for displaying the flags during the event.[311] As of the time of writing, no one had been charged with an offense.

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[308] Human Rights Watch interview with participant in the Yellow Sit-In, Singapore, April 2017.

[309] Human Rights Watch interview with Rachel Zeng, Singapore, April 2017.

[310] "Police round up participants for Bersih event at Hong Lim Park for questioning," *The Online Citizen*, November 14, 2016, http://www.theonlinecitizen.com/2016/11/14/police-rounds-up-participants-for-berish-event-at-hong-lim-park-for-questioning/ (accessed November 14, 2016).

[311] "Police investigate use of Malaysian, Singapore flags at Hong Lim Park event." *The Straits Times*, November 16, 2016, http://www.straitstimes.com/politics/police-investigate-use-of-malaysian-singapore-flags-at-hong-lim-park-event (accessed November 16, 2016). 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. Offenders can be fined up to $500 and jailed up to six months

Prosecutions for Central Provident Fund Protest

Political activists Han Hui Hui and Roy Ngerng were charged with holding an unauthorized demonstration and with being a public nuisance after a protest held at Speakers' Corner on September 27, 2014.[312]

The September 2014 protest was one of a series held to raise questions about the government's handling of Singapore's mandatory pension fund, the Central Provident Fund. The first protest, held on June 7, 2014, drew a crowd of thousands. Ngerng spoke at the gathering, calling for greater transparency and accountability in how the money given to the fund was managed. Additional protests were held on July 12 and August 23.
In advance of the September 27 protest, Ngerng and Han filled out the required parks department Npark form online. As part of the form, applicants must tick a box indicating whether the event will involve public speaking, a performance or exhibition, or an assembly or procession, and specify the topic of the event.[313] Ngerng and Han checked the box for "public speaking." According to Ngerng, he was unaware that it mattered which box they checked and that usually their gatherings consisted of speeches.[314]

On the day of the event, September 27, 2014, approximately 500 people gathered at Speakers' Corner. Another event, sponsored by the YMCA, was taking place on the stage in the park, which is not part of Speakers' Corner.[315]

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[312] Roy Ngerng ran as part of a team in the Group Representation Constituency of Ang Mio Ko in the 2015 election, and Han Hui Hui ran as an independent candidate in the same election. "M Ravi, Roy Ngerng, Gilbert Goh on RP's 6-man team for Ang Mo Kio GRC," *Channel News Asia*, August 28, 2015, http://www.channelnewsasia.com/news/singapore/m-ravi-roy-ngerng-gilbert-goh-on-rp-s-6-man-team-for-ang-mo-kio--8231496 (accessed June 30, 2017); "GE2015: 5 things about independent candidate Han Hui Hui," *The Straits Times*, September 4, 2015, http://www.straitstimes.com/politics/ge2015-5-things-about-independent-candidate-han-hui-hui (accessed June 30, 2017).

[313] National Parks website, "Application for Speakers' Corner at Hong Lim Park," https://www.nparks.gov.sg/speakers-corner-application-form (accessed February 3, 2016). After issuance of the Public Order (Unrestricted Area) (Amendment) Order 2016, the application form was revised to reflect the new restrictions on participation by non-Singapore entities. The revised form still requires applicants to choose among the three forms of gathering, but now provides a link with "more details" on the relevant terms. National Parks website, "Application for Speakers' Corner at Hong Lim Park," https://www.nparks.gov.sg/speakers-corner-application-form (accessed September 12, 2017).

[314] Human Rights Watch interview with Roy Ngerng, Singapore, October 2015.

[315] Paragraph 3 of the terms and conditions for use of Speakers' Corner state that "approval does not entitle any approved person to exclusive use of Speakers' Corner, Hong Lim Park." National Parks website, "Terms and Conditions for Approval of Events and Activities Carried out at Speakers' Corner, Hong Lim Park," https://www.nparks.gov.sg/~/media/nparks-real-content/gardens-parks-and-nature/parks-and-nature-reserve/hong-lim-park/speakers-corner-terms-and-conditions.ashx?la=en (accessed February 3, 2017).

National Parks Enforcement Officers came and instructed their group to shift from the large section of Speakers' Corner, which is behind the seating area for the stage, to a small section of Speakers' Corner over to the side, near the toilets.[316] Some of those involved marched through the area where the YMCA was holding its event on their way to the designated area. The police took no action at the time.[317]

Two weeks later, the police initiated an investigation for unlawful assembly. At least 16 participants were investigated by the police. Ultimately, Ngerng and Han were charged with holding an unauthorized demonstration and with being a public nuisance. Four others were charged with public nuisance. Said Ngerng:

> The issue they raised was that, when we filled out the form, you have to say if it is for a speech or a protest or demonstration. We checked the box for speech. They said you shouted so it was a demonstration not a speech so your permission is invalid… The instructions on the form are not clear. They should have just said to us, "You should have registered for a demonstration if you want to have placards and march – make sure you do that next time." Charging us for an unlawful demonstration just because we ticked the wrong box is an abuse of power.[318]

The public nuisance charge related to their actions in marching through the YMCA event. The pro-government Singapore media published articles claiming that the disabled children attending the event were "traumatized" by what had happened, consistent with the government's practice of choosing cases where they can cast those involved in a bad light.

On October 7, 2015, Ngerng plead guilty to the charges and was fined S$1,900.[319] Ngerng, who ran as a candidate for Parliament in a group constituency under the opposition Reform

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[316] Human Rights Watch interview with Roy Ngerng, Singapore, October 2015.

[317] Human Rights Watch interview with Roy Ngerng, Singapore, October 2015.

[318] Human Rights Watch interview with Roy Ngerng, Singapore, October 2015. Conversely, when Jolovan Wham was questioned regarding the Occupy Hong Kong event, he was told that he should have marked public speaking rather than demonstration. He said that he thought demonstration was more inclusive and could include a speech.

[319] "Blogger Fined for organizing rally, being a public nuisance," *The Straits Times*, October 8, 2015, http://www.straitstimes.com/singapore/blogger-fined-for-organising-rally-being-a-public-nuisance (accessed October 9, 2015).

Party in the 2015 general elections, said that the PAP's resounding victory in those elections played a role in his decision:

> At first I fought the criminal charges. I thought I had to make a stand as I had not done anything wrong. But when the people decided to go for the Lee government in the [September 2015] election… I wanted a rest. I did not want to go through the media circus of them trying to portray us as crazy people. I felt I had fought the battle, so was willing to compromise for this to get a rest… In hindsight, I think what we did was not very respectful. We could have done it a better way – but we should not be charged with a crime for it.[320]

Another defendant, Chua Siew Leng, also pled guilty and was fined S$300. The remaining defendants chose to go to trial.

On June 27, 2016, Han was found guilty of both charges and fined S$2,500 for organizing a demonstration without approval from the Commissioner of Parks and Recreation and S$600 for public nuisance. Low Wai Choo and Koh Yew Beng were each fined S$450 on the public nuisance charge.[321] Another defendant was let off with a conditional warning after apologizing in court. On February 22, 2017, the Singapore Supreme Court upheld all three convictions.[322]

Han's conviction and fine disqualify her from standing for Parliament for the next five years.

Recommendations to the Singapore Government

- Amend the Public Order (Unrestricted Area) (Amendment) Order 2016 to eliminate the restrictions on participation by those who are not citizens or permanent residents of Singapore.

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[320] Human Rights Watch interview with Roy Ngerng, Singapore, October 2015. Ngerng's electoral team garnered 21 percent of the votes in their area. The PAP won 83 of 89 contested seats and garnered almost 70 percent of the vote. "GE 2015 Results," The Straits Times, September 11, 2015, http://graphics.straitstimes.com/STI/STIMEDIA/Interactives/singapore-general-election/2015-live-election-results/index.html.

[321] "Blogger Han Hui Hui fined S$3,100 for disrupting YMCA event," *Channel News Asia*, June 27, 2016, http://www.channelnewsasia.com/news/singapore/blogger-han-hui-hui-fined/2908436.html (accessed June 28, 2016).

[322] "Conviction of three peaceful protestors condemned," FIDH news release, February 22, 2017, https://www.fidh.org/en/region/asia/singapore/conviction-of-three-peaceful-protestors-condemned.

- Amend the order to narrow the content restrictions to speech intended to and likely to incite imminent violence or discrimination against an individual or clearly defined group of persons where alternative measures to prevent such conduct are not reasonably available.
- Repeal Public Order (Unrestricted Area) (Amendment) Order 2016.
- Direct the Singapore police to end its practice of aggressively monitoring peaceful assemblies and filming or photographing those participating.

Censorship in the Arts: The Films Act

The Films Act grants the government sweeping powers to determine what films can be shown in Singapore. The law prohibits the exhibition or distribution of any "political party film," defined extremely broadly to include any film "which is made by any person and directed towards any political end in Singapore."[323] Creating, possessing, distributing or exhibiting a "party political film" is punishable by up to two years in prison and a fine of up to S$100,000. The law was amended in 2009 to permit factual films about political candidates who are eligible to stand for election, but even that limited exception excludes films with any animation, any dramatization, any reality-type elements, or showing any illegal activity, such as protests.[324] Any film made by the government is exempt from the act.

The law further gives the minister the power to prohibit possession or distribution of any film that, in his view, "is contrary to the public interest."[325] Possession or distribution of a banned film is punishable by up to two years in prison and a fine of S$10,000.[326]

The act authorizes the Media Development Authority (MDA) to create a Board of Film Censors. Every film must be submitted to this board, which decides whether it will be approved, denied or approved with modifications.[327] Reproduction or exhibition of a film that has not been certified by the censorship board is punishable by up to six weeks in

[323] Films Act, sec. 2 and 33.

[324] Films Act, sec. 2.

[325] Films Act, sec. 35(1).

[326] Films Act., sec. 35(2).

[327] Films Act, http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=DocId%3A%2253605 2a1-84d8-4939-b05d-20225a477a6d%22%20Status%3Ainforce%20Depth%3A0;rec=0, sec. 14-15.

prison and a fine.[328] Even possession of an uncertified film is a criminal offense punishable by a fine of up to S$100 for each film.[329]

Pursuant to the Films Act, before a film can be screened for a public audience, it must also be given a rating by the MDA, which determines the age of those permitted to view the film. According to the Film Classification Guidelines, the board's classification decisions are guided by "generally accepted social mores, need to protect the young, racial/religious harmony, national interest, treatment of theme, content and context and evaluation of impact."[330] Showing a film that has not been rated is an offense, and can result in the suspension of a cinema's license to show films.

One arts activist noted: "The lines at which they draw different categories have become stricter over the past five years. Now what is classified as 18 is political material. This means students can't watch it and much of political is on alternative histories. It undermines understanding and education. They should allow political films and political theatre to be accessed by kids."[331]

In some cases, rather than ban a film, the MDA rates it "not allowed for all ratings" (NAR), which means that no public viewing is allowed, effectively denying a filmmaker the ability to exhibit the film to paying cinema audiences and recoup the costs of making it.[332]

The government's ability to ban films from public exhibition has a chilling effect on filmmakers. Because movies have a high overlay of fixed costs, filmmakers are reluctant to take risks that might result in their film not being permitted public exhibition.

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[328] Films Act, sec. 21(1)(ii).

[329] Films Act, sec. 21(1)(i).

[330] Board of Film Censors, Classification Guidelines, sec. 8, https://www.imda.gov.sg/~/media/imda/files/regulation%20licensing%20and%20consultations/codes%20of%20practice%20and%20guidelines/acts%20codes/10%20classificationguidelines15072011.pdf?la=en.

[331] Human Rights Watch interview with a playwright and arts activist, Singapore, April 2017.

[332] A film rated NAR can only be shown in private screenings or, with government permission, in academic settings. Singapore Parliament, Oral Answers to Questions, "Explanation for classification of documentary film 'To Singapore with Love,'" October 7, 2014, http://sprs.parl.gov.sg/search/topic.jsp?currentTopicID=00006734-WA&currentPubID=00006746-WA&topicKey=00006746-WA.00006734-WA_3%2Bid-f2b1a5ff-964b-4339-a74c-2b79828c7fbb%2B.

According to theatre director Sasitharan Thirunalan, "It channels a kind of caution – a culture of self-censorship."[333]

Prosecution of Martyn See

Shortly after the 2001 elections, filmmaker Martyn See met opposition leader Chee Soon Juan and decided to make a documentary film about him. According to See, "He was such a different person from how the media portrayed him – they vilified him. I made the film to translate my impression of him to the audience, so I made it a documentary."[334] He submitted his documentary, called *Singapore Rebel,* to the Singapore International Film Festival, which then submitted it to the Board of Film Censors.

> After they submitted it, I got a call from the festival asking me to withdraw it. I decided to withdraw it because the festival director was really nervous on the phone.[335]

Despite the fact that he had withdrawn the film from the festival, the police commenced an investigation against See under section 33 of the Films Act, which prohibits "creating, distributing or exhibiting" a party political film. During the course of the investigation, which lasted 18 months, they confiscated his camera and all of the tapes for the film. While they later returned the camera, they did not return the tapes.[336] After 18 months, he was given a "stern warning" in lieu of prosecution. To his understanding, "they did not drop the charge. They are saying basically I am guilty but they are letting me off."[337]

Banning of Films: Internal Security Act, Religion, and "Promoting a Homosexual Lifestyle"

Films about arbitrary detention, ill-treatment, and torture under Singapore's Internal Security Act are routinely banned or given NAR ratings by the Board of Film Censors. While he was under investigation for making *Singapore Rebel,* Martyn See went to interview Said Zahari,

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[333] Human Rights Watch interview with Sasitharan Thirulanan, Singapore, October 2015.

[334] Human Rights Watch interview with Martyn See, Singapore, October 2015.

[335] Human Rights Watch interview with Martyn See, Singapore, October 2015.

[336] Hunan Rights Watch interview with Martyn See, Singapore, October 2015.

[337] Human Rights Watch interview with Martyn See, Singapore, October, 2015. *Singapore Rebel* was also banned under the Films Act. After the 2009 amendment to the Films Act created some space for documentary films about political figures, See resubmitted the film and it was approved for exhibition, but rated N18, meaning no one under 18 can see it.

who was detained without trial for 17 years under the Internal Security Act. "It was compelling material. I just put the camera in front of Zahari and let him talk."[338] The film, *Zahari's 17 Years,* was banned under section 35 of the Films Act as "against national interest" in April 2007. In a statement released at the time, the Ministry of Information stated:

> The film gives a distorted and misleading portrayal of Said Zahari's arrest and detention under the Internal Security Act. The government will not allow people who had posed a security threat to the country in the past to exploit the use of films to purvey a false and distorted portrayal of their past actions and detention by the government... and may undermine public confidence in the government.[339]

The film remains banned in Singapore. A film by See about Dr. Lim Hock Siew, another ISA detainee, was banned as "against the public interest" in 2010.[340]
In 2013, Singaporean filmmaker Tan Pin Pin traveled to Malaysia, Thailand, and the United Kingdom to interview Singaporeans who fled the country in the 1960s and 1970s fearing arrest under the Internal Security Act. She filmed them talking about their lives, their memories, and their hopes for the future. Although the film won awards in international festivals, the MDA effectively banned the film in Singapore in September 2014 by rating it NAR. "The contents of the film undermine national security because legitimate actions of the security agencies to protect the national security and stability of Singapore are presented in a distorted way as acts that victimised innocent individuals," the MDA said in a statement.[341]

In 2015, Australian filmmaker Jason Soo made a film about some of those arrested under the ISA in 1987 and accused of being part of a "Marxist Conspiracy." Featuring interviews with ex-detainees and political exiles, the film focuses on the first 30 days of their

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[338] Human Rights Watch interview with Martyn See, Singapore, October 2015.

[339] "Singapore bans film about ex-political detainee," Reuters, April 10, 2007, http://www.reuters.com/article/us-singapore-film-ban-idUSSIN29214420070410 (accessed February 22, 2017).

[340] "Film on ex-leftist leader Lim Hock Siew banned," *AsiaOne News*, July 13, 2010, http://news.asiaone.com/News/AsiaOne%2BNews/Singapore/Story/A1Story20100713-226663.html (accessed February 22, 2017).

[341] "Banned Film Reunites Singapore With Its Exiles," *New York Times*, September 30, 2014, https://www.nytimes.com/2014/10/01/arts/international/banned-film-reunites-singapore-with-its-exiles.html?_r=0 (accessed February 22, 2017).

detention without trial and includes descriptions of various physical and psychological techniques used by their interrogators. The organizers of Singapore's Freedom Film Fest submitted the film, titled *1987: Untracing the Conspiracy,* for review in October 2015, and were surprised when it was given a rating of R21, allowing it to be shown to an audience of age 21 and over.[342] The filmmaker appealed the rating, pointing to the extensive coverage of the events in 1987, including televised "confessions" by detainees, but the MDA rejected his appeal.[343]

Films critical of religion are also frequently banned.[344] In June 2015 Martyn See submitted *The Last Temptation of Christ* and *120 Days of Sodom* for rating.[345] Six months later, the MDA finally announced that both films were banned on grounds of protecting religious harmony.[346]

Similarly, films that "promote or justify a homosexual lifestyle" are frequently banned or given restrictive ratings.[347] In 2010, the film *Eating Out 3,* which was scheduled to be screened at the Indignation Film Festival, had to be withdrawn after it was classified by censors as NAR. The Board of Film Censors justified the ban on the grounds that the film "promotes the homosexual lifestyle and features explicit homosexual sex sequences which have exceeded the film classification guidelines."[348]

The film, "The Kids are All Right," a US comedy drama that received four Academy Award nominations, including Best Motion Picture and Best Leading Actress for its portrayal of a lesbian couple meeting the man who fathered their children, was rated by the Board of

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[342] "Documentary on Marxist conspiracy detainees given R21 rating," *The Straits Times*, November 14, 2015, http://www.straitstimes.com/lifestyle/documentary-on-marxist-conspiracy-detainees-given-r21-rating (accessed February 22, 2017).

[343] "R21 rating stays for documentary on alleged Marxist plot detainees as filmmaker's appeal is dismissed," *The Straits Times*, June 9, 2016, http://www.straitstimes.com/lifestyle/arts/r21-rating-stays-for-documentary-on-alleged-marxist-plot-detainees-as-filmmakers (accessed February 22, 2017).

[344] Classification Guidelines, sec. 8 (c) ("As Singapore is a multi-racial and multi-religious society, films that denigrate any racial or religious group, or create misunderstanding or disharmony amongst the races are not allowed for all ratings"). Info-Communications Media Development Authority website, "Board of Film Censors Classification Guidelines," July 15, 2011 (accessed February 22, 2017).

[345] Human Rights Watch interview with Martyn See, Singapore, October 2015.

[346] "MDA confirms ban on Christ film," *The Online Citizen*, December 3, 2015, http://www.theonlinecitizen.com/2015/12/03/mda-confirms-ban-on-christ-film/ (accessed December 3, 2015).

[347] Classification Guidelines, sec. 11(d) ("Films that depict a homosexual lifestyle should be sensitive to community values. They should not, promote or justify a homosexual lifestyle.").

[348] Jun Zubillaga-Pow, "The Irony of Censorship," commentary, August 25, 2010, http://www.fridae.asia/gay-news/2010/08/25/10247.the-irony-of-censorship (accessed February 22, 2017).

Film Censors as a category R21 film even though there were no explicit sex scenes. Furthermore, the government imposed an unprecedented condition that only one print of this film could be allowed in the whole of Singapore. This action effectively limited access to the film.[349]

Recommendations to the Singapore Government

- Repeal section 21(1) of the Films Act to eliminate the penalties for showing unapproved films.
- Repeal section 33 of the Films Act to eliminate the restriction on creating, exhibiting, or distributing a "party political film."
- Repeal section 35 of the Films Act to eliminate the Minister for Communications' discretionary power to ban the showing of films.
- Repeal section 11(d) of the film classification guidelines to eliminate the restriction on films that "promote or justify a homosexual lifestyle."

Censorship in the Arts: Theatre

While there is no equivalent to the Films Act for theatre, a theater needs a Public Entertainments and Meetings Act license to do a public performance.[350] To obtain a license a theater must submit the script for approval. Under PEMA, the licensing officer can deny the license, or impose "such conditions as he sees fit."[351] Once the script has been approved, no deviation is allowed. Putting on an unapproved play or deviating from an approved script can result in a fine of up to S$10,000.

According to Sasitharan Thirulanan, co-founder and director of the Intercultural Theatre Institute:

> There are no clear regulations that state what you can and can't do. If it is deemed obscene, you can take it to court and challenge it, but we are not working at that level. This is authorized by an administrative process. The

[349] "MDA: Abnormalizing the normal?," *The Online Citizen*, February 18, 2011, http://www.theonlinecitizen.com/2011/02/18/mda-abnormalizing-the-normal/ (accessed February 22, 2017).

[350] Public Entertainments and Meetings Act, section 3 ("No public entertainment shall be provided except in than approved place and in accordance with a license issued by the appropriate licensing official.").

[351] PEMA, sec. 10.

> whole process of censorship has retreated to an administrative miasma. You don't know who is reading it, who is being consulted, why they came to a conclusion. They give reasons, but they are vague — "it may be deemed offensive."… How can anyone possibly know how a work will be read so that it might be offensive? It is impossible to say.[352]

As with the restrictions on film, the opaque boundaries of what is permissible and the fear of crossing unclear lines leads to self-censorship. According to one playwright and arts activist:

> I have worked with young playwrights, and they always ask me "What are the things I can't do?" If that is the first thing you ask it is a problem. They aren't asking so they can go against it — it is so they can stay far, far away.[353]

Where playwrights refuse to self-censor, the MDA uses its authority to demand significant changes in scripts before issuing a license.

Theatre Censorship in Action

In 2015, Chestnuts Theatre applied to put on a satirical production called Chestnuts 50 that poked fun at current affairs in Singapore and included a 40-minute section on teenage activist Amos Yee. Just hours before the show was due to open they were told they had to remove the entire section on Yee because if was "offensive" to members of religious groups.[354]

Theatre group DramaBox has also suffered from severe censorship demands. In 2005, the MDA ordered the excision of all references to the death penalty and all references to any political leader in its play *Human Lefts,* about the hanging of Singaporean drug courier Shanmugam Murugesu. The order was justified on the grounds that the death penalty was a sensitive issue at the time, just one day after the execution of Australian drug smuggler

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352 Human Rights Watch interview with Sasitharan Thirunalan, Singapore, October 2015.

353 Human Rights Watch interview with playwright and arts activist, Singapore, October 2015.

354 Human Rights Watch interview with Sasitharan Thirulanan, Singapore, October 2015; "MDA takes big bite out of Chestnuts 50," *The Straits Times*, September 19, 2015, http://www.straitstimes.com/lifestyle/mda-takes-big-bite-out-of-chestnuts-50 (accessed March 28, 2017).

Nguyen Tuong Van.[355] An entirely new script had to be put together in three days, which ran under the original title.[356] In 2013, the MDA insisted that the entire first act of a play touching on migrant worker issues be removed, along with newspaper cuttings originally intended to be projected on the backdrop.[357] As Sasitharan Thirulanan stated:

> The challenge is not really just to seek change within the realm of the arts. The issue is much bigger and more important. It is about citizenship. Artistic license is a small subset of the rights of citizens. What is imperiled is the rights of citizens to speak freely.[358]

Recommendations to the Singapore Government

- Amend the Public Entertainments and Meetings Act to eliminate the power of the Licensing Officer to impose conditions, such as revisions to the script, on the issuance of a license.

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[355] "Singapore 'bans' execution references in play," *Sydney Morning Herald*, December 3, 2005, http://www.smh.com.au/news/world/singapore-bans-execution-references-in-play/2005/12/03/1133422142237.html (accessed march 28, 2017).

[356] Arts Engage, "Censorship Accounts," https://sites.google.com/site/artsengagesg/censorship-accounts (accessed February 22, 2017).

[357] Joint Submission by Community Action Network and Reporters Without Borders for Singapore's Universal Periodic Review, June 20, 2015, https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=2267&file, para. 6.03.

[358] Human Rights Watch interview with Sasitharan Thirulanan, Singapore, October 2015.

III. Non-Criminal Penalties for Speech

The authorities in Singapore rely heavily on civil and other penalties outside of the criminal law to restrict speech and silence critical voices. This section discusses some of those restrictions.

Civil Defamation

Civil defamation is the government's most powerful non-criminal weapon and has been used extensively by Prime Minister Lee Hsien Loong and prior prime ministers to sue, and often bankrupt, opposition politicians and other critics of the government, and to seek to intimidate foreign media reporting on Singapore.[359] The government has time after time won such cases before Singapore's courts. As of 2008, no leader of the PAP had ever lost a defamation action against an opposition leader in the Singapore courts, and no foreign publisher had ever successfully defended a defamation action brought by a senior Singaporean official in Singapore courts.[360] Singapore defamation law, in contrast to that in many other countries, does not provide a qualified privilege for criticism of government officials and other public figures, and the damages plus legal costs awarded in cases involving public figures are often cripplingly high.[361]

The repeated awarding of high damages against those who criticize the government has a severe chilling effect on critical speech in Singapore. Former ISA detainee Teo Soh Lung was so afraid of being sued for defamation over her book *Beyond the Blue Gate,* which describes her detention under the Internal Security Act, that she dissipated her assets before launching the book.[362] She said that she and others associated with the book were

[359] An overview of some of the criminal defamation cases brought by Lee Kuan Yew and Lee Hsien Loong is set forth in the background section of this report.

[360] Tey Teun Hang, "Singapore's jurisprudence of political defamation and its triple-whammy impact on political speech," in Andrew Le Sueur, ed., *Public Law 2008* (London: Thomson Reuters 2008), pp. 452-453.

[361] *Review Publishing v. Lee Hsien Loong*, [2010] 1 SLR 52 (in which Singapore's Court of Appeal concluded that qualified privilege is not part of Singapore law).

[362] Human Rights Watch interview with Teo Soh Lung, Singapore, October 2015.

very fearful because "the government has a record of using libel to bankrupt those they do not like."[363]

Defamation and the Media: Far Eastern Economic Review

The late prime minister Lee Kuan Yew repeatedly sued the Hong Kong-based weekly *The Far Eastern Economic Review* (*FEER*) for civil defamation for reporting critical of the Singapore government. In 1989, he was awarded damages of S$230,000 over an article about the detention of Catholic Church workers under the Internal Security Act.[364] The article, which reported on a meeting between Lee and several Catholic priests, stated that Lee had criticized the Catholic Church at the meeting and that the arrested church workers were "scapegoats" for radical priests. The court rejected *FEER's* defenses of truth and fair comment on a matter of public interest.[365]

Lee sued the magazine again in 2006, alleging that he had been defamed in an article in the July/August 2006 edition of *FEER* entitled "Singapore's Martyr: Chee Soon Juan." The article, which was based on an interview with opposition leader Chee Soon Juan, discussed his battles with the ruling PAP.[366] *FEER* contended that the article was based on facts and fair comment, concerned matters of public interest, and was a neutral report. In September 2008 the Singapore High Court issued a summary ruling finding that *FEER* had defamed Lee Kuan Yew and his son Lee Hsien Loong.[367] The decision was upheld on appeal on October 2009, by which time the magazine had closed for other reasons.

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363 Human Rights Watch interview with Teo Soh Lung, Singapore, October 2015.

364 "Lee Kuan Yew Wins Libel Suit Against Far Eastern Economic Review," *UCA News*, December 12, 1989, http://www.ucanews.com/story-archive/?post_name=/1989/12/12/lee-kwan-yew-wins-libel-suit-against-far-eastern-economic-review&post_id=39059 (accessed February 10, 2017).

365 "Lee Kuan Yew Wins Libel Suit Against Far Eastern Economic Review," *UCA News*, December 12, 1989, http://www.ucanews.com/story-archive/?post_name=/1989/12/12/lee-kwan-yew-wins-libel-suit-against-far-eastern-economic-review&post_id=39059 (accessed February 10, 2017).

366 The summons Lee Kuan Yew filed included an appendix listing many of the prior defamation cases he had filed, the outcome and the damages awarded. The appendix listed 22 defamation suits against a range of individuals and media, all of which were either settled with some damages paid, or were won by Lee Kuan Yew. Total damages awarded in the 22 suits totaled more than S$3,000,000 (US$2,204,910). The Ministry of Information, Communications and Arts revoked the Review's distribution rights in Singapore on September 28 after the Hong Kong-based monthly failed to appoint a legal representative and post a S$200,000 (US$146,994) security bond, as required by regulations covering foreign publications announced in August, shortly after the defamation suit was filed. "Singapore: CPJ condemns ban on Far Eastern Economic Review," Committee to Protect Journalists news release, October 2, 2006, https://cpj.org/2006/10/singapore-cpj-condemns-ban-on-far-eastern-economic.php (accessed March 27, 2017).

367 "Editor 'defamed' Singapore leader," *BBC News Online*, September 24, 2008, http://news.bbc.co.uk/1/hi/world/asia-pacific/7632830.stm (accessed January 10, 2017).

Use Against Blogger Roy Ngerng

The travails of Roy Ngerng highlight the risks faced by those who refuse to self-censor. Ngerng is an activist and popular blogger. In 2012 he started a blog, *The Heart Truths,* in which he discussed socio-political and economic issues affecting Singapore. Between 2012 and 2014 he posted more than 400 articles on wage and labor issues, income inequality and poverty, health care, and education, including criticisms of PAP government policies.

In early 2014, he began raising concerns about the management of Singapore's Central Provident Fund, the country's mandatory pension fund, in a series of blog posts.[368] In an article posted on May 15, Ngerng included two charts comparing the way the CPF was being invested in other funds with the way City Harvest, a church prosecuted for financial fraud, had invested its funds. A few days later, on May 19, 2014, he received a letter of demand from attorneys representing Prime Minister Lee Hsien Loong asserting that the blog post implied that Lee Hsien Loong had misappropriated money from the CPF and demanding that he take down the post, post an apology and propose damages.

According to Ngerng, "I didn't think the Prime Minister would be affected – I was talking about the government, not him."[369] As he had not intended to imply that the prime minister appropriated funds, he took down the post, posted an apology, and proposed damages of S$5,000. Lee's lawyers rejected that proposal as "derisory" and, on May 29, 2014, Lee sued Ngerng for defamation.

On June 10, the 33-year-old was fired from his job at Tan Tock Seng Hospital, where he was a contract patient coordinator planning programs for people infected with HIV. His employers said he had "misused company time and resources" and called his conduct "incompatible with the values and standards expected of employees."[370] The Ministry of Health issued a public statement supporting the hospital's decision.

In his defense to the defamation suit, Ngerng argued that his blog post had been misunderstood:

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[368] As noted at page 83, Ngerng and Han Hui Hui also began holding a series of protests about the CPF at Speakers' Corner, one of which led to his prosecution for unauthorized demonstration and public nuisance.

[369] Human Rights Watch interview with Roy Ngerng, Singapore, October 2015.

[370] "Blogger Fired, Sued by Government Fights Back," *NBC News*, June 25, 2014, http://www.nbcnews.com/news/asian-america/blogger-fired-sued-government-fights-back-n140546.

> The criticism has always been on how the government has not been transparent and accountable on its management of the CPF monies of Singaporeans. It has never and was never meant to be a critique about the prime minister.[371]

Lee filed for summary judgment and, on November 7, 2014, the High Court of Singapore found Ngerng guilty of defamation.[372]

At a hearing on damages held in July 2015, Lee's lawyers asked for "very high" damages, noting that that previous awards in defamation cases involving top government ministers ranged from $100,000 to $400,000.[373] On December 17, 2014, the High Court ordered Ngerng to pay S$100,000 in general damages and S$50,000 in aggravated damages. He was also ordered to pay Prime Minister Lee S$29,000 in legal costs.[374] He has agreed to a payment plan under which he is going to be paying off the damages for the next 17 years.[375]

Recommendations to the Singapore Government

- Revise Singapore's civil defamation law to require public figures to prove that the defendant knew the allegedly defamatory information was false.
- The law should give preference to the use of non-pecuniary remedies such as apology, rectification, and clarification.
- Any pecuniary awards should be strictly proportionate to the actual harm caused.

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[371] *Lee Hsien Loong v. Roy Ngerng Yi Ling*, Defendant's Closing statement, para. 35.

[372] "Singapore judge finds blogger guilty of defaming prime minister," *Financial Times*, November 7, 2014, https://www.ft.com/content/6f86a17a-6651-11e4-9c0c-00144feabdc0 (accessed October 5, 2015).

[373] "PM Lee's lawyers seek 'very high' damages in defamation case against Roy Ngerng," *The Straits Times*, July 1, 2015, http://www.straitstimes.com/singapore/courts-crime/pm-lees-lawyers-seek-very-high-damages-in-defamation-case-against-roy-ngerng (accessed October 5, 2015).

[374] "Blogger Roy Ngerng ordered to pay PM Lee S$150,000 in damages," *Channel News Asia*, December 17, 2005, http://www.channelnewsasia.com/news/singapore/blogger-roy-ngerng/2355748.html (accessed December 18, 2015).

[375] "Roy Ngerng to pay damages for defamation to PM Lee over 17 years," *The Online Citizen*, March 14, 2016, https://www.theonlinecitizen.com/2016/03/14/roy-ngerng-to-pay-damages-for-defamation-to-pm-lee-over-17-years/ (accessed March 14, 2016).

Protection from Harassment Act

The Protection from Harassment Act (POHA) was enacted in 2014 "to protect persons against harassment and unlawful stalking and to create offenses, and provide civil remedies related thereto or in relation to false statement of facts."[376] In addition to providing for criminal penalties for causing harassment, alarm, or distress, provoking violence, threatening or abusing a public servant, or stalking, section 15 of the law permits any "person" who believes that a false statement of fact has been published about them to apply to the district court for an order "that no person shall publish or continue to publish the statement complained of unless that person publishes such notification as the District Court thinks necessary to bring attention to the falsehood and the true facts."[377] Section 15 does not provide for damages or criminal sanctions.

During the second reading of the bill in Parliament, Home Affairs and Law Minister K. Shanmugam explained that the purpose of this remedy was to provide an option to victims who would feel satisfied if there was some redress, without having to claim damages, because their feelings of alarm or distress would be settled if the truth were set out.[378]

Use of POHA by Ministry of Defense

Although both the language of the POHA and its legislative history indicate an intent to protect individuals from harassment ranging from violence to publication of false facts about them, the government of Singapore almost immediately attempted to use the law to "protect" a government ministry against critical reporting. In February 2015, less than a year after passage of the POHA, Singapore's attorney-general, representing the Ministry of Defense (Mindef), applied to the state courts for an order under section 15(2) of the act with regard to statements in a video uploaded to the website of online news portal *The Online Citizen,* and in the news article that accompanied the video.

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[376] Protection from Harassment Act, Chapter 256A, http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?CompId:5c68d19d-19ad-49d8-b1a9-5b8ca8a15459, Introductory statement. Sections 3 through 6 of the law replace sections 13A through 13D of the Miscellaneous Offenses Act.

[377] Protection from Harassment Act, sec. 15.

[378] "Second Reading Speech by Minister for Law, K. Shanmugam, on the Protection from Harassment Bill," March 13, 2014, https://www.mlaw.gov.sg/news/parliamentary-speeches-and-responses/2R-by-minister-on-protection-from-harassment-act.html (accessed January 6, 2017).

The video and article related to a patent dispute between Dr. Ting Choon Meng and the Ministry of Defense over mobile medical facilities the defense ministry had purchased from a company called Syntech, and which Ting alleged violated his patent.[379] The Defense ministry, in response to the article, posted a message on its Facebook page refuting several allegations that it said were "false and baseless."

The Online Citizen reproduced the Defense ministry's statement in full in an article entitled "Mindef responds to allegations over patent rights." In addition, *The Online Citizen* provided a prominent link to the Defense ministry's Facebook statement on the webpage containing the article and video.[380]

Despite the web portal's efforts to publish both sides of the dispute, the Defense ministry sought a declaration from the courts under section 15 of the POHA that certain allegations in the article were false and that they could not be published without a notification specifying that the Singapore courts had found them to be false.

The Defense ministry named in the suit the four individuals listed on *The Online Citizen's* registration, one of whom was also Dr. Ting's lawyer, and Ting himself. The District Court granted the order, finding the allegations to be false and that it was "just and equitable" to grant the order.[381] On appeal, the High Court reversed, holding that that government is not a "person" within the meaning of POHA section 15(1) and thus could not avail itself of remedies under the statute. The High Court went on to hold that, even if the government could apply for remedies under the statute, it could not do so in this case because it would not be "just and equitable" to do so, noting that *The Online Citizen* had already taken significant steps to make clear to readers that Ting's comments were disputed by the ministry:

> Such efforts to present each party's side of a story ought to be encouraged, and in my judgment they would be discouraged if section 15 orders were made as a matter of course despite these efforts having been made.[382]

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[379] The background of the litigation is taken from the Court of Appeal's 2017 decision in the case, *Attorney General v. Ting Choon Meng and another appeal*, [2017] SGCA 6.

[380] High Court of Singapore, *Ting Choon Meng v. Attorney-General*, [2016] 1SLR 1248, para. 9.

[381] Singapore District Court, *Attorney General v. Ting Choon Meng and others*, [2015] SGDC 114.

[382] High Court of Singapore, *Ting Choon Meng v. Attorney General*, [2016] 1 SLR 1248, paras. 55-57.

The government appealed both the ruling that it was not entitled to avail itself of remedies under POHA and that it was not "just and equitable" to issue the requested declaration.[383] The Court of Appeal affirmed the judgment, in a 2-1 decision, on January 17, 2017.[384] The court's majority decision referred to the parliamentary debates and said it was clear that Home Affairs and Law Minister Shanmugam's focus was solely on human beings, pointing to the many references to "victims" and "harassment" in his speech, and the lack of reference to the rights of other entities.[385]

The court added that even if the majority accepted that the law applies to the Defense ministry, it wasn't "just and equitable" to grant an order against *The Online Citizen* and Ting, noting that *The Online Citizen* had provided "a balanced view."[386] In addition, as Justice Phang noted, "Mindef was anything but a helpless victim. It is a government agency possessed of significant resources and access to media channels."[387]

The government's response to the decision is troubling. In a statement, the Ministry of Law stressed the fact that the court had found *The Online Citizen* had printed "falsehoods," without noting that the Court of Appeal had also found that the online news portal had presented a balanced view of the dispute.[388] Noting that "the spreading of false and misleading information can be highly destructive of the institutions of democracy," the statement concluded by saying that "[t]he Government will study the judgment, and consider what further steps it should take to correct the deliberate spreading of

[383] The government did not appeal the High Court's ruling that the allegation that the Defence Ministry knowingly infringed the patent with the intent to subsequently get it revoked was not false.

[384] Singapore Court of Appeal, *Attorney-General v. Ting Choon Meng*, [2017] SGCA 6.

[385] Singapore Court of Appeal, *Attorney-General v. Ting Choon Meng*, [2017] SGCA 6, para. 20.

[386] Singapore Court of Appeal, *Attorney-General v. Ting Choon Meng*, [2017] SGCA 6, para. 44.

[387] Singapore Court of Appeal, *Attorney-General v. Ting Choon Meng*, [2017] SGCA 6, para. 45.

[388] "Is Government a person? Court rules on anti-harassment law provision," *The Straits Times*, January 17, 2017, http://www.straitstimes.com/singapore/courts-crime/is-govt-a-person-court-rules-on-anti-harassment-law-provision?utm_campaign=Echobox&utm_medium=Social&utm_source=Facebook&xtor=CS1-10#link_time=1484611871 (accessed January 17, 2017).

falsehoods."[389] On June 19, 2017, Shanmugam announced that legislation to combat "fake news" was likely to be introduced in 2018.[390]

Recommendation to the Singapore Government

- Ensure that any legislation enacted to deal with harassing speech or so-called "fake news" complies with international standards for the protection of freedom of expression.

Regulatory Restrictions on Online Media

The Singapore government restricts online media via the Broadcasting Act and other regulatory provisions. Under the Broadcasting Act, no one can provide "licensable broadcasting services" without a license issued by the Media Development Agency.[391] The law defines "licensable broadcasting services" to include "computer online services that are provided by Internet Content Providers," thus bringing blogs and websites within the ambit of the act.[392] Providing "licensable broadcasting services" without a license is punishable by with up to three years in prison or a fine of up to S$200,000.[393] Licensing of internet service providers is not necessary to distribute limited frequencies as the internet can accommodate unlimited points of entry and an unlimited number of users, so licensing is neither necessary nor proportionate as a restriction on freedom of expression.[394]

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[389] The Ministry of Law also asserted, despite the legislative history cited by both the High Court and the Court of Appeal, that "the Government's policy intent was to allow natural persons, as well as the Government and corporations, to rely on Section 15 of the Protection from Harassment Act (Poha)." Ibid.

[390] "New legislation to combat fake news likely to be introduced next year: Shanmugam," *The Straits Times*, June 19, 2017, http://www.straitstimes.com/singapore/new-legislation-to-combat-fake-news-next-year-shanmugam (accessed June 19, 2017).

[391] Broadcasting Act, sec. 8.

[392] Broadcasting Act, Second Schedule; Broadcasting (Class License) Notification, http://statutes.agc.gov.sg/aol/search/display/view.w3p;query=Status%3Acurinforce%20Type%3Aact,sl%20Content%3A%22class%22%20Content%3A%22licence%22%20Content%3A%22notification%22;rec=0;resUrl=http%3A%2F%2Fstatutes.agc.gov.sg%2Faol%2Fsearch%2Fsummary%2Fresults.w3p%3Bquery%3DStatus%253Acurinforce%2520Type%253Aact,sl%2520Content%253A%2522class%2522%2520Content%253A%2522licence%2522%2520Content%253A%2522notification%2522;whole=no, sec, 2.

[393] Broadcasting Act, sec. 46.

[394] Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, A/HRC/17/27, May 16, 2011, http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf, para. 27.

Internet Content Providers in Singapore are automatically given a class license and are required to comply with the Conditions of Class License and the Internet Code of Practice.[395] Under the license conditions, the internet service provider must remove any material that the Media Development Authority (MDA) determines is against the public interest, public order, or national harmony, or offends good taste or decency.[396]

Singapore's Internet Code of Practice also requires an internet content provider to ensure that material does not include any "prohibited content." Prohibited content is defined broadly to include material that is objectionable "on the grounds of public interest, public morality, public order, public security, national harmony, or is otherwise prohibited by applicable Singapore laws."[397] Factors to be considered in determining whether material is prohibited include "whether the material advocates homosexuality or lesbianism," and "whether the material glorifies, incites or endorses ethnic, racial or religious hated, strife or intolerance."[398]

In May 2015, the MDA suspended the class license of the website *The Real Singapore* for contravening the Internet Code of Practice by publishing articles that were "against public interest and national harmony."[399] The site's owners were ordered to close down the website immediately.

Additional Restrictions on Certain Content Providers

An internet content provider whose content comes from a political party registered in Singapore, or that is determined by the MDA "to be engaging in providing any programme for the propagation, promotion or discussion of political or religious issues relating to Singapore," is required to register with the MDA within 14 days of beginning operations,

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[395] Broadcasting Act, sec.9; Broadcasting License Notification, G.N. No. S 330/2013, sec. 3.

[396] Broadcasting License Notification, G.N. No. S 330/2013, The Schedule.

[397] Info-Communications Media Development Authority, Internet Code of Practice, https://www.imda.gov.sg/~/media/imda/files/regulation%20licensing%20and%20consultations/codes%20of%20practice%20and%20guidelines/acts%20codes/19%20policiesandcontentguidelinesinternetinternecodeofpractice.pdf?la=en.

[398] Ibid.

[399] "Govt orders shutdown of The Real Singapore," *Today Online*, May 3, 2015, http://www.todayonline.com/singapore/mda-suspends-licence-socio-political-website-real-singapore (accessed October 5, 2015). The articles at issue are discussed in the section of this report on Sedition.

and may be subjected to additional requirements.[400] Several websites that post news and current affairs articles, including *The Independent Singapore* and *Mothership.sg,* have been required to register under this provision and, as a result, face additional restrictions on their activities, including a prohibition on receipt of foreign funding.[401]

As of June 1, 2013, Singapore also tightened the restrictions on the most popular news websites. Under the revised class license notification, the MDA can choose to notify websites that are accessed from at least 50,000 different internet addresses in Singapore in a month and that contain at least one Singapore news program or article per week that they are excluded from the class license provisions.[402] Any website receiving such notification is required to individually register, to remove content that is in breach of content standards within 24 hours, and to post a performance bond of S$50,000.[403] These requirements were initially applied only to mainstream news media,[404] but in July 2015 *Mothership.sg* was notified that it would be required to individually register and post the performance bond.[405]

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[400] Broadcasting License Notification, G.N No. S 330/2013, Schedule, secs. 3 and 4. The registration form for such websites requires detailed information about the website, including identification of the editorial board (or for a political party, the central executive committee), who must agree to accept full responsibility for the contents of the website. MDA, Registration Form C for Class Licensable Broadcasting Services, https://www.imda.gov.sg/~/media/imda/files/regulation%20licensing%20and%20consultations/licensing/licenses/regfrmcrelgpolcontjan2010.pdf?la=en; Registration Form B for Class Licensable Broadcasting Services, https://www.imda.gov.sg/~/media/imda/files/regulation%20licensing%20and%20consultations/licensing/licenses/regfrmbpolpartjan2010.pdf?la=en.

[401] "Singapore news website Mothership.sg agrees to register under Broadcasting Act," *Yahoo News*, April 3, 2014, https://sg.news.yahoo.com/mda-asks-singapore-news-website-mothership-sg-to-register-for-a-licence-104026615.html (accessed September 6, 2017).

[402] Broadcasting License Notification, G.N No. S 330/2013, sec. 3A.

[403] Ministry of Communications and Information, "What is the licensing framework for online news sites all about?," June 18, 2013, https://www.gov.sg/factually/content/what-is-the-licensing-framework-for-online-news-sites-all-about#sthash.gAhxeHWx.dpuf.

[404] The 10 initial sites were: asiaone.com, businesstimes.com.sg, channelnewsasia.com, omy.sg, sg.news.yahoo.com, stomp.com.sg, straitstimes.com, tnp.sg, todayonline.com, and zaobao.com. Ministry of Communications and Information, "What is the licensing framework for online news sites all about?," June 18, 2013, https://www.gov.sg/factually/content/what-is-the-licensing-framework-for-online-news-sites-all-about#sthash.gAhxeHWx.dpuf.

[405] "Mothership.sg to come under new licensing framework," *Channel News Asia,* July 30, 2015, http://www.channelnewsasia.com/news/singapore/mothership-sg-to-come-under-online-news-licensing-framework-8243670 (accessed August 30, 2017).

Use of Political Donations Act Against Online Sites

The government can also unilaterally declare that a website is a "political association" under the Political Donations Act.[406] A political association is forbidden from accepting donations from anyone who is not a citizen of Singapore or a Singapore-controlled company that carries on business wholly or mainly in Singapore.[407] The association is required to identify the "responsible officers" of the group,[408] and to file annual financial reports identifying any donor who contributed at least S$10,000 to the association during that year.[409] It can also be ordered to produce financial records at any time.[410] Violation of the rules is a criminal offense.[411]

Targeting of The Online Citizen

The government has used many of these provisions to harass and limit online media. A prime example of the use of these regulations against critical voices is the government's treatment of the socio-political website *The Online Citizen*.

The Online Citizen is one of the few independent news voices in Singapore. It is an open platform that hosts not only articles written by its staff, but also submissions by members of the public. In early 2011, *The Online Citizen* was officially gazetted as a political association. In a press release announcing that fact, the government stated that:

> As a website, "The Online Citizen" provides coverage, commentary and analysis of political issues, and a platform for discussing such issues. "The Online Citizen" has organised online and offline campaigns to change legislation and Government policies, provided a forum for local politicians,

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[406] The act includes within the definition of a political association "an organisation (not being a branch of any organisation) whose objects or activities relate wholly or mainly to politics in Singapore and which is declared by the Minister, by order in the Gazette, to be a political association for the purposes of this Act." Political Donations Act, sec. 2, http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=DocId%3A%22d9bac77b-5520-435b-9325-101373ac9acf%22%20Status%3Ainforce%20Depth%3A0;rec=0. There is no right to appeal such a declaration.

[407] Political Donations Act, sec. 2 and 8. The association is permitted to accept anonymous donations only if they do not exceed S$5,000 in a given financial year. Political Donations Act, sec. 8(2).

[408] Political Donations Act, sec. 2.

[409] Political Donations Act, sec. 12.

[410] Political Donations Act, sec. 29.

[411] Political Donations Act, sec. 22-24.

> and polls on public support for local politicians and on other political issues concerning Singapore. Through such activities, "The Online Citizen" has the potential to influence the opinions of their readership and shape political outcomes in Singapore. It is therefore necessary to ensure that it is not funded by foreign elements or sources.[412]

As a result, *TOC* was required to identify four "officers" who would be held responsible for the content of the website. According to Tan Tee Seng, those running the website considered shutting it down, "but in the end four people were angry and brave enough to put their names. They are saying these four people are solely responsible for the content of TOC."[413]

As a political association, *TOC* is also precluded from accepting any money from foreign sources, and is required to provide detailed financial reporting on its income.[414] According to current editor Terry Xu, "The government understands that cutting resources can stop you from operating. They are trying to create fear in your donors."[415]

In 2014, a new social enterprise was set up to hold the assets and liabilities of *TOC* and take over the burdensome reporting requirements. The new enterprise was called The Opinion Collaborative Ltd. (TOC Ltd.). On September 30, 2014, the MDA notified The Opinion Collaborative Ltd. that it was required to register as a media entity under the Broadcasting Act.[416] As part of that registration process, the MDA ordered TOC Ltd. not to accept any foreign funding "for its provision, management and/or operation," and to provide detailed financial reports on all of its funding.[417] According to Tan Tee Seng, who is on the board of TOC Ltd.:

> Every month we were supposed to give our accounts to them. It is ridiculous. I don't even check my bank account every month. So they

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[412] Registry of Political Donations, "Gazetting of 'The Online Citizen' as a Political Association under the Political Donations Act," press statement, February 17, 2011, http://www.eld.gov.sg/pressrelease%5CRPD2011%5C2011-02-17%20-%20Press%20Release%20on%20gazetting%20TOC%20as%20a%20Political%20Association.pdf

[413] Human Rights Watch interview with Tan Tee Seng, Singapore, October 2015.

[414] Human Rights Watch interview with Tan Tee Seng, Singapore, October 2015.

[415] Human Rights Watch interview with Terry Xu, Singapore, April 2017.

[416] "MDA notifies The Online Citizen to register," *AsiaOne*, September 30, 2014, http://news.asiaone.com/news/singapore/mda-notifies-online-citizen-register (accessed February 15, 2017).

[417] Ibid.

> changed it to quarterly. We could not keep up with it… This is the sort of regulatory framework you have to deal with in Singapore. Total transactions per month are only about S$5,000.

According to Terry Xu, the current editor of *TOC*:

> Any amount of money collected – even 10 cents – needs to be declared to MDA when it comes in. We have to be very specific. You can't just tell the name – you have to give the NRIC [National Registration Identity Card]. We also have to indicate the amount of subscription and advertising revenue we get… The paperwork is very onerous. It also spooked a lot of donors.[418]

As previously discussed, *TOC* and the four individuals listed as the "responsible officials" under the Political Donations Act were sued by the Ministry of Defense under the Prevention of Harassment Act. Shortly after the court ruled against the government in that case, Home Affairs and Law Minister K Shanmugam criticized *The Online Citizen* for its investigation into the death of teenager Benjamin Lim.

Lim was a 14-year-old student who took his own life in January 2016 after being picked up from school by the police and taken to the police station on his own for questioning about an alleged sexual assault. *TOC* published four articles written by its staff about the case and about police procedures in cases involving juveniles. It also published 19 letters and opinion pieces by members of the public about the case.

On March 1, 2016, in a speech in Parliament, Shanmugam accused *TOC* of conducting "a planned, orchestrated campaign using falsehoods."[419] He added: "Where the Police are wrong, we must and will take action. But we should not allow deliberate, dishonest

[418] Human Rights Watch interview with Terry Xu, Singapore, April 2017.

[419] "Ministerial Statement on Death of Student," March 1, 2016, https://www.mha.gov.sg/Newsroom/in-parliament/parliamentary-speeches/Pages/Ministerial-Statement-on-Death-of-Student.aspx (accessed January 17, 2017).

attacks. *I have asked my Ministry to study how the Police and other institutions can respond in future to such falsehoods*."[420]

The Online Citizen responded to the allegations with an editorial laying out its efforts to verify the facts in its articles and the ministry's refusal to respond to its inquiries.[421] *TOC* noted that, until the minister's speech, no one from the ministry or the police had contacted the portal about any of the articles on Benjamin Lim, either to offer corrections or to ask that an article be taken down. The editorial concluded:

> Finally, we would like to point out that "inaccuracies" are not the same as "falsehoods." Given the dearth of information available to us, it is natural that some of our reports were not fully accurate. It would have been clear from our articles that the story was still developing as we were yet to be in possession of the full facts, and we were doing our best to do so with the information we had. We are happy to correct any mistakes we might have made in our articles. However, the word "falsehoods" implies a deliberate attempt to mislead. *TOC* rejects any such suggestion.[422]

The government's conflation of inaccuracies or errors with falsehoods, combined with its apparent refusal to provide information to the online media, makes Singapore's online media vulnerable if the government makes good on its threat to take action against "false news."[423]

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[420] "Ministerial Statement on Death of Student," March 1, 2016, https://www.mha.gov.sg/Newsroom/in-parliament/parliamentary-speeches/Pages/Ministerial-Statement-on-Death-of-Student.aspx (accessed January 17, 2017) (emphasis added).

[421] "Editorial: Response to speech on TOC by Home Affairs and Law Minister," *The Online Citizen*, March 2, 2016, http://www.theonlinecitizen.com/2016/03/02/editorial-response-to-speech-on-toc-by-home-affairs-and-law-minister/ (accessed January 17, 2017).

[422] "Editorial: Response to speech on TOC by Home Affairs and Law Minister," *The Online Citizen*, March 2, 2016, http://www.theonlinecitizen.com/2016/03/02/editorial-response-to-speech-on-toc-by-home-affairs-and-law-minister/ (accessed January 17, 2017).

[423] According to Terry Xu, editor-in-chief of The Online Citizen: "There has been a shift in the government's approach. In the beginning, the police would at least reply and say thank you for the inquiry but we are not able to share information, etc. They would say this even when the person involved has asked the police to share information with me. After a year or so, the Singapore Police Force decided not to reply to me at all. They don't reply, or even acknowledge the inquiry, except for the automated system response." Human Rights Watch interview with Terry Xu, Singapore, April 2017.

In the same month that Shanmugam made his speech, the MDA ordered TOC Ltd. to return S$5,000 that it had received more than a year earlier from Monsoon Book Club, a book club based in the United Kingdom, stating that, "The MDA has determined that TOC Limited received funds from a foreign source but not for bona fide commercial purposes."[424] TOC Ltd., which says the money was for sponsorship of an essay writing contest, is appealing the ruling.

Recommendation to the Singapore Government

- Eliminate the license provisions for Internet Content Providers. Licensing of internet service providers is not necessary to distribute limited frequencies as the internet can accommodate unlimited points of entry and an unlimited number of users, so licensing is neither necessary nor proportionate as a restriction on freedom of expression.

Control over Venues and Arts Housing

The government's control of arts spaces and most public venues in Singapore is another tool that is often used to prevent events the government does not like.

Singapore's Arts Council controls many studio and performance spaces, which are heavily subsidized and thus can be very valuable for an arts company. The tenancy agreement for arts housing is up for renewal every year, and contains conditions similar to those found in government grants. Fear of losing access to that space encourages self-censorship. As Sasitharan Thirulanan said, "it is not just a grant for a project that might be jeopardized, but your theatre or studio might also be at risk if it is deemed you are doing something against the interests of the community or that might cause offense."[425]

The government's control over venues impacts more than the content of Singapore theatre. For example, the "People's Association" is run by the PAP, and sets up local community associations. Those associations run community centers all over Singapore, but any organization considered "political" is not allowed to hold events in them. This makes it

[424] Stephen Chang, "Monsoon Book Club's advertisement campaign is a legitimate commercial activity," *The Independent Singapore*, March 17, 2016, http://www.theindependent.sg/monsoons-book-clubs-advertisement-campaign-is-a-legitimate-commercial-activity/ (accessed January 18, 2017).

[425] Human Rights Watch interview with Sasitharan Thirulanan, Singapore, October 2015.

difficult to get a venue for anything controversial. Once the venue is obtained, restrictions on content are written into the contract for use of the space.

A few examples:

- In 2010, the National University of Singapore History Society invited Vincent Cheng to give a talk about his detention under the Internal Security Act in 1987. The talk was to be held at the National Library Building. Before the event occurred, the library board told the History Society that Vincent Cheng would not be allowed to speak in the venue.[426]
- Human rights advocacy group Maruah's planned forum on "Foreign workers, justice and fairness," scheduled for December 2013, had its paid-up booking cancelled by the venue owner almost on the eve of the event. The venue owner said the police had called them, but did not say what they were told. Maruah sought an explanation from the police but did not get a clear reply.[427]

Denial or Withdrawal of Funding

The government plays a large role in funding the arts through the National Arts Council. However, the NAC reserves the right to withhold or withdraw any grant if the work created can be construed to "advocate or lobby for lifestyles seen as objectionable by the general public, that denigrate or debase a person, group or class of individuals on the basis of race or religion, or serve to create conflict or misunderstanding in our multicultural and multi-religious society, or undermine the authority or legitimacy of the government and public institutions, or threaten the nation's security or stability."[428]

The government uses the threat to withhold or rescind grants to control speech–but the threats are often more indirect, or implied. According to Sasitharan Thirulanan, who runs a theatre academy, "I have been told that my work against censorship might be deemed a

[426] Human Rights Watch interview with Tan Tee Seng, Singapore, October 2015; "Late inclusion" an excuse, Vincent Cheng tells NLB," *The Online Citizen*, June 4, 2010, https://www.theonlinecitizen.com/2010/06/04/late-inclusion-an-excuse-vincent-cheng-tells-nlb/ (accessed July 25, 2017).

[427] Joint Submission by Community Action Network and Reporters Without Borders for Singapore's Universal Periodic Review, June 20, 2015, https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=2267&file, para. 9.02.

[428] National Arts Council, "Arts Fund Applications Guidelines," https://www.nac.gov.sg/dam/jcr:f1973710-4419-4f22-8cbc-bfccdbdb6679.

problem: 'They want to support your institute and give you grants but they may not think you are the right person to be leading this.'" He said that the messages come from three or four spaces removed and thus it is never clear where they are really coming from. Such messages, however, are unmistakably intended to influence his willingness to speak out on censorship.[429]

Square Moon

Function 8 applied for a grant for a play called "Square Moon," about ISA detainees. The National Arts Council unexpectedly awarded them a grant of S$5,000. The night before the play's opening in December 2013, the Media Development Authority called to inform them that they would be videotaping the performance. According to Function 8's Teo Soh Lung, "We said okay. I went back and opened up my email and saw a letter from the arts fund saying they were reconsidering whether they should give us the grant. It was 11:11 p.m. the night before the show."[430] They went ahead with the show, and a day or two after the run, they received a letter from the arts council that their grant had been taken away. "We already spent the money. You never get the money until it is all over and there is a report. They keep it over your head. I was told most people just accept it because they want the next grant. For us it was a one-off so we pestered them and they finally gave it to us."[431]

The Art of Charlie Chan Hock Chye

Sonny Liew applied for and received a grant of S$8,000 from the National Arts Council to write a graphic novel about the history of Singapore. Ultimately, he wrote a 320-page graphic novel entitled *The Art of Charlie Chan Hock Chye*, telling the story of comic-book artist Charlie Chan during the formative years of Singapore's modern history, and featuring personalities such as Singapore's first prime minister, Lee Kuan Yew, and opposition politician Lim Chin Siong, and events such as 1987's Operation Spectrum and the Hock Lee bus riots.

On May 29, 2015, the day before the scheduled book launch, Liew was informed that the grant was being withdrawn due to the book's "sensitive content." In a press statement the

[429] Human Rights Watch interview with Sasitharan Thirunalan, Singapore, October 2015.

[430] Human Rights Watch interview with Teo Soh Lung, Singapore, October 2015.

[431] Human Rights Watch interview with Teo Soh Lung, Singapore, October 2015.

National Arts Council said that "the retelling of Singapore's history in the work potentially undermines the authority or legitimacy of the Government and its public institutions, and thus breaches our funding guidelines."[432] The publisher had to return the S$6,400 that had already been disbursed and had to print stickers to cover the arts council logo in the book.[433]

Discriminatory Media Guidelines and Censorship of LGBT issues

The Media Development Authority effectively prohibits all positive depictions of LGBT lives. The MDA Free to Air Television Program Code states that "music associated with drugs, alternative lifestyles (e.g. homosexuality) or the worship of the occult or the devil should not be broadcast."[434] The Free to Air Radio Program Code says "information, themes or subplots on lifestyles such as homosexuality, lesbianism, bisexualism, transsexualism, transvestism, paedophilia and incest should be treated with utmost caution. Their treatment should not in any way promote, justify or glamorize such lifestyles. Explicit dialogue or information concerning the above topics should not be broadcast."[435]

As Pink Dot and other LGBT rights groups have pointed out, this effectively prohibits any positive depiction of LBGT individuals that could counter the prevailing negative attitudes in Singapore toward them. Examples of censorship include:

1. Obama's praise of Ellen DeGeneres' activism on LGBT issues was cut from the airing of the *Ellen* show in February 2016.[436]
2. The entire subplot of Bree's gay son in the television program *Desperate Housewives* was cut from the broadcast in such a way that viewers could not tell anything was missing.[437]

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[432] "Graphic novel 'undermines Govt's authority': NAC," *The Straits Times*, June 3, 2015, http://www.channelnewsasia.com/news/singapore/graphic-novel-undermines/1889140.html (accessed February 23, 2017).

[433] "Graphic novel 'undermines Govt's authority': NAC," *The Straits Times*, June 3, 2015, http://www.channelnewsasia.com/news/singapore/graphic-novel-undermines/1889140.html (accessed February 23, 2017).

[434] Info-communications Media Development Authority, "Free-to-Air Television Programme Code," https://www.imda.gov.sg/~/media/imda/files/regulation%20licensing%20and%20consultations/codes%20of%20practice%20and%20guidelines/acts%20codes/01%20industrytvcontentguidelinesftatvprogcode.pdf?la=en, sec. 12.2.

[435] Info-communications Media Development Authority, "Free-to-Air Radio Programme Code, https://www.imda.gov.sg/~/media/imda/files/regulation%20licensing%20and%20consultations/codes%20of%20practice%20and%20guidelines/acts%20codes/08%20policiesandcontentguidelinesradioradioprogcode.pdf?la=en, para. 3.2.

[436] "Singapore cuts Obama's LGBT comments on Ellen," *Straits Times,* February 25, 2016, http://www.straitstimes.com/lifestyle/entertainment/singapore-cuts-obamas-lgbt-comments-on-ellen-0 (accessed February 23, 2017).

[437] Human Rights Watch interview with Alan Seah, Singapore, October 2015.

3. A promotional video for the annual Pink Dot festival, which simply featured a countdown and then the words "Pink Dot" and the date of the event, was banned from being shown in cinemas in 2015.[438]
4. The song "We're All Different, Yet the Same" by Jolin Tsai was banned from TV and radio stations due to its promotion of same-sex marriage in May 2015.[439]
5. In July 2014, the National Library Board removed three books, *And Tango Makes Three*, *The White Swan Express*, and *Who's in My Family?* from the children's section of the National Library on the ground that they were "against social norms" as they were affirmative of non-traditional sexual orientation.[440]
6. In February 2011, the film *The Kids are All Right*, about two teenagers growing up in a two-mother family, was given an R21 rating restricting it to adults at least 21 years old even though there are no explicit sex scenes. Furthermore, the government imposed an unprecedented condition that only one print of this film could be allowed in all of Singapore. This action sharply limited access to the film.[441]

Said Alan Seah, one of the organizers of Pink Dot, "It is as if our existence can't be acknowledged. We are being rendered invisible because our very existence is dangerous, or offensive, or something."

Recommendation to the Singapore Government

- Amend the Free to Air Television Program Code and the Free to Air Radio Program Code to eliminate the restriction on programs that "promote, justify or glamorize" LGBT lifestyles.

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[438] Human Rights Watch interview with Alan Seah, Singapore, October 2015.

[439] "Jolin Tsai's same-sex marriage music video and song banned on TV and radio, MDA clarifies," *The Straits Times*, May 26, 2015, http://www.straitstimes.com/lifestyle/entertainment/jolin-tsais-same-sex-marriage-music-video-and-song-banned-on-tv-and-radio (accessed October 15, 2015).

[440] "3 Children's Books Banned In Singapore Over Gay Storylines," *The Huffington Post*, February 2, 2016, http://www.huffingtonpost.com/2014/07/11/singapore-gay-book-ban_n_5578732.html (accessed March 27, 2017); see also Graeme Reid (Human Rights Watch), "Dispatches: Same-Sex Penguins Threaten Singapore," July 15, 2014, https://www.hrw.org/news/2014/07/15/dispatches-same-sex-penguins-threaten-singapore (accessed July 20, 2017).

[441] "Singapore restricts release of Oscar contender The Kids Are All Right," *News24*, February 16, 2011, http://www.news24.com/Archives/City-Press/Singapore-restricts-release-of-Oscar-contender-The-Kids-Are-All-Right-20150429 (accessed March 27, 2017).

IV. Other Laws that Restrict Freedom of Expression

There are various other criminal laws in place in Singapore that are inconsistent with international freedom of expression standards. While not all of the laws are currently being used to restrict freedom of speech, they are all subject to abuse and should be repealed or amended to conform to international standards.

Internal Security Act

Singapore's abusive Internal Security Act (ISA) grants the government sweeping powers to clamp down on activities that it deems prejudicial to internal security or public order.[442] The ISA allows for prolonged and indeterminate administrative detention without effective judicial review in violation of international law.[443] Human Rights Watch and others have long called for the ISA to be repealed, or amended to eliminate the provisions for detention without trial.[444]

The ISA limits freedom of expression as it authorizes the minister of communications and information to prohibit the printing, publication, sale, issue, circulation, or possession of any document that he believes (a) contains any incitement to violence; (b) counsels disobedience to the law or to any lawful order; (c) is calculated or likely to lead to a breach of the peace, or to promote feelings of hostility between different races or classes of the population; or is prejudicial to the national interest, public order, or security of

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[442] The problems with Singapore's Internal Security Act (ISA) are beyond the scope of this report, but the most problematic provisions allow persons to be detained for exercising their fundamental rights and be held indefinitely without charge or effective judicial review. While the number of individuals currently detained under the ISA is difficult to determine, as of October 2016, at least 17 individuals were being detained, two of whom have been held for nearly 15 years. Email correspondence with Teo Soh Lung, Function 8, May 16, 2017.

[443] See UN Human Rights Committee, General Comment No. 35, The Right to Liberty and Security of Person, UN Doc. CCPR/C/GC/35 (2014), para. 15.

[444] Human Rights Watch, "UPR Outcome Report on Singapore," statement, September 2011, https://www.upr-info.org/sites/default/files/document/singapore/session_11_-_may_2011/humanrightwatchoralsingapore2011.pdf; "Former detainees call for abolition of Singapore's 'crippling' Internal Security Act," *The Straits Times*, September 20, 2011, http://www.asia-pacific-solidarity.net/southeastasia/singapore/news/st_formerdetaineescallforabo_200911.htm (accessed June 30, 2017); Human Rights Council, "Report of the Working Group on the Universal Periodic Review: Singapore," UN Doc. A/HRC/32/17, April 15, 2016, https://www.upr-info.org/sites/default/files/document/singapore/session_24_-_january_2016/a-hrc-32-17-e.pdf (reporting that Singapore did not agree with recommendations to abolish or amend the ISA).

Singapore.[445] Anyone who prints, publishes, sells, issues, circulates, or reproduces a document or publication which is the subject of such an order faces a penalty of up to three years in prison, a fine, or both.[446] Importation or possession of such a document is also a criminal offense, punishable by imprisonment.[447] Section 26 of the ISA makes it a criminal offense to "spread false reports or make false statements likely to cause public alarm," either orally or in writing.[448] The penalty for violation of this offense is not specified.

While it is legitimate under international law to impose restrictions on speech to protect public order, the limitations imposed must be "appropriate to achieve their protective function" and be "the least intrusive instrument amongst those which might achieve their protective function."[449] The ISA's restrictions on speech are too broad to meet that standard and should be significantly narrowed to prevent future abuse.

Recommendation to the Singapore Government:

- Abolish the Internal Security Act as it contravenes international human rights standards.

Penal Code Section 298A: "Hate Speech"

Section 298A of Singapore's Penal Code is a broadly worded provision aimed at "hate speech." The provision imposes a three-year sentence for speech that "knowingly promotes or attempts to promote, on grounds of religion or race, disharmony or feelings of enmity, hatred or ill-will between different religious or racial groups." While the goal of preventing inter-communal strife is an important one, it should be done in ways that restrict freedom of expression as little as possible. As discussed in the "Sedition Act" section of this report, such broadly worded restrictions on discussion of race and religion are incompatible with the right to freedom of expression.

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[445] Internal Security Act, sec. 20

[446] Internal Security Act, sec. 22.

[447] Internal Security Act, secs. 23-24.

[448] Internal Security Act. sec. 26.

[449] UN Human Rights Committee, General Comment No. 34, para. 34. See also Supreme Court of India, *Chintaman Rao v. State of Madhya Pradesh*, 1950 SCR 759 ("The phrase 'reasonable restriction' connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public. The word 'reasonable' implies intelligent care and deliberation, that is, the choice of a course which reason dictates. Legislation which arbitrarily or excessively invades the right cannot be said to contain the quality of reasonableness.").

Recommendations to the Singapore Government

- Amend section 298A to limit application of the provision to speech intended to and likely to incite imminent violence or discrimination against an individual or clearly defined group of persons, and when alternative measures to prevent such conduct are not reasonably available.
- "Imminent" harm is not possible or potential harm, but harm that is or is likely to be directly or immediately caused or intensified by the speech in question. For this purpose, "violence" refers to physical attack, while "discrimination" refers to the actual deprivation of a benefit to which similarly situated people are entitled or the imposition of a penalty or sanction not imposed on other similarly situated people.
- Counter hate speech through affirmative or non-punitive measures, including public education, promotion of tolerance, publicly countering libelous or incendiary misinformation, and strengthening security to protect any threatened population.

Penal Code Sections 499-502: Criminal Defamation

Under Singapore law, the state can prosecute an individual for defamation under sections 499-502 of the Penal Code. The penalty for criminal defamation is imprisonment for up to two years, a fine, or both.[450] Defamation has been defined as a false statement that harms another person's reputation.

It is increasingly recognized globally that defamation should be considered a civil matter, not a crime punishable with imprisonment. The UN special rapporteur on the protection and promotion of the right to freedom of opinion and expression has recommended that criminal defamation laws be abolished,[451] as have the special mandates of the United Nations, the Organization for Security and Co-operation in Europe, and the Organization of American States, which have together stated that: "Criminal defamation is not a justifiable

[450] Penal Code, sec. 500. Section 501 criminalizes printing or engraving matter knowing or having good reason to know it is defamatory, and section 502 criminalizes selling or offering for sale any printed or engraved matter containing defamatory material, knowing that it contains such matter. Both provisions also carry a penalty of up to two years in prison.

[451] Report of the special rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue Report, June 2012, UN Doc. A/HRC/20/17, para. 87.

restriction on freedom of expression; all criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws."[452]

The criminal defamation provisions in the Singapore Penal Code are, in fact, rarely used, and should be repealed. As discussed in the sections on non-criminal restrictions on peaceful expression, government officials rely heavily on civil defamation suits to counter criticism, with courts frequently imposing disproportionately high penalties.

Recommendations to the Singapore Government

- Repeal sections 499-502 of the Penal Code to abolish criminal defamation.
- Revise Singapore's civil libel laws to prioritize non-monetary awards such as apology or clarification, and to bar disproportionately large fines in civil defamation cases.

Penal Code Section 504: "Insults" that Provoke a Breach of the Peace

Section 504 of the Penal Code states that:

> Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment for a term which may extend to two years, with a fine, or with both.

As noted above, while it is legitimate under international law to impose restrictions on speech to protect public order, the limitations imposed must be "appropriate to achieve their protective function" and be "the least intrusive instrument amongst those which

[452] Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, 2002, http://www.oas.org/en/iachr/expression/showarticle.asp?artID=87&lID=1 (accessed June 11, 2014). Similarly, the African Court on Human and Peoples' Rights has held that imposing a custodial sentence for defamation violates both article 9 of the African Charter on Human and Peoples' Rights and the ICCPR. African Court on Human and Peoples' Rights, *Lohe Issa Konate v. Burkina Faso*, Application no. 004/2013, December 5, 2014, https://www.african-court.org/en/images/documents/Judgment/Konate%20Judgment%20Engl.pdf (accessed June 17, 2015).

might achieve their protective function."[453] Section 504 is a very broad provision that, while purporting to protect public order, may actually encourage those who disagree with a speaker to threaten public disorder to instigate criminal investigations of the speaker.

As discussed earlier in this report, while civil penalties may be appropriate for false statements that defame and cause harm to another person, insulting someone should never be a criminal offense, regardless of whether or not the person insulted threatens to, or does, break the public peace. Criminalizing speech not because it urges unlawful action but simply because it is likely to alarm or offend others, causing them to protest or otherwise disturb public order, is an extreme measure that generally cannot be justified as "necessary" in a democratic society.[454] Such restrictions hand those offended a "heckler's veto" that stifles public debate. Indeed, some types of provocative and disturbing speech — such as criticism of government or public figures — are vital to a democratic society and should be protected even if inaccurate.

Section 504 also fails to meet the requirement that any restriction on speech be formulated with sufficient precision to enable an individual to know what speech would violate the law.[455] An individual cannot know what statements are "likely" to cause someone to break the public peace, as that would require knowing in advance another person's subjective response to the alleged insult. The provisions thus do not provide an individual with sufficient guidance to enable them to regulate their conduct accordingly,[456] or provide clear limitations on those who are charged with enforcing it.[457]

This lack of clarity also leaves the provisions subject to abuse by officials looking for a way to silence critics of the government or others who are making statements to which they object.

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[453] UN Human Rights Committee, General Comment No. 34, para. 34. See also Supreme Court of India, *Chintaman Rao v. State of Madhya Pradesh*, 1950 SCR 759 ("The phrase 'reasonable restriction' connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public. The word 'reasonable' implies intelligent care and deliberation, that is, the choice of a course which reason dictates. Legislation which arbitrarily or excessively invades the right cannot be said to contain the quality of reasonableness.").

[454] ECHR, *Sunday Times v. United Kingdom*, para. 59.

[455] UN Human Rights Committee, General Comment No. 34, para. 25.

[456] Ibid.; ECHR, *Sunday Times v. United Kingdom*, para. 49.

[457] UN Human Rights Committee, General Comment No. 34, para. 25 ("Laws must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not.").

Recommendation to the Singapore Government

- Repeal section 504 of the Penal Code to eliminate the criminal penalties for "insulting" speech.

Penal Code Section 503: Criminal Intimidation

Penal Code section 503, the provision on criminal intimidation, provides that anyone who:

> Threatens another with injury to his person, reputation, or property, or to the person or reputation of anyone in whom the person is interested, with intent to cause alarm to that person, *or* to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation [emphasis added].

Generally speaking, the crime of intimidation involves the threat of violence or injury to person or property as a means of coercing that individual to commit acts they otherwise would not commit.[458] In many countries, criminal intimidation is limited to threats intended to influence witnesses or others in judicial proceedings, and intimidation for other purposes is dealt with by civil orders.[459]

Section 503, which dates from the colonial era and appears not to be currently in use, not only is not limited to intimidation in the judicial sphere, it criminalizes speech in very broad terms. Rather than limiting the restriction to speech that threatens harm to persons or property, as is generally the case, the statute also penalizes speech that threatens reputational harm. The breadth of the restriction on speech is demonstrated by the

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[458] See, e.g., section 45-5-203 of the Montana (US) Code 2013, http://leg.mt.gov/bills/mca/45/5/45-5-203.htm (accessed June 3, 2016) ("A person commits the offense of intimidation when, with the purpose to cause another to perform or to omit the performance of any act, the person communicates to another, under circumstances that reasonably tend to produce a fear that it will be carried out, a threat to perform without lawful authority any of the following acts: (a) inflict physical harm on the person threatened or any other person; (b) subject any person to physical confinement or restraint; or (c) commit any felony."). See also, Criminal Code of Canada, sec. 423, http://yourlaws.ca/criminal-code-canada/423-intimidation (accessed June 3, 2016).

[459] See, e.g, United Kingdom Criminal Justice and Public Order Act 1994, c. 33, Part III, sec. 51, http://www.legislation.gov.uk/ukpga/1994/33/part/III/crossheading/intimidation-etc-of-witnesses-jurors-and-others (accessed June 3, 2016).

explanation contained in the Penal Code itself, which notes that a threat to injure the reputation of a deceased person can constitute criminal intimidation.[460]

Moreover, by criminalizing speech that is intended "to cause alarm," rather than only speech intended to incite action, the Singapore Penal Code sets a very low standard for restriction on speech. Under section 503, an individual could be imprisoned simply for threatening to report that a person is corrupt, as such a threat could be viewed as having been made with "the intent to cause alarm" to the person.

Recommendation to the Singapore Government

- Amend section 503 of the Penal Code to limit the offense of criminal intimidation to intimidation in relation to ongoing criminal proceedings.

Penal Code Section 509: Insults to Modesty

Section 509 of the Penal Code is a colonial-era provision that criminalizes use of language "intended to insult the modesty of any person," providing a possible sentence of up to one year of imprisonment, a fine, or both. The provision is antiquated and does not appear to be used, and should be repealed.

Recommendations to the Singapore Government

- Repeal section 509 of the Penal Code to eliminate the criminal penalties for speech that "insults modesty."

460 Penal Code, section 503, Explanation.

V. Recommendations

To the Government of Singapore

- Amend Singapore's criminal laws to conform to international human rights standards for freedom of expression, association, and peaceful assembly.
- Sign and ratify the International Covenant on Civil and Political Rights and other core international human rights treaties.
- Develop a clear plan and timetable for the repeal or amendment of the laws identified below; where legislation is to be amended, consult fully and transparently with civil society groups.
- End the use of warrantless arrests and searches for offenses relating to peaceful expression and assembly.

Administration of Justice (Protection) Act

- Repeal section 3(1)(a) of the Administration of Justice (Protection) Act to abolish the offense of "scandalizing the judiciary."
- Amend section 3(1)(b) of the act to narrow the restriction on statements that "prejudge" a pending proceeding to those that create a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced, and to make the rule equally applicable to the government and to private citizens.
- Repeal section 3(4) of the act to eliminate the government's discretion to make even prejudicial statements about ongoing proceedings when the government determines it is "in the public interest" to do so.
- Amend section 13 of the act to give the author of allegedly contemptuous content notice and an opportunity to be heard before the court makes a determination whether such content must be removed.

Sedition Act

- Fully repeal the Sedition Act.

Penal Code sections 499 to 502: Criminal Defamation

- Repeal sections 499 to 502 of the Penal Code to eliminate the offense of criminal defamation. Defamation should be solely a civil matter, as recommended by the UN special rapporteur on the right to freedom of opinion and expression.
- Revise Singapore's civil libel laws to require public figures to prove that the defendant knew the information was false.
    - The law should give preference to the use of non-pecuniary remedies, including, for example, apology, rectification, and clarification.
    - Pecuniary rewards should be strictly proportionate to the actual harm caused.

Other problematic provisions of the Penal Code

- Repeal section 298 of the Penal Code to eliminate offense of "wounding religious feelings."
- Amend section 298A to limit application of the provision to speech intended to and likely to incite imminent violence or discrimination against an individual or clearly defined group of persons, and when alternative measures to prevent such conduct are not reasonably available.
    - "Imminent" harm is not possible or potential harm, but harm that is or is likely to be directly or immediately caused or intensified by the speech in question. For this purpose, "violence" refers to physical attack, while "discrimination" refers to the actual deprivation of a benefit to which similarly situated people are entitled or the imposition of a penalty or sanction not imposed on other similarly situated people.
    - Counter "hate speech" through affirmative or non-punitive measures, including public education, promotion of tolerance, publicly countering libelous or incendiary misinformation, and strengthening security to protect any threatened population.
- Repeal section 504 of the Penal Code to eliminate the criminal penalties for "insulting" speech.
- Amend section 503 of the Penal Code to limit the offense of criminal intimidation to intimidation in relation to ongoing criminal proceedings.
- Repeal section 509 of the Penal Code to eliminate the criminal penalties for speech that "insults modesty."

Public Order Act

- Amend the Public Order Act to specifically recognize the government's obligation to facilitate peaceful assemblies.
- Amend the definition of "public assembly" and "public place" to exclude gatherings held indoors.
- Amend section 5 and repeal section 7 of the POA to eliminate the requirement for a permit for an assembly or procession.
- Amend section 5 to require advance notice of an assembly only if it will involve, for instance, more than 50 people and of a procession only if it will involve, for instance, more than 10 people. The purpose of the notice requirement should be to allow the authorities to take steps to facilitate the assembly and should not function as a de facto request for authorization.
- Amend section 6 of the act to limit the information required to be provided in advance of an assembly or procession to that required to facilitate the assembly or procession and ensure public safety, such as date, time, location, and expected number of participants; streamline the notice requirements for an assembly or procession. The notice period should not exceed 48 hours in advance of the planned assembly or procession.
- Amend section 5 of the act to provide an explicit exception to the notice requirement for spontaneous assemblies where it is not practicable to give advance notice.
- Amend sections 12 and 13 of the act to limit the discretion of the minister of home affairs to ban assemblies to instances in which doing so is necessary to prevent violence or serious public disorder.
- Repeal sections 15 and 16 of the act to eliminate the criminal penalties for organizing or participating in a peaceful assembly or procession without a permit, holding an assembly or procession at a date and time that differs from that stated in the notice, or failing to comply with conditions imposed on the gathering. No criminal penalties should be assessed for organizing or participating in a peaceful assembly.

Regulations Governing Speakers' Corner

- Amend the Public Order (Unrestricted Area) (Amendment) Order 2016 to eliminate the restrictions on participation by those who are not citizens or permanent residents of Singapore.

- Amend the order to narrow the restrictions on speech to speech intended to and likely to incite imminent violence or discrimination against an individual or clearly defined group of persons where alternative measures to prevent such conduct are not reasonably available.
- Repeal Public Order (Unrestricted Area) (Amendment) Order 2016.
- Direct the Singapore police to end its practice of aggressively monitoring peaceful assemblies and filming or photographing those participating.

Parliamentary Elections Act

- Amend section 78B of the Parliamentary Elections Act so that violations of the restrictions on election advertising are not considered "arrestable offenses" within the meaning of the Code of Criminal Procedure.
- Amend section 78B(2) to include online news sites among those permitted to publish "news" about an election during the cooling off period.

Films Act

- Repeal section 21(1) of the Film Censorship Act to eliminate the penalties for showing unapproved films.
- Repeal section 33 of the Film Censorship Act to eliminate the restriction on creating, exhibiting or distributing a "party political film."
- Repeal section 35 of the Film Censorship Act to eliminate the Minister for Communications' discretionary power to ban the showing of films.
- Eliminate section 11 of the film classification guidelines to eliminate the restriction on films that "promote or justify a homosexual lifestyle."

Public Entertainments and Meetings Act

- Amend the Public Entertainments and Meetings Act to eliminate the power of the Licensing Officer to impose conditions, such as revisions to the script, on the issuance of a license.

Broadcasting Act

- Eliminate the license provisions for Internet Content Providers.

Media Guidelines

- Amend the Media Development Authority (MDA) Free to Air Television Program Code and the Free to Air Radio Program Code to eliminate the restriction on programs that "promote, justify or glamorize" LGBT lifestyles.

Internal Security Act

- Abolish the Internal Security Act as contravening international human rights standards.

Freedom of Information Law

- Enact a Freedom of Information law in which government information is presumed to be subject to disclosure.
- The right to information should be interpreted and applied broadly, and the burden of demonstrating the legitimacy of any restriction on disclosure should rest with the public authority seeking to withhold information.
- The law should not restrict the right to information on the basis of national security unless the government can demonstrate that the restriction is prescribed by law and is necessary in a democratic society to protect a legitimate national security interest. The law should designate specific and narrow categories of information that would materially damage national security if publicly released.
- Government denial of a request for information should specify the reasons in writing and be provided as soon as reasonably possible. It should provide for a right of review of the denial by an independent authority. All oversight, ombudsmen and appeal bodies, including courts and tribunals, should have

access to all information, including national security information, regardless of classification level, relevant to their ability to discharge their responsibilities.

Hate Speech

- Counter hate speech through affirmative or non-punitive measures, including public education, promotion of tolerance, publicly countering hateful or incendiary misinformation, and strengthening security to protect any threatened population.

"Fake News"

- Ensure that any legislation enacted to deal with so-called "fake news" complies with international standards for the protection of freedom of expression.

To the Attorney General's Chambers

- Recommend that the Singapore government sign and ratify the International Covenant on Civil and Political Rights and other core human rights treaties.

To the Director General of Police

- Direct all police departments to facilitate peaceful assemblies, not hinder them, and appropriately protect the safety of all participants. Persons and groups organizing assemblies or rallies should not be prevented from holding their events within sight and sound of their intended audience.
- Instruct all police departments that participation in peaceful assemblies should never be the basis for criminal charges.
- Instruct the Singapore police to end its practice of aggressively monitoring peaceful assemblies and filming or photographing those participating.
- Instruct all police departments that seizure of mobile phones and computers for speech-related offenses is not necessary where the individual does not contest posting the content at issue.

To the Minister of Foreign Affairs

- Extend a standing invitation to all UN Special Procedures, and promptly approve requests to visit from all special rapporteurs, working groups, and independent experts.
- Seek visits from the UN special rapporteur on the promotion and protection of the right to freedom of opinion and expression and the special rapporteur on the rights of freedom of peaceful assembly and of association.
- Implement recommendations on the rights to freedom of expression, association, and peaceful assembly, among other fundamental rights, made by UN member states to Singapore during its Universal Periodic Review session at the UN Human Rights Council in 2016.

To Concerned Governments and Intergovernmental Bodies

- Publicly and privately urge Singapore to protect the rights to freedom of expression and peaceful assembly, including through the recommendations above.
- Raise freedom of speech concerns outlined in this report during Singapore's next Universal Periodic Review and in other relevant international contexts.

Appendix I: Letters to the Singapore Government

October 30, 2017

Prime Minister Lee Hsien Loong
Prime Minister's Office
Government of Singapore

Re: Freedom of speech and assembly in Singapore

Dear Prime Minister Lee,

Human Rights Watch is an independent, nongovernmental organization that reports on the situation of international human rights and international humanitarian law by governments and non-state armed groups in more than 90 countries around the world. Human Rights Watch has worked on human rights issues in Singapore since the 1980s.

Human Rights Watch seeks the Singaporean government's response regarding research that we have recently conducted on the rights to freedom of expression and peaceful assembly in Singapore. Human Rights Watch plans to publish a report on this topic later this year as part of a series of reports on freedom of expression in Asia.

Human Rights Watch is committed to producing material that is evidence-based, accurate, and impartial. For this reason, we wanted to provide an opportunity for you and your staff to present your views so that they can be reflected in our reporting.

We have analyzed many of the restrictions imposed on speech and assembly in Singapore, and how those restrictions – criminal, civil and regulatory – have been applied. Based on that analysis, we found that Singapore routinely imposes restrictions on speech and assembly that exceed those permitted under international law and penalizes those who violate those restrictions. Those typically targeted are people who criticize the actions of the government or the judiciary, speak out on issues of race and religion, or express minority views. The government also imposes excessive regulatory restrictions on the arts,

frequently censoring or banning works that depict alternative views of history or minority viewpoints, or portray the lives of LGBT individuals in a positive light.

Peaceful public demonstrations and other assemblies are severely limited, and even those who hold gatherings at Speakers' Corner are often harassed and investigated for alleged failure to comply with detailed restrictions on what can be said and who can participate in public gatherings. Foreigners are effectively prohibited from exercising their right to freedom of assembly in Singapore, as they are banned from organizing events or speaking even at Speakers' Corner without a permit, and those permits are routinely denied.

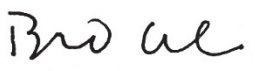
Investigations for even minor offenses are often prolonged and involve what appear to be unnecessary invasions of privacy. Individuals may be called in for hours of questioning, their homes searched, and their mobile phones and computers seized even when there appears to be no investigative need for the police to do so.

We would appreciate any general comments you may have on the government's respect for the rights to freedom of expression and peaceful assembly in Singapore. In addition, we hope that you and your staff can answer the questions below so that your views are accurately reflected in our reporting.

We would very much appreciate any information your offices can provide regarding these questions and the issues they raise. In order to reflect your responses in our report, we would need to receive them no later than 15 November 2017.

We thank you in advance for your consideration.

Sincerely,



Brad Adams
Executive Director
Asia Division

Questions for the Government of Singapore

1. Public Order Act
    a. How many investigations have been opened against individuals for violating the permit requirement of the Public Order Act in the past 10 years?
    b. Please list all instances, if any, in which the authorities granted a permit for a "cause-related" assembly or procession in the past 10 years?
    c. Two individuals were arrested in April 2015 after protesting outside the Istana. Were they prosecuted and, if so, what was the outcome of the prosecution?
    d. On January 21, 2017, a group of largely Indian nationals were investigated for gathering in Sembawang Park without a permit. What action, if any, was taken against those individuals, including prosecution, revocation of work permits, deportation or other action?
    e. What is the justification for having plainclothes police officers monitoring gatherings at Speakers' Corner and photographing the participants?
    f. What is the justification for requiring a permit for an indoor meeting if a foreigner will be speaking?
    g. The police informed the organizers of Pink Dot that, under the new rules governing Speakers' Corner, any foreigner even present at Speakers' Corner would be considering a "participant" and thus in violation of the law. What is the justification for preventing foreigners from even observing assemblies at Speakers' Corner?

2. Administration of Justice (Protection) Act
    a. Many countries have now abolished the offense of "scandalizing the court" as incompatible with freedom of speech. Singapore chose, instead, to codify it in legislation last year. Why does the government believe that criticism of the judiciary should be a criminal offense?
    b. The restrictions on discussion of "pending" cases in the Administration of Justice (Protection) Act are extremely broad. Given that Singapore has abolished jury trials and cases are handled by professional judges who should be capable of ignoring commentary from outside the courtroom,

why did the government feel the need to impose such broad restrictions on the discussion of pending cases?

c. How does the government justify exempting itself from the limits on discussion of pending proceedings?

d. When will the law be gazetted and come into force?

3. Parliamentary Elections Act

a. In May 2016, Teo Soh Lung and Roy Ngerng were investigated for violation of the ban on election advertising during the "cooling-off" period for posts on their personal Facebook pages. What is the government's basis for treating personal Facebook and blog posts as election advertising?

b. Neither Teo Soh Lung nor Roy Ngerng denied making the posts at issue, and yet the police searched both of their homes and seized computers and mobile phones. At the police station, Ngerng was required to disclose the passwords to his social media accounts. What is the investigatory justification for seizing and searching electronics when there is no dispute about who posted the information that is the subject of the investigation? Does either the government or the police force have a policy on when searches and seizures of electronics are appropriate?

4. Impact of Police Warnings

a. In the case of *Wham Kwok Han Jolovan v. Attorney General,* [2015] SGHC 324, the applicant sought to quash a "stern warning" issued by the police on the grounds that the existence of the warning might prejudice him in future proceedings. The court rejected the application, holding that a "stern warning" by the police is "no more than an expression of the opinion of the relevant authority that the recipient has committed an offense." However, when "stern warnings" were issued to Kumaran Pillai, Alfred Dodwell and Ravi Philemon in February 2017, after an investigation into possible violations of the Parliamentary Elections Act, the Singapore Police issued a press release in which they stated: "Should any of the parties commit similar offences in subsequent elections, the stern warning that was administered can be taken into consideration in the decision to prosecute." Is it the position of the government that stern warnings can, in

fact, have consequences in future prosecutions, or was this an error on the part of the Singapore Police Force?

CC:
K. Shanmugam
Minister for Home Affairs
Government of Singapore

Dr. Yaacob Ibrahim
Minister for Communications and Information
Government of Singapore

Dr. Vivian Balakrishnan
Minister for Foreign Affairs
Government of Singapore

“Kill the Chicken to Scare the Monkeys”

Suppression of Free Expression and Assembly in Singapore

Singapore promotes itself as a bustling, modern city-state and a great place to do business. Beneath the surface of gleaming high-rises, however, is a repressive place where the government severely restricts what can be said, published, performed, read, or watched. Those who criticize the government or the judiciary, or publicly discuss race and religion, frequently find themselves facing criminal investigations and charges, or civil defamation suits and crippling damages. Public demonstrations and other peaceful assemblies are severely limited, and failure to comply with detailed restrictions on what can be said and who can participate in public gatherings often leads to arrest.

Killing the Chicken to Scare the Monkeys documents the Singaporean government’s use of its overbroad criminal laws, oppressive regulatory restrictions, access to funding, and civil lawsuits to control and limit critical speech or peaceful protest. It provides an in-depth analysis of the laws and regulations used to suppress speech and assembly, including the Public Order Act, the Sedition Act, the Broadcasting Act, various Penal Code provisions, and laws on criminal contempt, and examines how those provisions have been used against peaceful activists. It draws on interviews with civil society activists, journalists, lawyers, academics, and opposition politicians, and public statements by government officials.

Human Rights Watch calls on Singapore’s government to drop all pending charges and investigations against those being prosecuted for the exercise of their freedom of expression or their right to participate in peaceful assemblies, and amend or repeal relevant laws to bring them into line with international human rights standards.

People light candles next to signs at a vigil in solidarity with protesters of the “Occupy Central” movement in Hong Kong, at Speakers’ Corner in Hong Lim Park, Singapore, on October 1, 2014.