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F R E E D O M
of
E X P R E S S I O N
and
the
M E D I A



b a s e l i n e
s t u d i e s

'Everyone has the right to freedom of expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.'

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FREEDOM OF EXPRESSION AND THE MEDIA IN SINGAPORE

*part of a series of baseline studies on
seven Southeast Asian countries*

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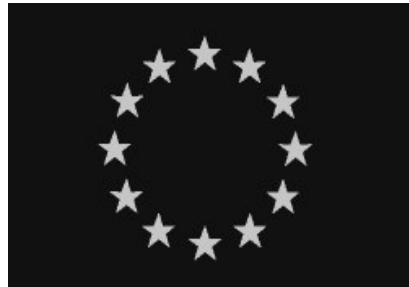
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Freedom of Expression and the Media in Singapore

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1. INTRODUCTION

Media ownership and **the** regulatory environment define the way the media operates in Singapore. Political, regulatory and structural control over the local media restricts and discourages the development of an environment where views can be expressed freely. A culture of self-censorship can be observed, created by and enforced through lawsuits or the suspension of offending publications, or the threat of such action. Furthermore, foreign media activities are restricted and regulated closely in an effort to control the flow of information and free expression.

Although there are debates over the censorship of nudity, pornography and homosexuality in the media, the area that receives most active scrutiny by the government is the media space that allows opposition parties, civil society opponents and foreign journalists to comment on local issues. Censorship of political expression is achieved through a mixture of ownership, legislation, defamation suits, harassment and self-censorship on the part of the media.

Media ownership in Singapore is carefully regulated and media content strictly monitored. Until 2000, Singapore Press Holdings (SPH) owned all dailies in the city-State after the Peoples Action Party (PAP) government successfully managed to consolidate and tame a once vibrant press culture. Francis Seow, in his book *The Media Enthralled: Singapore Revisited*, records how private and family owned newspapers were run to the ground by Prime Minister Lee Kuan Yew, in his fervour to control the domestic press. Media owners and journalists, both local and foreign, were on different occasions threatened, arrested, and detained without trial and deported.¹ The Media Corporation of Singapore (MediaCorp), a company that was created following the amalgamation of several government-owned broadcast corporations, currently dominates the broadcasting media. The PAP government guards the broadcast turf rigorously. While it reluctantly allows foreign broadcasters to operate for commercial and public relations reasons, it nevertheless restricts their activities through legislation in an effort to prevent them from commenting on local politics.

There was much optimism when announcements were made by the PAP government in June 2000 that additional media licenses were to be issued to government-linked companies, SPH and MediaCorp, to start additional broadcasting and print projects. The long-standing monopolies of SPH in

¹ For a full account read Seow, Francis, *The Media Enthralled: Singapore Revisited*, (Lynne Rienner Publishers, 1994)



print media and the MediaCorp hegemony in broadcast seemed to be opening up for potentially new internal competition. The imminent presence of more media products on the market led commentators to claim that internal competition among the media groups would result in a more independent media in Singapore. By the end of 2001 however, the initial enthusiasm gave way to some sombre economic realities as both of these companies re-visited their investments. Several of the new media ventures were closed down, merged, downsized or streamlined. In September 2004, it was reported that MediaCorp and SPH would merge some of their operations as a result of losses in some of their respective assets. MediaCorp's consolidation with most of SPH's television assets, as well as SPH's acquisition of MediaCorp's *Today* newspaper, signalled a return to near-monopolies for both government-linked companies.² Hence, those who banked on "economics" to usher in media freedom into a media regime known for its control over critical political content were disappointed.

Instead, the PAP government, while issuing new licenses, continued to introduce legislation to prevent foreign broadcasters and print media outlets from interfering in local politics. They claimed that this was necessary to ensure that in the light of many foreign reporting agencies relocating to Singapore, the reporting of news about Singapore, especially political news, would be undertaken by local and not foreign media. Foreign media outlets are constantly warned by the Ministry of Information, and other government agencies, not to interfere in domestic politics and frequently face libel actions when they do. The *International Herald Tribune* faced libel action for articles on unrelated topics it published on 2 August and 7 October 1994.³

Amendments to the Broadcasting Act (1994, 2002) which came into force on 19 April 2001 invested the Information Minister with the power to limit, suspend or bar the transmission of foreign programmes if they breach laws with regards to decency or are found to have engaged in domestic politics. These actions appear to have resulted in some self-censorship of political content by the foreign media.⁴ Yet, because control over their reporting is not complete, the foreign media continues to be an area of concern and target of controlling legislation and action by the PAP government.

Those who were also hopeful that new communications technology such as the Internet would usher in some form of media freedom have also

² "Singapore media firms roll back competition", Reuters, 18 September 2004, <http://www.singapore-window.org/sw04/040918re.htm>

³ Rodan, Garry, "Singapore: Information lockdown, business as usual", in Louise Williams and Roland Rich (eds.), *Losing Control: Freedom of the Press in Asia*, (Australia: Australian National University & Asia Pacific Press, 2000).

⁴ Rodan, Garry, "Bedding down media and information control in Singapore and Malaysia", in Garry Rodan (ed.) *Transparency and Authoritarian Rule in South East Asia: Singapore and Malaysia*, (London & New York: Routledge Curzon, 2004).

been similarly disappointed. Arguments which asserted that the government would find it increasingly difficult to stop the inflow of information from the Internet or that the Internet would help break the monopoly of the traditional media organisations have proved to be unfounded. Space enjoyed by a few Internet sites such as Sintercom, Think Centre and opposition parties which were the focus of early media reports and scholarly investigations soon suffered setbacks.

Internet sites that discussed politics and were based in Singapore were compelled to register with the regulatory authorities as early as 1998. In 2001, legislation was hurriedly enacted to proscribe the use of the Internet and mobile phone SMS facilities during election periods. Additionally, specialist crime divisions were set up, laws were passed to monitor the Internet, and technology was harnessed to conduct better surveillance. New laws were also introduced in 2003 to give local authorities sweeping powers to take pre-emptive action against so-called "cyber terrorists".

While there have been no reports of any abuse of the above laws, they have raised fears amongst some that they could be misused to 'invade the privacy of citizens', and 'as an instrument of oppression by the government'. It has been reported that many people feel that the new law is unclear, and are fearful that the authorities may use it to crack down on its critics. Even government lawmakers have expressed concerns that the law could be misused because of its vagueness and the absence of measures to ensure the government's accountability. Violators of the Act can be jailed for up to three years or fined up to SGD 10,000 (USD 5900).

The measures directed against foreign media and the Internet to regulate ownership and control content indicate that the changes to media regulation and structures in Singapore were not designed to achieve a more free media. The reason for introducing local media competition appears to emanate from the pursuit of advertising revenue. For instance, the Information Minister announced in June 2003 that Singapore wanted to become a "global media city". To this end, the State Media Development Authority plans to invest nearly 100 million Euros in the media sector over the next five years. In return, the government expects media professionals to step up their efforts to increase the sector's share of Singapore's GDP. With so much at stake financially one can hardly expect journalists and their media organisations, both local and foreign, to forego economic returns for media freedom.

Collectively, these conditions allow the PAP government to maintain a firm grip over local media including newspapers, television, radio, magazines and books. Foreign media, print and broadcast as well as the Internet, have also come under scrutiny and face restrictions on their activities and content.



2. KEY RECOMMENDATIONS

To the Government and/or Parliament:

Ratify and implement the International Covenant on Civil and Political Rights without reservations.

Introduce a Freedom of Information Act.

A Freedom of Information Act that is consistent with international human rights standards should be enacted as a matter of priority.

1. Review Media laws

The Government should review as a matter of priority all legislation and regulations relating to the media, including foreign media and the Internet, and where necessary revoke or amend them to ensure compliance with international standards of freedom of expression and information. In particular:

Newspapers and Printing Presses Act (1974, 2003):

- consider allowing funding from foreign sources
- review the requirement for public ownership to allow for private ownership
- review the distribution of management shares within media public companies
- review the process of acquiring permits

Broadcasting Regulations:

- review the structure and remit of the Media Development Authority in order to ensure its independence of government influence
- review and amend media licences to encourage diversification within the media and to avoid monopolies.

2. Amend Defamation Laws

- reform civil defamation law:
The Government should review the Defamation Act (1957, 1997) and its application, particularly to prevent the abuse of the Act to restrict legitimate forms of expression. A cap should also be placed on damages in civil defamation cases to avoid unnecessarily onerous damages being awarded.
- decriminalise defamation:
The Penal Code should be amended to decriminalise defamation as a matter of urgency.

3. Amend Regulation related to foreign media

- remove reporting restrictions on foreign media.
In particular to review and amend Section VIII of the Broadcast Act to enable the foreign media to comment on domestic issues.
- allow satellite broadcasting.
Remove the ban on private satellite dishes to enable a wider range of information sources.

4. Amend regulation on Internet access and content.

- closely monitor the application of the Internet Code of Practice (1997) to ensure that it is not interpreted in a manner that restricts legitimate material.
- review the amendments to the Parliamentary Elections (elections advertising) Act to ensure that editors and owners of websites are not held responsible for positions taken by surfers to their websites.

5. Allow foreign funding for NGOs

In order to promote an active civil society involvement in the media, the Government should review the Political Donations Act (2000, 2003) and the Societies Act (1966, 2004) to remove limits placed on funding from foreign sources.

To the Media

1. Consider drafting a Code of Conduct.

To assist in the process of promoting a professional media culture, a code of conduct which takes into consideration international standards of freedom of expression and information could be drafted.

2. Strengthen training for media personnel.

Media associations should consider providing training for media personnel to include ethical standards and human rights standards.

3. Inform civil society of Bills before Parliament that have human rights implications and/or media freedom issues.

4. Remove restrictions and time limits on broadcasting for all political organisations.

Television broadcasters should review the Political Party Broadcast policy to ensure an equal distribution of broadcasting time is available to political organisations, particularly during elections.

To Civil Society



Monitor the media closely.

Civil Society should monitor the media and campaign for an independent, ethical and professional media.



Photo:
Speakers' Corner: an illusion of free speech in Singapore

3. BACKGROUND

3.1. Political context

Singapore was founded as a British trading colony in 1819. It achieved internal self-government in 1959 and became a State of the Federation of Malaysia in 1963. Due to political differences with the ruling elite of Malaysia, Singapore separated two years later in 1965 and became the Republic of Singapore, a sovereign State.

Although there was political plurality and competition between 1945-1955, as a result of the introduction of the Legislative Council by the British, politics since the late 1950s in Singapore have been dominated by the PAP. For over four decades since internal self-government was introduced in 1959, the PAP has won every election. Lee Kuan Yew was the first PAP Prime Minister from 1959 until November 1990, when Goh Chok Tong took office. On 12 August 2004, Brig. Gen. (Ret.) Lee Hsien Loong, the son of Lee Kuan Yew, became the third Prime Minister. Since stepping down as Prime Minister, Lee has remained influential as Minister Mentor in the Cabinet.

Since its initial rise to power in 1959 and its continued political dominance since then, there have been concerns that the PAP has used its incumbency to its own advantage at the expense of free and fair elections. For instance, the PAP government dramatically altered the boundaries of election districts just before elections; in the 1988 elections, the system of single-member constituencies for parliament was changed; and also in 1988, a Constitutional amendment was passed ushering in the Group Representation Constituencies (GRC) which required one member of the GRC to be from the minority races of Singapore. The constitution was also amended to provide for up to six Non-Constituency Members of Parliament (NCMPs), selected from the highest polling unsuccessful electoral candidates, to ensure the representation in parliament of political parties not forming part of the government. In October 1990, the constitution was amended further to empower parliament to include up to nine Nominated Members of Parliament (NMPs) to be appointed by a Special Select Committee chaired by the Speaker of the House.⁵ NMPs and NCMPs cannot vote on any motion relating to a constitutional amendment, a vote of no confidence or on monetary bills.

⁵ The Speaker is the presiding officer of parliament and is elected by the House at the beginning of each new parliament. The Committee comprises the Speaker as the chair and seven MPs, six of whom are PAP MPs and one opposition MP. The process of the Committee's deliberations are not made public, hence there is no way to ascertain the outcome.



There are 24 registered political parties in the country; however, only six of them are active. Political parties and organisations are subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hinder attempts by opposition parties to rent office space in government buildings or to establish community foundations.⁶

Workers' Party Secretary General J.B. Jeyaretnam became the first opposition party MP in 15 years when he won a 1981 by-election. Opposition parties gained a small number of seats in the general elections of 1984 (2 seats out of a total of 79), 1988 (1 seat of 81), 1991 (4 seats of 81), 1997 (2 seats of 83), and 2001 (2 seats of 84). Meanwhile, the PAP share of the popular vote in contested seats increased from 65 per cent in 1997 to 75 per cent in 2001. Since the opposition has contested less than half the seats in the last two elections, overall voter support for the PAP may be somewhat higher. The last elections were held on 3 November 2001, and the next one is to be held on 25 June 2007. In the last general elections the percentage share of votes won by political parties was as follows: PAP : 75.3 per cent (in contested constituencies), other : 24.7 per cent. Seats won by parties are as follow: PAP 82 seats, Workers Party (WP) 1, Singapore Democratic Alliance (SDA) 1 and 1 Non-Constituency Member of Parliament (NCMP) from SDA.

Prior to 30 November 1991, the President of the Republic of Singapore was elected by Parliament for a term of four years. On 30 November 1991, the Constitution of the Republic of Singapore was amended to provide for a president who is elected for a six-year term by the citizens of Singapore and vested with certain veto powers, popularly known as "the Elected President". President Wee Kim Wee, who was then in office, exercised the functions of the Elected President till the end of his second term of office on 1 September 1993.

President Ong Teng Cheong, the first elected president, assumed office on 2 1993. He was a former PAP Government's Deputy Prime Minister.⁷ The present Chief of State or President is Sellapan Rama (S. R.) Nathan, who became President in September 1999 in elections which were uncontested. He was Lee Kuan Yew's preferred choice and was also the former Head of Intelligence and the Executive Chairman of the *Straits Times*. The last presidential election was last held in August 2005.

Under the new system, to be eligible to stand as a candidate in the presidential election, potential candidates must meet strict criteria. This limits the pool to a very small number of people drawn from the elite of Singapore society, who often have some connections with the ruling party elite. To date the PAP elite has been closely associated with all the

⁶ US State Department Report, 2003

⁷ He was later had a falling out with the government over his exercise of his role as president

“elected” presidents. It seems that the PAP government has placed significant obstacles in the way of opposition political figures, to prevent them from participating in the presidential elections. For instance, since many of the country's large institutions are government-run or linked to the government, opposition members are much less likely to satisfy the requirement that candidates need to have experience in managing the financial affairs of a large institution.

3.2. Freedom of Expression and Political Opposition

The Singapore government prohibits organised political activities except by groups registered as political parties or political organisations under the Political Donations Act (2000, 2003). This prohibition limits opposition activities, and contributes to restricting the scope of unofficial political expression and action.

By registering, political parties and organisations are subject to strict financial regulations, including a ban on receiving foreign donations. Opposition politicians routinely experience delays before being notified of decisions on their applications for speaking permits, although the government claims that the delays only happen when applications are submitted late. According to the police, the normal processing time for an application is 7 working days from the date of receipt.

There has been at least one reported case where the permit to hold a political rally was approved too late for the organisers, the Singapore Democratic Party, to actually hold it. In the process of waiting five weeks for the permit to come through, the party had to cancel the rally.⁸ In 2003, a permit to hold a public forum on the state of democracy in Burma was not approved by the Ministry of Home Affairs on the grounds that it ‘had no merits’.⁹ In 2004, the government announced a change in the procedures: “in-door” meetings can now be held without a permit, but a permit is still required for meetings where foreign speakers will be participating.

Overall, the restrictions placed on political activities have affected the PAP the least because of its long domination of the government and its overwhelming parliamentary majority; the PAP has been able to use non-political organisations such as residential committees and neighbourhood groups for political purposes far more extensively than opposition political parties. The PAP has an extensive grassroots system and a

⁸ “Opposition party cancels planned rally”, Agence France Presse, 23 August 2001, <http://www.singapore-window.org/sw01/010823af.htm>

⁹ SDP press release, “Dictators in Burma have good friends in Singapore”, 17 December 2003, http://www.singaporedemocrat.org/news_display.php?id=421



carefully selected, highly disciplined membership. The establishment of government-organised and predominantly publicly funded Community Development Councils (CDCs) has further strengthened the PAP's position. The PAP dominates the CDCs even in opposition-held constituencies and has used the threat of withdrawing benefits in order to secure its position within the CDCs.¹⁰

Over the years, in what appears to be an attempt to control political expression, PAP government leaders have brought a number of court proceedings and defamation suits against political opponents and critics. Such suits, which have largely been decided in favour of the PAP plaintiffs, have created a public perception that the ruling party uses the judicial system for political purposes. The threat of civil libel or slander suits has stifled the full expression of political opinion.

Large compensation in libel suits can lead to bankruptcy, and according to the law, bankrupt persons are ineligible to sit in parliament. This has been the fate of the first opposition MP J. B. Jeyaretnam. Other prominent cases include those against Francis Seow, Tang Liang Hong and Chee Soon Juan. While Jeyaretnam bankruptcy meant he was banned from standing in the elections, Tang and Seow both fled the country after their cases.

In 2001, Lee Kuan Yew and Goh Chok Tong began legal proceedings against opposition politician Chee Soon Juan over Chee's comment regarding the PAP government's alleged "unauthorised loan" of 17 billion dollars to Suharto's government in Indonesia. After Chee lost an appeal against the plaintiffs in 2004, lawyers acting for Lee Kuan Yew and Goh Chok Tong asked the courts for SGD 500,000 (USD29,700) in legal fees (SGD 300,000 to Goh and SGD 200,000 to Lee). In January 2005, the Singapore High Court ruled in their favour ordering Chee to pay.

The Penal Code also provides for criminal defamation offences. Prosecutions of this nature—and, indeed, the very threat of prosecution—discourages the legitimate expression of political dissent or the public exposure of corruption or abuse of power.¹¹

It is also widely believed that the authorities routinely conduct surveillance on some opposition politicians and other government critics.¹² Political gatherings are also monitored regardless of the number of persons present.¹³ The PAP government has also in the past used the

¹⁰ In Potong Pasir, for example, the threat/bait of a proposed train station was used and the ruling opposition candidate, Chiam See Tong, allegedly did not have the resources that PAP MP's had in their wards.

¹¹ See Chapter 8 of this study for more information.

¹² US State Department Report, see note 6 on page 8.

¹³ Gomez, James, "New Technologies, Old Values", in Sheila S. Coronel (ed.) *The Right to Know: Access to information in Southeast Asia*, (Philippines: Philippine Center

Internal Security Act (1960, 1997) to detain political opponents without trial. The most widely known example of this abuse of law was the series of arrests and detention of alleged Marxists conspirators in 1987.¹⁴ The belief that the Government might directly or indirectly harm the employment prospects of opposition supporters has also curtailed opposition political activity.

Furthermore, almost all trade unions (which represent virtually all union members) are now affiliated with the National Trades Union Congress (NTUC), an umbrella organisation which has a close relationship with the government. The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic, and NTUC policy even prohibits union members who support opposition parties from holding office in affiliated unions. In December 2002, trade union official Muhamad Ali Aman was dismissed from his job for not complying with a union directive to renounce his membership of the opposition coalition the Singapore Democratic Alliance (SDA). Aman became secretary general of the SDA while working as a branch chairman of the 40,000-member United Workers of Electronic and Electrical Industries. It was reported that the dismissal letter stated he was acting 'in a manner prejudicial to the interests of the union'. Aman argued that his union work had nothing to do with politics and that the union membership recruitment brochures did not state a requirement to support the PAP as well.¹⁵


Civil society groups that might have an impact on politics are kept in check through the Societies Act (1996, 2004). Amongst the clauses that can be used for this purpose are:

- Section 4(2): The Registrar shall refuse to register a specified society if he is satisfied that -
- (b) the specified society is likely to be used for unlawful purposes or for purposes prejudicial to public peace, welfare or good order in Singapore;
 - (d) it would be contrary to the national interest for the specified society to be registered; or
 - (e) in the case of any specified society which is a political association, its rules do not provide for its membership to be confined to citizens of Singapore or it has such affiliation or connection with any organisation outside Singapore as is considered by the Registrar to be contrary to the national interest.

for Investigative Journalism, 2001).

¹⁴ Seow, Francis T., "Newspapers: a ban is not a ban unless restricted", Presented at the Conference on *The Limits of Control: Media and Technology in China, Hong Kong and Singapore*, Graduate School of Journalism, North Gate Hall, University of California, Berkeley, on 2-3 April 1998, <http://www.singapore-window.org/80402fts.htm>

¹⁵ "Trade union official sacked for opposition political ties: report", Agence France Presse, 5 December 2002, <http://www.singapore-window.org/sw02/021205af.htm>



Section 24: [the] Minister may order dissolution of any society (1) Whenever it appears to the Minister that any registered society is being used for unlawful purposes or for purposes prejudicial to public peace, welfare or good order in Singapore.

For instance, the Open Singapore Centre and the Think Centre, whose activities sometimes involve opposition politicians, were both declared political organisations under the Political Donations Act in 2001. This limits their capacity to solicit funds from abroad and requires them to name donors in excess of SGD 5000 (USD 2900) per year.

An indirect outcome of the government's control over the local media and control over the content of foreign media, the Internet and the licensing of opposition party publications is a culture of self-censorship that operates at all levels in the media. This is manifest in a reluctance to participate in writing, distributing or being associated with material that is critical of the government.

4. FREEDOM OF EXPRESSION UNDER SINGAPORE CONSTITUTION AND INTERNATIONAL LAW

4.1. International and Constitutional Obligations

Part IV of the Singapore Constitution, entitled “Fundamental Liberties”, contains eight articles including the right to liberty of the person, prohibition of slavery and forced labour, protection against retrospective criminal laws and repeated trials, the right to equal protection, prohibition of banishment and freedom of movement, freedom of speech, assembly and association, freedom of religion, and rights in respect of education.

With regards to Freedom of speech, assembly and association, Article 14 of the Singapore Constitution states:

(1) Subject to clauses (2) and (3) -

(a) every citizen of Singapore has the right to freedom of speech and expression;

(b) all citizens of Singapore have the right to assemble peaceably and without arms; and

(c) all citizens of Singapore have the right to form associations.

However, Clause (2) of the Article states:

(2) Parliament may by law impose –

(a) on the rights conferred by clause (1) (a), 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;

(b) on the right conferred by clause (1) (b), such restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof or public order; and

(c) on the right conferred by clause (1) (c), such restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof, public order or morality.

Furthermore, Clause (3) states:

(3) Restrictions on the right to form associations conferred by clause (1) (c) may also be imposed by any law relating to labour or education.

Hence, it can be observed that the rights to freedom of expression are not absolute. They can be curtailed by parliament, which has the power to legislate restrictions on these freedoms. There are no references within the Constitution to international human rights standards.

As a member State of the UN, Singapore is bound by the UN Charter to respect the standards laid down in the UDHR and to work towards their full observance. Article 19 of the *Universal Declaration on Human Rights* (UDHR),¹⁶ a United Nations General Assembly resolution, guarantees the right to freedom of expression in the following terms:

Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart

¹⁶ UN General Assembly Resolution 217A(III), adopted 10 December 1948.

information and ideas through any media and regardless of frontiers.

The UDHR is not directly binding on States but parts of it, including Article 19, are widely regarded as having acquired legal force as customary international law since its adoption in 1948.¹⁷ Singapore is therefore obliged to respect the right to freedom of opinion and expression.

The right to freedom of opinion and expression stated in the UDHR is also contained in international and regional human rights treaties. In particular, Article 19 of the *International Covenant on Civil and Political Rights* (ICCPR),¹⁸ a legally binding treaty on States Parties, guarantees the right to freedom of opinion and expression in terms very similar to the UDHR. However, Singapore has yet to sign or ratify the ICCPR. Although Singapore has neither signed nor ratified the ICCPR, it is nonetheless an authoritative elaboration of the rights set out in the UDHR and hence of some relevance here.¹⁹

Furthermore, as a Member of the Commonwealth, Singapore has also affirmed its commitment to the protection of human rights generally and the right to freedom of expression specifically through statements issued by the Commonwealth Heads of Government Meetings.²⁰ In the 2001 Coolum Declaration, the Commonwealth Heads of Government declared that they ‘... stand united in our commitment to democracy, the rule of law, good governance, freedom of expression and the protection of human rights’.²¹

Freedom of expression is also protected in three regional human rights instruments, in Article 10 of the *European Convention on Human*

¹⁷ See, for example, *Filartiga v. Pena-Irala*, 630 F. 2d 876 (1980) (US Circuit Court of Appeals, 2nd Circuit).

¹⁸ UN General Assembly Resolution 2200A(XXI), 16 December 1966, in force 23 March 1976.

¹⁹ In terms of international human rights treaties, Malaysia has only ratified two main treaties, namely the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). Both were ratified in 1995. Despite Suhakam’s recommendation,¹⁹ the Malaysian Government has not ratified the two main international covenants, International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economics, Social and Cultural Rights (ICESCR).

²⁰ See the Harare Commonwealth Declaration, Zimbabwe, 1991; Declaration of Commonwealth Principles, Singapore, 1971. On freedom of expression specifically, see the Abuja Communique, 8 December 2003 and the Coolum Declaration on the Commonwealth in the 21st Century: Continuity and Renewal, Australia, 2002.

²¹ *Ibid*, first paragraph.



Rights,²² Article 13 of the *American Convention on Human Rights*²³ and Article 9 of the *African Charter on Human and Peoples' Rights*.²⁴ The right to freedom of expression enjoys a prominent status in each of these regional conventions and, although not directly binding on Singapore, as noted above, judgements and decisions issued by courts under these regional mechanisms provide good evidence of the appropriate interpretation of the right to freedom of expression as guaranteed by the UDHR as well as by the Singapore Constitution.

Freedom of expression is a key human right, in particular because of its fundamental role in underpinning democracy. At its very first session, in 1946, the UN General Assembly adopted Resolution 59(I) which states: "Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated."²⁵ A sentiment echoed by the UN Human Rights Committee, which has stated: "The right to freedom of expression is of paramount importance in any democratic society."²⁶

4.2. Restrictions on Freedom of Expression

Under international law, the right to freedom of expression is not absolute; it can be restricted but only in accordance with internationally recognised parameters. Article 19(3) of the International Covenant on Civil and Political Rights lays down the benchmark, stating:

The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

It is a maxim of human rights jurisprudence that restrictions on rights must always be construed narrowly; this is especially true of the right to freedom of expression in light of its importance in a democratic society. Accordingly, any restriction on the right to freedom of expression must meet a strict three-part test, approved by both the UN Human Rights

²² Adopted 4 November 1950, in force 3 September 1953.

²³ Adopted 22 November 1969, in force 18 July 1978.

²⁴ Adopted 26 June 1981, in force 21 October 1986.

²⁵ 14 December 1946.

²⁶ *Tae-Hoon Park v. Republic of Korea*, 20 October 1998, Communication No. 628/1995, para. 10.3.



Committee²⁷ and the European Court of Human Rights.²⁸ This test requires that any restriction must be a) provided by law; b) for the purpose of safeguarding a legitimate public interest; and c) necessary to secure that interest.

The third part of this test ensures that even measures which seek to protect a legitimate interest must meet the requisite standard established by the term “necessity”. Although absolute necessity is not required, a “pressing social need” must be demonstrated, the restriction must be proportionate to the legitimate aim pursued, and the reasons given to justify the restriction must be relevant and sufficient.²⁹ In other words, the government, in protecting legitimate interests, must ensure that freedom of expression is restricted as little as possible. Vague or broadly defined restrictions, even if they satisfy the “provided by law” criterion, will generally be unacceptable because they go beyond what is strictly required to protect legitimate interest.

4.3. Freedom of Expression and the Media

The guarantee of freedom of expression applies with particular force to the media, including the broadcast media and public service broadcasters. The European Court of Human Rights has consistently emphasised the “pre-eminent role of the press in a State governed by the rule of law”.³⁰ It has further stated:

Freedom of the press affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of their political leaders. In particular, it gives politicians the opportunity to reflect and comment on the preoccupations of public opinion; it thus enables everyone to participate in the free political debate which is at the very core of the concept of a democratic society.³¹

As the UN Human Rights Committee has stressed, a free media is essential in the political process:

[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

²⁷ See, for example, *Mukong v. Cameroon*, 21 July 1994, Communication No. 458/1991, para. 9.7.

²⁸ See, for example, *Goodwin v. United Kingdom*, 27 March 1996, Application No. 17488/90, paras. 28-37.

²⁹ *Sunday Times v. United Kingdom*, 26 April 1979, Application No. 6538/74, para. 62 (European Court of Human Rights). These standards have been reiterated in a large number of cases.

³⁰ *Thorgeirson v. Iceland*, 25 June 1992, Application No. 13778/88, para. 63.

³¹ *Castells v. Spain*, 24 April 1992, Application No. 11798/85, para. 43.

and other media able to comment on public issues without censorship or restraint and to inform public opinion.³²

The Inter-American Court of Human Rights has stated: “It is the mass media that make the exercise of freedom of expression a reality.”³³ Media as a whole merit special protection, in part because of their role in making public ‘information and ideas on matters of public interest. Not only does [the press] have the task of imparting such information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of “public watchdog”’.³⁴

It may be noted that the obligation to respect freedom of expression lies with States, not with the media *per se*. However, this obligation does apply to publicly-funded broadcasters. Because of their link to the State, these broadcasters are directly bound by international guarantees of human rights. In addition, publicly-funded broadcasters are in a special position to satisfy the public’s right to know and to guarantee pluralism and access, and it is therefore particularly important that they promote these rights.

4.4. Independence of Media Bodies

In order to protect the right to freedom of expression, it is imperative that the media be permitted to operate independently from government control. This ensures the media’s role as public watchdog, and that the public has access to a wide range of opinions, especially on matters of public interest.

Under international law, it is well established that bodies with regulatory or administrative powers over both public and private broadcasters should be independent and be protected against political interference. In the Joint Declaration noted above, the UN, OSCE and OAS special mandates protecting freedom of expression state:

All public authorities which exercise formal regulatory powers over the media should be protected against interference, particularly of a political or economic nature, including by an appointments process for members which is transparent, allows for public input and is not controlled by any particular political party.³⁵

Regional bodies, including the Council of Europe and the African Commission on Human and Peoples’ Rights, have also made it clear that

³² UN Human Rights Committee General Comment 25, issued 12 July 1996.

³³ *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism*, Advisory Opinion OC-5/85 of 13 November 1985, Series A, No. 5, para. 34.

³⁴ *Thorgeirson v. Iceland*, see note 30 above.

³⁵ *Ibid.*



the independence of regulatory authorities is fundamentally important. The latter recently adopted a Declaration of Principles on Freedom of Expression in Africa, which states:

Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature.³⁶

The Committee of Ministers of the Council of Europe has adopted a Recommendation on the Independence and Functions of Regulatory Authorities for the Broadcasting Sector, which states in a pre-ambular paragraph:

[T]o guarantee the existence of a wide range of independent and autonomous media in the broadcasting sector...specially appointed independent regulatory authorities for the broadcasting sector, with expert knowledge in the area, have an important role to play within the framework of the law.³⁷

The Recommendation goes on to note that Member States should set up independent regulatory authorities. Its guidelines provide that Member States should devise a legislative framework to ensure the unimpeded functioning of regulatory authorities and which clearly affirms and protects their independence.³⁸ The Recommendation further provides that this framework should guarantee that members of regulatory bodies are appointed in a democratic and transparent manner.³⁹

Constitutional courts in several countries have affirmed this point. For example, the Supreme Court of Sri Lanka, faced with a Bill providing for a Broadcasting Authority, some of whose members would be government appointees, stated:

“Since the proposed authority, for the reasons explained, lacks independence and is susceptible to interference by the minister, both the right of speech and freedom of thought are placed in jeopardy...We are of the opinion [that the bill’s provisions] are inconsistent with ... the Constitution.”⁴⁰

It can be argued that even a mere suspicion of improper interference suffices to cast doubt on constitutionality. As Lord Denning MR explained:⁴¹

³⁶ Adopted by the African Commission on Human and Peoples’ Rights at its 32nd Session, 17-23 October 2002.

³⁷ Recommendation No. R(2000) 23, adopted 20 December 2000.

³⁸ Ibid., Guideline 1.

³⁹ Ibid., Guideline 5.

⁴⁰ *Athukorale and others v. Attorney-General*, 5 May 1997, 2 BHRC 609.

⁴¹ Lord Denning was a well-known judge (the senior civil judge in the court of appeal in England and Wales). He became famous for his judgements which frequently pushed law in new direction.

“[I]n considering whether there was a real likelihood of bias, the court does not look at the mind of justice himself or at the mind of the chairman of the tribunal, or whoever it may be, who sits in a judicial capacity. It does not look to if there was a real likelihood that he would, or did, in fact favour one side at the expense of the other. The court looks at the impression which would be given to other people.”⁴²

In the hallowed phrase, ‘justice must not only be done, it must also be seen to be done’.⁴³

5. MEDIA SITUATION

Singapore Press Holdings (SPH) and MediaCorp dominate all local print and broadcast media. Both are touted as privately-owned entities even though their management are linked to the government and generally hold a pro-government stance. They keep strict control of the editorial line of their newspapers, TELEVISION and radio stations. Foreign publications, cable TV, BBC radio, a range of Internet sites, magazines and books, and political parties’ newsletters make up the remaining media.

5.1. Print Media

Local Press

There are 10 main daily newspapers in the four main languages, all with Sunday editions, except for *Business Times*, *Streets* and *Today*. With the exception of *Today*, which is published by MediaCorp Press Ltd, the rest—*The Straits Times*, *Business Times*, *Streets* and *The New Paper* (English); *Lianhe Zaobao*, *Lianhe Wanbao* and *Shin Min Daily News* (Chinese); *Berita Harian* (Malay) and *Tamil Murasu* (Tamil)—are published by the SPH.

⁴² *Metropolitan Properties Co. (F.G.C.) Ltd v. Lannon*, [1969] 1 QB 577, pp. 599.

⁴³ For the application of this maxim see, for example, *Locabail (UK) Ltd v. Bayfield Properties Ltd and another*, [2000] 1 All ER 65; *A.M.&S. Europe Ltd v. the Commission*, [1983] 1 All ER 705; and *Maynard v. Osmond*, [1977] 1 All ER 64.



Average daily circulation in 2004⁴⁴:

<i>The Straits Times:</i>	380,197 copies.
<i>The Business Times:</i>	27,515 copies.
<i>The New Paper:</i>	115,915 copies.
<i>Lianhe Zaobao:</i> (Sunday).	184,445 (weekday) and 194,640
<i>Lianhe Wanbao:</i> 123,634(weekend).	124,134 (weekday) and
<i>Shin Min Daily News:</i> (weekend).	126,639 (weekday) and 121,234
<i>Berita Harian:</i>	58,503 copies.
<i>Tamil Murasu:</i> (Sunday).	8,504 (weekday) and 15,232

Magazines

SPH Magazines Pte Ltd publishes Her World, Young Parents, Her World Brides, Citta Bella (Chinese), Home and Décor, and You Weekly (Chinese). MediaCorp Publishing produces 10 magazines: 8 Days, I-Weekly, Lime, Manja, Kids Company & Family, Style, Style Weddings, Telescope, Duet and Elle.

Circulation statistics in 2004⁴⁵:

Quarterly

Her World Brides: 13,193 copies

Monthly

Her World: 60,883 copies.

Young Parents: 13,187

Home and Décor: 19,814

Citta Bella: 18,905

copies

copies

copies

Weekly

You Weekly: 80,000 copies

⁴⁴ Source: SPH Newspapers <http://www.sph.com.sg>

⁴⁵ Source SPH Magazines, <http://www.sph.com.sg>

Political party publications

There are several political party newspapers. *Petir*, the party organ of the PAP is the most regularly published. Several opposition parties also publish and distribute their own party newspapers— *Hammer* (Worker's Party), *New Democrat* (Singapore Democratic Party) and *Solidarity* (National Solidarity Party). Opposition party publications sometimes only appear intermittently because of party constraints. Opposition party newsletters are not available in news stands and bookshops because their owners usually refuse to carry them. Instead, opposition newsletters are sold through weekly direct sales in residential estates and are also available through subscription.⁴⁶



Photo: "Elderly lady reading the *Hammer*"
(from The Workers' Party of Singapore's website)

Books

A variety of locally published books on current affairs are available in Singapore. Most deal with general topics and issues related to the ruling party and its government policies. Critical books on Singapore politics written by foreign observers and local opposition figures on politics are rarely available locally. Some international publishers have turned down manuscripts that contain a critical discussion on the PAP regime.⁴⁷ Hence, many such books are self-published and are often not carried by the major local bookshop chains. However, such books are readily available across the Causeway in Malaysia, especially in Kuala Lumpur, so many Singaporeans buy such books in Malaysia and bring them over to Singapore. Some of these books can also be purchased online through companies such as Amazon.com. Local libraries have different policies

⁴⁶ J. B. Jeyaretnam personally sells the *Hammer* on the streets

⁴⁷ For a more detailed discussion see Rodan, 2004, note 4 on page 3.



for these books. Some books are available on open shelves for lending or reading while others have lending and reading restrictions. Some titles are not held at all.

Foreign publications

Most international broadsheets and magazines such as the *International Herald Tribune*, *Far Eastern Economic Review (FEER)*, *Financial Times*, *USA Today*, and *Newsweek* are available in Singapore. Foreign-language newspapers such as the *Frankfurter Allgemeine* and newspapers from Japan and India are also available. Often, due to their low numbers of circulation, they can only be obtained from selected news stands and bookshops. However, there is still a ban on the sale and distribution of Malaysian newspapers.

5.2. Broadcast Media

Television

MediaCorp TV is Singapore's largest terrestrial broadcaster, operating five free-to-air channels. Its two 24-hour channels, Channel 5 and Channel 8, offer local and acquired programmes in English and Mandarin respectively. The two other channels, Suria and Central, offer niche programmes. Suria broadcasts Malay language programmes while Central has three programme belts: Indian (Tamil), children and the arts.

Channel News Asia (CNA) was launched in March 1999 to provide an Asian English-language channel dedicated to providing an Asian perspective on the news to viewers. It covers political, social, environmental and economic issues in Southeast Asia, East Asia and South Asia with its own bureaux in these regions. CNA is a network of MediaCorp News.

In April 2002, SPH MediaWorks Pte Ltd, a subsidiary and broadcasting arm of Singapore Press Holdings, was granted a licence by the Singapore Broadcasting Authority to operate two new free-to-air channels, Channel U (the Mandarin Channel) and Channel i (the English channel).⁴⁸ Both channels offer dramas, variety shows and current affairs programmes.

⁴⁸ "Free-to-air broadcasting service" means a licensable broadcasting service made available for reception in not less than 2 dwelling-houses by broadcasting apparatus commonly available to the public without payment of a subscription fee (Singapore Broadcasting Act, Part I).

Because of Malaysia's proximity to Singapore, Singaporeans are able to receive Malaysian free-to-air television programmes from the major Malaysian channels. In recent years, certain parts of the island have also been able to receive intermittent free-to-air television broadcasts from Indonesia.

Radio

MediaCorp Radio Singapore owns and operates 12 local and four international radio stations. Collectively, the local stations reach more than 2.4 million listeners in Singapore every week. The three international radio stations, collectively known as Radio Singapore International (RSI), broadcast to regional listeners in English, Chinese and Malay, and Indonesian providing entertainment, news about Singapore and programmes addressing social and political issues in the region. The International Channel, 96.3FM broadcasts in Japanese, French and German to the large expatriate communities in Singapore.

Apart from MediaCorp Radio, there are three other privately run radio stations. SPH MediaWorks started a joint venture with National Trades Union Congress Limited to set up UnionWorks Pte Ltd, which owns and operates the Mandarin UFM100.3 and the English WKRZ91.3. The Singapore Armed Reservists Association (SAFRA) has two channels, the English Power 98FM and Mandarin Dongli 88.3FM. Rediffusion (S) Pte Ltd operates a commercial audio broadcasting system over cable throughout Singapore. There are also radio stations which broadcast in Tamil and other Indian languages, though only for limited daily broadcasts.

Foreign broadcasters include the BBC, which transmits its World Service programmes 24 hours a day in Singapore. Other stations that can be received include Voice of America, Radio Japan, Radio Moscow and Radio Beijing. Singaporeans are also able to receive broadcasts from Malaysia and Batam Island, Indonesia. In addition, Rediffusion operates a commercial audio broadcasting service over cable offering entertainment programmes in English and Mandarin.

Satellite broadcasters

Private ownership of satellite dishes is banned. However, about 15 satellite broadcasters are licensed to uplink their services from Singapore. They can use any of the four available uplink facilities provided by ST Teleport, SingTel Telecast, MediaCorp T&T (Transmission & Technology) and Asia Broadcast Centre to do so. Alternatively, they can operate their own satellite uplink facility, but a separate licence, issued by the Infocommunications Development Authority of Singapore (IDA), is required.



Cable TV

Starhub Cable Vision (SCV) operates a subscription television service, offering more than 35 channels of international programming, 24 hours a day. It is a subsidiary of Starhub Pte Ltd, which is jointly owned by ST Telemedia (a subsidiary of government-owned Singapore Technologies), SPH, MediaCorp, and foreign telecommunications carriers BT and NTT. CNN, HBO, Star World, Eureka and National Geographic are some of the programmes offered on SCV.

5.3. Internet

As of 2003, Singapore holds a high Internet access rate of 51 per cent of the population, with 64.6 per cent of households having Internet access, and 73.7 per cent of households owning at least one personal computer. Almost two-thirds (64.6 per cent) of households in Singapore are reported to have Internet access.⁴⁹

News Providers

Both of the major news providers have Internet arms—the AsiaOne portal for SPH, and MediaCorp’s parent website, which provides links to its various media businesses. Most newspaper publications have their own online editions; otherwise they are combined with an existing parent publication’s website.

Government Online

A variety of ministries and government agencies provide information and services online. The Ministry of Information, Communications and the Arts (MICA), for instance, runs a subscriber’s mailing list for its press releases, newsletter, job vacancies, etc. Government-related news can be found at the SPRINTER (Singapore Press Releases on the Internet) website, and government services can be accessed online at the eCitizen site.

⁴⁹ Annual Survey on Infocomm Usage in Households and by Individuals for 2003. Information Development Authority of Singapore.
[http://www.ida.gov.sg/idaweb/doc/download/I2908/HH_Executive_Summary_\(Final\)_14062004.doc](http://www.ida.gov.sg/idaweb/doc/download/I2908/HH_Executive_Summary_(Final)_14062004.doc)

Online NGO news

More non-governmental, non-partisan or multi-partisan websites are being created, and are expressing alternative views. The key ones are New Sintercom, Think Centre, Singapore Window, and The Void Deck. There are also several mailing lists such as SG Review and The Optical that carry alternative news items and announcements.

Online Political Party News

Most major political parties have an online presence. Opposition parties have taken advantage of this and most have their own websites featuring party news, activities, news releases and parliamentary speeches where relevant. Several also run their own mailing lists.

5.4. Mobile Telecommunications

It is important to note that mobile data transfer is also increasing in Singapore. These include wireless hotspots, and the use of PDAs and cellphones to download Internet content as SMS (short messaging service) and MMS (multimedia messaging service). This is a growing area. As of November 2002, about 76 per cent of the total population of Singapore were mobile phone subscribers.⁵⁰ As of January 2003, 64 per cent of a respondent base of 2,924,000 people aged 15 and over owned a mobile phone and/or a phone with WAP or GPRS capability. All mobile phones contain data transfer features, with the latter type containing MMS capabilities.⁵¹

⁵⁰ Survey on Broadband and Wireless Usage in Singapore 2002 Summary Report, Information Development Authority of Singapore:
http://www.ida.gov.sg/idaweb/doc/download/I2389/Survey_on_BB_and_wireless_usage_in_Spore_2002.pdf

⁵¹ Annual Survey on Infocomm Usage in Households and by Individuals for 2002. Information Development Authority of Singapore.
http://www.ida.gov.sg/idaweb/doc/download/I2387/Annual_Survey_on_Infocomm_Usage_in_Households_2002.pdf

6. PRESS REGULATION

One salient point about press regulation in Singapore is that the regulatory measures create a tendency towards self-censorship among the media. Some local journalists appear to either consciously or unconsciously adopt certain attitudes towards opposition viewpoints and their reporting in the media. Collectively, these have an effect on how some non-governmental organisations and opposition parties are portrayed in the media in Singapore which in turn shapes how the general public perceives them. This impacts upon how critical political content appears within the print media.

6.1. Laws and Implementing Bodies

The colonial government introduced the Printing Presses Act in 1920, which stipulated that all printing presses and publishers had to apply for an annual licence.⁵² From the beginning of self-government in 1959 into the 1960s, Singapore had a wide range of independent newspapers which provided a significant amount of scrutiny and critical examination of public policies and issues. Although government sensitivity to media reporting became more acute in the 1960s, structural changes ushered in by the government had the most profound impact upon the media. A set of amendments to the Newspapers and Printing Presses Act (NPPA) in 1974 ended the private ownership of newspapers, allowing only the PAP government to own newspapers, and forcing all newspaper organisations to become public companies. The Act also forbade newspapers from receiving funding from foreign sources without government approval.⁵³ Other amendments followed, ensuring that ‘private families and individuals could no longer own newspapers and that the government could secure reliable management of the press’. In the early 1980s, the media underwent major restructuring ‘in the guise of commercial rationalization’, which saw the merger of most of the Singapore press under one business entity, Singapore Press Holdings, in 1984.

Presently, the Ministry of Information, Communications and the Arts is responsible for formulating and administering content regulatory policy through the Media Development Authority (MDA). Two sets of media laws apply to print media: the Newspaper and Printing Presses Act (1974, 2003), and the Undesirable Publications Act (1967, 2003).

⁵² Ang, Peng Hwa, “The media and the flow of information”, in Derek da Cunha (ed.) *Singapore in the New Millennium: Challenges Facing the City-State*, (Singapore: Institute of Southeast Asian Studies, 2001).

⁵³ Ibid; and

Davies, Derek, “The press”, in Michael Haas (ed.) *The Singapore Puzzle*, (Westport, Connecticut., USA: Praeger Publishers, 1999).



According to the Newspaper and Printing Presses Act, one is required to apply for a permit to print or publish a periodical in Singapore at regular or irregular intervals (Section 21); sell or distribute a Malaysian periodical in Singapore (Section 22); or sell or distribute an offshore newspaper (300 copies or more) in Singapore (Section 23.7). An offshore newspaper is defined as a newspaper published outside Singapore, at an interval of not more than a week and which carries news or reports on current affairs and politics of any country in Southeast Asia (Section 23).

Under international law, license requirements for the print media cannot be justified as a legitimate restriction on freedom of expression since they significantly fetter the free flow of information. They do not pursue any legitimate aim recognised under international law and there is no practical rationale for them, unlike for broadcasting where limited frequency availability justifies licensing.

On the other hand, technical registration requirements for the print media do not, *per se*, breach the guarantee of freedom of expression as long as they meet the following conditions:

- there is no discretion to refuse registration, once the requisite information has been provided;
- the system does not impose substantive conditions upon the print media;
- the system is not excessively onerous; and
- the system is administered by a body which is independent of government.

However, registration of the print media is unnecessary and may be abused, and, as such is not required in many countries. ARTICLE 19 therefore recommends that the media not be required to register. As the UN Human Rights Committee has noted: “Effective measures are necessary to prevent such control of the media as it would interfere with the right of everyone to freedom of expression.”⁵⁴

Banning the distribution and selling of Malaysian periodicals and limiting the sale of offshore newspapers are forms of discrimination which cannot be justified.

The government must approve, and can remove, the holders of SPH management shares, and has the power to appoint or dismiss all directors or staff. As a result, while newspapers print a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and coverage of sensitive foreign relations issues closely reflects government policies and the opinions of government

⁵⁴ General Comment 10(1) in Report of the Human Rights Committee (1983) 38 GAOR, Supp. No. 40, UN Doc. A/38/40.



leaders. However, columnists' opinions, editorials, and letters to the editor express a range of moderate opinions on public issues.

Regulation has erected barriers to the establishment of new publications. For instance, newspaper companies are required to be, and are, public companies with two classes of shares, ordinary shares and management shares. The companies must be public companies with a minimum of 50 shareholders, with no shareholder owning more than three per cent of the shares. The government or its nominees has to be given management shares that carries more voting power than those held by the rest of the shareholders combined. Management shares carry some 200 times the voting power that ordinary shares have. Furthermore, only persons approved by the government can be issued with management shares, and the transfer of these shares also requires government approval. The editorial polices of the newspapers are managed by those holding a majority of the management shares, and these shareholders, since they are government-approved, are as a matter of course pro-PAP.

Magazines have lower barriers of financial entry into the market compared to newspapers. It is a competitive market, but even so, the higher-circulation periodicals are published by the SPH. A magazine, *Women's Affair*, was suspended because it 'ran a feature on the PAP's female members of parliament that included a few critical comments, and was judged to have strayed into political commentary in contravention of the aims stated in its licence'.⁵⁵

6.2. Ownership and Political Links

Singapore Press Holdings Ltd. (SPH), a private holding company with close ties to the PAP government, owns all general circulation newspapers in the country's four official languages: English, Chinese, Malay, and Tamil. In 2004, it was reported that SPH will pay S\$19.2 million (USD 11.4 million) for 40 per cent of *Today*, a newspaper circulated free by MediaCorp which had emerged as part of new media licences issued in 2000. As a result of these changes, SPH's free tabloid *Streets* has been merged into *Today*

The government selects those who can obtain management shares, meaning that it can name the chairman and directors of SPH. In turn, it is through them that "trustworthy" journalists are appointed. With this arrangement, the government does not need to directly appoint its officials as SPH managers or nationalise the press. Thus, newspapers like

⁵⁵ George, Cherian, "Singapore: Media at the mainstream and the margins", in Russell H.K. Heng (ed.) *Media Fortunes, Changing Times: ASEAN states in transition*, (Singapore: Institute of Southeast Asian Studies, 2002).

the *Straits Times* remain ‘edited by professional journalists and published by business people, as it has been for more than 150 years’.⁵⁶

Several examples illustrate the extent of government links to the SPH group. The current group president and chief executive officer of SPH, Chan Heng Loon, was a Permanent Secretary in the Transport Ministry. Executive chairman Lim Chin Beng was a former diplomat and a director of Starhub Pte Ltd, a government-linked info-communications company. The Board of Directors includes Yeo Ning Hong, a former Minister for Defence, and Ngiam Tong Dow, a former Permanent Secretary for Finance in the prime minister’s office. The executive vice president of the Technology division is Low Huan Ping who was a division head in the Ministry of Defence.⁵⁷ Lee Cheok Yew, a former chief executive of SPH MediaWorks, was also a deputy director of the Ministry of Trade and Industry. Goh Choon Kang, a former PAP Member of Parliament, is now head of news research with SPH Chinese newspapers.⁵⁸

Chua Lee Hoong, one of the main columnists of the *Straits Times*, admits to being an ex-staff member of the Internal Security Department.⁵⁹ Employing journalists with prior governmental associations ensures that the newspapers would be in the very least sympathetic to the government’s point of view. It follows that alternative or oppositional viewpoints would be suppressed or ignored completely.

One notable characteristic in Singapore is that several of the PAP MPs are drawn from the local media. This is especially the case amongst the Malay MPs who had worked for *Berita Harian*. The first president of Singapore, Yusof Ishak, was once chief editor of *Utusan Melayu* based in Singapore. In the current parliament, Zainal Abidin was a part of SPH.

⁵⁶ Ibid.

⁵⁷ Tan Boon Seng, “Why it might be difficult for the government to withdraw from business”, 10 February 2002, <http://www.singapore-window.org/sw02/020210gl.htm>

⁵⁸ Ibid; Quek, Tracy, “Major review to teach Chinese better”, *The Straits Times*, 22 February 2004, <http://www.asu.edu/educ/eps/LPRU/newsarchive/Art3528.txt>

⁵⁹ Ellis, Eric, “Climate control in the Singapore Press”, *The Australian*, 21 June 2001, <http://www.sfdonline.org/Linkper cent20Pages/Linkper cent20Folders/01Pf/aus210601.html>



Photo:
“Two Versions of the Strait Times”
(taken from the Workers Party’s
website)

6.3. Foreign Print Media

An increasing number of foreign newspapers are basing their operations in Singapore because of the city-State’s good transport and communications infrastructure. Many foreign news agencies also station correspondents in Singapore. These news agencies require their journalists not only to cover business and news from around the region, but also to report on Singapore.⁶⁰ Because foreign media reports on Singapore have frequently been of a critical nature, laws have been enacted over the years to regulate and influence the political content of reportage on Singapore. The perceived need to control the foreign media is a theme that cuts across all government policy relating to the media in Singapore.

According to amendments to the Newspaper and Printing Presses Act (NPPA) in 1986, the government may limit the circulation of foreign publications which it determines interfere with domestic politics. Among the publications that had their circulation cut were the *Asian Wall Street Journal*, the *Far Eastern Economic Review*, *TIME*, and *The Economist*.⁶¹ The now-defunct *Asiaweek* was also subjected to circulation limits prior to its ceasing publication. However, the government eventually raised the permitted weekly circulation of publications which have been gazetted to correspond more or less to actual demand.⁶² This permits the government to maintain some control over the foreign press whilst enabling the international media to take advantage of a profitable market for English-language publications in Asia, albeit subject to limitations.

Additional amendments to the NPPA in 1990 require foreign publications which report on politics and current events in Southeast Asia to register,

⁶⁰ Ang, see note 52 on page 27.

⁶¹ Rodan, 2000, see note 3 on page 2.

⁶² For a more detailed discussion of publications that have been gazetted and their circulation restored, refer to Rodan, 2004, see note 4 on page 3.

renew an annual permit to circulate, post a USD 133,000 (SGD 234,000) bond to cover legal liabilities, and to name a person in the country to accept legal service.⁶³ These requirements strengthen the government's "control" over foreign media, at least on a legal basis.

Articles by foreign journalists have ramifications whenever pieces deemed offensive by the government are printed in either local or foreign newspapers, and are subject to libel actions. *Today*, one of the three English-language dailies, ran a column in October 2003 by Australian journalist Michael Backman that was scathing about Singapore's system of censorship. He criticised the information minister's meddling in editorial content, the system of publication licences and the regime's paranoia. The government's reaction was acrimonious. In a response published five days later, the information ministry insisted that the media system was suited to Singapore's circumstances.

Information Minister Lee Boon Yang told the Press Club that foreign journalists should stay out of Singapore's politics. He said Backman had knowingly crossed the line and meddled in internal politics. He also insisted that the government was not going to liberalise the censorship system just to please an excited minority and that censorship was necessary to protect society from violence and a decline in morals.

Licensing actions by the government included denying visa applications to foreign journalists.⁶⁴ Their access to Singapore, as well as that of their publications, is seen as a privilege which can be withdrawn by the Immigration authorities.⁶⁵ Also, the Singapore government demands a "right of reply", which means that any official letters sent to these publications correcting alleged errors in the reporting have to be printed in full. Failure to comply with this would result in the publications being gazetted.⁶⁶

Malaysian newspapers, because of their historically critical reportage of Singapore politics, may not be imported by law 'unless the proprietor of the newspaper or his agent has previously obtained and there is in force a permit granted by the Minister' (Section 22.1 of the NPPA). This enforcement continues to operate.

⁶³ Rodan, 2000, see note 3, on page 2; Country Reports on Human Rights Practices, US Department of State, <http://www.state.gov/g/drl/rls/hrrpt/2002/18263.htm>

⁶⁴ Rodan, 2000, see note 3 on page 2.

⁶⁵ Seow, see note 14 on page 11, pp.179-185.

⁶⁶ Davies, see note 53 on page 29.

7. BROADCAST REGULATIONS

The broadcast media, like the local press, is largely silent on alternative politics in Singapore. In cases where they are vocal, there is usually a distinct pro-PAP stance. Additionally, because broadcasting was introduced by the State, the government did not have to contend with a pre-existing tradition of independent broadcast journalism, as was the case with print media outlets. Hence, like the local print media, local broadcast media is also under the government's control.

7.1. The Laws and Implementing Bodies

The Media Development Authority (MDA) regulates broadcast media and Internet sites via the Broadcasting Act (1994, 2003) and the Media Development Authority of Singapore Act (2002, 2003). One aspect of regulation is the use of the Codes of Practice relating to "standards of programmes and advertisements broadcast by licensees" and to "broadcast standards required to be maintained by licensees" (Broadcasting Act, Section 6).

The Ministry of Information, Communications and the Arts (MICA) regulate all other media, including movies, video materials, computer games, and music. Both the MDA and MICA develop censorship standards with the help of a citizen advisory panel called the Censorship Review Committee, consisting of 22 members appointed by the Ministry of Information, Communications and the Arts 'to review and recommend changes to current guidelines and policies for the different media in view of social and technological developments'.

The Internal Security Act (1960, 1997), the Undesirable Publications Act (1967, 2003), and the Films Act (1981, 2002) allow for the ban, seizure, censorship, or restriction of written, visual, or musical materials by these two agencies if they determine that such materials threaten the stability of the State, are pro-Communist, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorise or promote drug use, or incite racial, religious or linguistic animosities. Television sets and radios must be licensed in Singapore. The majority of households in Singapore have at least one television set. In 1998, there were approximately 680,000 television licenses issued to some 800,000 households on the island. The satellite dish is banned in Singapore. Article 20 (1) in Part V of the Broadcasting Act (1994, 2002) states that :

- (1) Subject to this section, no person shall —
 - (a) install any broadcasting apparatus in any place, or on board any ship, aircraft or vehicle registered in Singapore;



- (b) import, offer for sale, sell or have in his possession with a view to sale, any broadcasting apparatus; or
- (c) operate or have on any premises in Singapore owned or occupied by him broadcasting apparatus on or by which broadcasting services are received, except under and in accordance with a licence granted under this section.

Hence, the only access to foreign broadcasting media is through cable television.

The MDA and MICA seem to have unlimited power to censor different forms of information and expression, without a system of check and balance, or control from civil society. It is difficult to imagine that this function is performed by the Citizen Advisory Panel, whose members are appointed by the Minister of Information. As discussed in Chapter 4, under international law, it is well established that bodies with regulatory or administrative powers over both public and private broadcasters should be independent and be protected against political interference.

Nevertheless, there is only one known instance of political “censorship” recorded on local television which can be highlighted in this paper: the parliamentary proceedings broadcast on television. Parliamentary proceedings were first broadcast through television in the 1980s when opposition politician J.B. Jeyaretnam was elected to parliament in a by-election in 1981. The proceedings were apparently introduced with the aim of “exposing” the weakness of the opposition. Instead this exercise backfired as Jeyaretnam was able use these “live” parliamentary proceedings to his own advantage. As a consequence, the programme’s format was changed and the proceedings were shown in an edited and pre-recorded format, thereby taking the sting out of the proceedings.

Otherwise there are few public examples of censorship of political content on television. Censorship is, however, believed to take place through a process of in-house “gate-keeping” and the practice of self-censorship. Usually, it is the long serving senior broadcast executives at the top of the decision making chain on programming who exercise control over content. Under condition of anonymity, junior broadcast journalists are often willing to recount instances where news items or current affairs programmes have been steered away from giving airtime to opposition politicians or critics. These occurrences indicate that censorship of political content takes place, albeit hidden from view.

Opposition politicians and critics also complain about the imbalanced reporting on the television. The biggest complaints often concern television broadcasts during the election period. It is argued that the negative aspects of the opposition and their campaign are disproportionately highlighted. Such images of the opposition contribute to the negative portrayal of the opposition movement in Singapore.



Under the political party broadcast policy all political parties are entitled to a certain amount of airtime before polling day, depending on the number of candidates they present during general elections. In October 2001, the Singapore Broadcasting Authority announced that only registered political parties with at least six candidates were entitled to airtime during elections, and that independents do not qualify. Therefore, the more candidates a party has, the more airtime it gets. Airtime is increased proportionally, in steps, from 30 seconds to a maximum of 12 minutes.⁶⁷ As a result, because opposition parties are small, they inevitably receive less airtime. In 2001, political party broadcasts went out over radio and television. The Singapore Democratic Party was given three minutes to speak; the Singapore Democratic Alliance was given 3 1/2 minutes; and the ruling People's Action Party was given 12 minutes of airtime. The Workers' Party, with only two candidates, was not included.⁶⁸

Candidates for presidential elections also get airtime; however, the last presidential election was not contested. In the past, as candidates have generally come from a small eligible elite, such airtime has very little political impact. Earlier, in 1993 when the first presidential elections were held, just one "opposition" candidate, former banker Chua Kim Yeow, was allowed to run. Chua was actually not keen on standing for election: he was persuaded to stand against the government's candidate by the government itself. During the 10-day campaign, it was reported that Chua urged supporters not to campaign for him. He appeared on television only twice, once avoiding any mention of himself or his views. On polling day, Chua even announced that the other contender, Ong Teng Cheong, was the better candidate.⁶⁹

Recently, there has been controversy over an attempt by a grassroots leader of the PAP, Andrew Kuan, to run against the government nominee for the post of president. His application for a Certificate of Eligibility was rejected. The controversy was played out in the press, with the government getting the opportunity to paint a tarnished picture of Kuan. The interesting thing about this case is the level of attention it received in Singapore's discussion forums: there is even an online petition against the disqualification. Kuan has openly contested his disqualification and called on the election commission to issue a public examination on why he was disqualified. The election commission, however, said that while it was willing to discuss the reasons for his expulsion privately they were not going to discuss it publicly.

⁶⁷ MDA Policies and Guidelines – Overview, <http://www.mda.gov.sg>

⁶⁸ ST Interactive, "Party broadcast on radio and TV", 26 October 2001, <http://straitstimes.asia1.com.sg/ge/story/0,1870,79795,00.html>

⁶⁹ Porter, Barry, "Lion City plays the polls game", 9 July 1999, *South China Morning Post*, <http://www.singapore-window.org/sw99/90709sc.htm>

7.2. Ownership and Political Links

The Singapore broadcast media companies are all wholly-owned or partially-owned by the Singapore government. The main television and radio broadcaster is MediaCorp. It is 100 per cent owned by the Singapore government's wholly owned investment arm, Temasek Holdings. MediaCorp is managed by a board of directors, a group chief executive officer, a chief financial officer, executive vice-president and managing director. The corporation has eight divisions covering a range of radio, television, print and new media outlets and channels.

There are about 30 FM radio channels. Twenty are owned by companies based in Singapore. The government-owned MediaCorp owns twelve local radio stations and three international stations. It also manages one other international station. The government-linked National Trades Union Congress (NTUC) Media owns two stations under a joint venture company with Singapore Press Holdings (SPH), and the military owns two stations under their radio unit, SAFRA Radio. The only foreign radio station in the country is the BBC World Service, which operates one FM station and uses Singapore as a base to relay short-wave broadcasts to the region.⁷⁰

Of the seven domestic television channels, MediaCorp owns five, and the government-linked SPH owns two. SPH's two channels are managed by its broadcast arm SPH MediaWorks. In 2004, it was made known that SPH will pay SGD 10 million (USD 5.94 million) to merge its television operations with MediaCorp. SPH will own 20 per cent of the new company while MediaCorp will have an 80 per cent controlling interest in the company. Starhub Cable Vision is Singapore's only cable television subscriber. Its parent company Starhub Pte Ltd is a business entity partly-owned by the government.

As is the case with print media management, personnel in broadcast media entities are often connected to PAP government-owned entities. One of MediaCorp's directors is Ho Kwon Ping, who is also the chairman of the board of trustees of the private but government-funded Singapore Management University. Another director, Soo Kok Leng, is also chairman of the government-linked company JTC Corporation. SPH MediaWorks executive director Wee Leong How is a panel member of the Singapore government's Industrial Arbitration Court. Starhub's chief operating officer Yong Lum Sung has previously worked in the government-linked Singapore Technologies group. Chief financial officer

⁷⁰ Ang, Peng Hwa, "Information highways in Singapore: IT as part of macroeconomics", in Anura Goonasekera & Ang Peng Hwa (eds.) *Information Highways in ASEAN: Policy and Regulations*, (Singapore: Asian Media Information and Communication Centre & Nanyang Technological University, 1999).
SPH MediaWorks Limited. About us – The SPH Group (Accessed August 2004), <http://www.sphmediaworks.com/corp/?s=abtus&cp=sph>



Kwek Buck Chye was also the CFO of Singapore Technologies Telemedia. Philip Tan, head of Starhub's Operations & Support, had also worked for the Ministry of Defence.

7.3. Foreign Broadcasters

In a move believed to be an attempt to restrict coverage of alternative or opposition views, in March 1999, the PAP government moved to restrict foreign television stations from covering domestic politics. The Information and Arts Minister of the time, George Yeo, told Parliament that these restrictions were necessary to prevent foreign broadcasters from undermining the city-state. Yeo said the new step would make foreign broadcasters abide by the same rules as State-run Singapore television, which gives political parties free broadcasting time during elections only in proportion to their number of candidates.

These restrictions gave the ruling party a significant advantage over the opposition parties, which at the time held only three out of the 84 seats in Parliament. Critics said the move was aimed at stifling opposition. One of the more significant features of this law is the power bestowed upon the government to tighten control over foreign media, one of the country's only sources of independent or alternative coverage.

Section 31 of the Broadcast Act has been used to restrict foreign broadcasts. In 2001, Parliament passed an amendment to the Broadcasting Act which empowers the Minister for Information and the Arts to issue an order declaring that a foreign broadcaster has been deemed to be engaging in domestic politics and therefore needs to be proscribed. Once a declaration has been made, the local re-transmission of foreign broadcasts can be limited, arbitrarily suspended and even banned, in addition to the imposition of a fine of up to S\$100,000 (USD 59,400). The broadcaster is subsequently required to obtain express permission from the Minister to continue broadcasting in the country.

According to local and international news reports, the Information and Arts Minister of the time, Lee Yock Suan, stated: "This bill makes it clear to foreign broadcasters that while they can sell their services to Singaporeans, they should not interfere with our domestic politics." Outside observers should report on Singapore factually and accurately, said the minister, without bias or distortion. They should not, however, be involved in local political issues, or try to influence Singaporeans on such issues, he added. "In our general elections, for example, they should not take sides either for or against any political party or politician in their reporting." It is believed that the heavy penalties prescribed for foreign journalists may act as a deterrent to full coverage of Singaporean politics.

7.4. Politics on the Radio

Local NGO Think Centre reported an incident of censorship of a radio programme by the management of local station Newsradio 93.8 FM, during a report on the commemoration of International Human Rights Day on 10 December 2000. At about 8.30 a.m. the following day, the programme was aired in three parts: a letter to the prime minister of Singapore which was read by J.B. Jeyaretnam, an extract of a message from UN Secretary General, Kofi Annan, and an interview with a member of Think Centre. The presenter said that the programme would be aired again at about 9.20am together with an additional interview. When the time arrived, the presenter began the programme by saying that the management was unhappy with the earlier airing and had asked for the programme to be re-edited, and proceeded with the re-edited programme. She repeated this announcement at the end of the programme. This decision by the Newsradio management marked the first time in Singapore's media history that a working journalist exposed the self-censorship operating in a public broadcast station. By way of explanation, the station insisted that the decision was simply a process of normal editing of a programme due to time constraints. The station however did not comply with Think Centre's request for a copy of the transcripts and tape recordings of the programme.⁷¹

Another channel of communication which received some attention in 2004 was talkback radio. This programme, started on Newsradio 93.8FM in 1998, has been described by one journalist as 'steadily becoming Singapore's favourite channel for airing news'. Compared to radio forums in Hong Kong, Taiwan or even China (on certain subjects), talkback may be mild but by Singapore standards, it is celebrated as an achievement. It also lends some weight to government claims of an opening process.⁷² However, it would appear that there still remains a limit as to what goes on-air, as in-depth political discussion is still rare.

7.5. Political Films

In 1998, the PAP government extended censorship restrictions under the Undesirable Publications Act (1967, 2003) to cover modern electronic media, including CD-ROMs, computer graphics, digital sound and pictures. Next, the Films Act (1981, 2002) which was last amended 17 years previously, was amended to effectively ban political parties from making and distributing movies.⁷³ The Films Act bans political

⁷¹ Gomez, see note 13 on page 11.

⁷² Seah Chiang Nee, "More people starting to talk back on the radio", *Insight: Down South, Star*, Malaysia. 16 May 2004, <http://www.singapore-window.org/sw04/040516st.htm>

⁷³ Kuzmanovic, Jasmina, "Parliament bans political party films", *Washington Post*, Associated Press, 27 February 1998, <http://www.singapore-window.org/80227wp.htm>



advertising through films or videos, especially for elections, as well as films directed for the furtherance of specific political ends.

The PAP introduced the above amendments in direct response to the attempt by the Singapore Democratic Party to produce videotapes to get its message across. A common complaint of opposition parties related to the lack of adequate, if any, news coverage in the media. To circumvent this, the Singapore Democratic Party decided to distribute pre-recorded videotapes of its electoral platform and messages, but was prevented from doing so by the introduction of this legislation in 1998.

In April 2001, three film makers (all lecturers at the Ngee Ann Polytechnic's Film and Media Studies Department) who made a documentary on Singapore's opposition politician J.B. Jeyaretnam, withdrew their film, *A Vision of Persistence*, from the International Film Festival. The local media reported that a government official went to the polytechnic to question the merit of making the film.⁷⁴ There were speculations that the film might have broken the banned "political" film law. The polytechnic was reported to have stated that the lecturers did not seek the school's permission to make the film. But the film never made a public appearance. Both the Ministry of Information and the Arts and the polytechnic declined to comment further on the matter.⁷⁵

Recently, another short documentary called *Singapore Rebel* by Martyn See Tong Ming, which documented Singapore Democratic Party leader Dr Chee Soon Juan's acts of civil disobedience, was banned from the 2005 Singapore International Film Festival for being a "political film". By contrast, Channel News Asia's five-part documentary series on Singapore's PAP ministers in 2005 were not considered to be political.⁷⁶

7.6. Internet regulation

In line with other sectors of the media, Internet content is heavily regulated to control political debate and maintain moral standards and values. It has been the site of the most recent acts of censorship and legal sanctions, including surveillance. In September 2005, three people were arrested and charged with sedition for posting racist comments on the Internet. However, the Internet remains a site for political discourse, because sites and discussion groups can be based overseas and web-posters can be anonymous. Internet regulation is a direct reflection of the PAP government's policy that regular reporting on local issues for the Singapore audience should only be conducted by the Singaporean media.

⁷⁴ The *Straits Times*, 4 January 2002

⁷⁵ Rodan, 2004, see note 4 on page 3.

⁷⁶ Retrieved from Wikipedia, http://en.wikipedia.org/wiki/Censorship_in_Singapore

Laws and Implementing Bodies

The Media Development Authority (MDA) regulates access to material on the Internet using a framework of Web site licenses to encourage accountability and responsible use of the Internet. It also regulates Internet material by licensing Internet service providers: local users are required to route their Internet connections through these providers. The MDA Internet Code of Practice (1997) further specifies the type of material forbidden and the responsibilities of Internet providers. It prohibits 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’ (Section 4). Failure to comply with the code can result in fines and other unspecified sanctions. This provision is very vague and open to abuse. Like similar provisions in other countries’ laws, it can easily be used by the government to repress the opposition or anyone that is against the government.

Such services have acted as a filter for content which the government considers objectionable and can even be used to block access to certain sites. While the government does not consider regulation of the Internet to amount to censorship, the then-Singapore Broadcasting Authority (SBA) directed service providers to block access to Web pages that, in the government’s view, undermined public security, national defence, racial and religious harmony, and public morals. The SBA was believed to have ordered the blocking of approximately 100 specific Web sites, most or all of which the Government considered pornographic.⁷⁷

The MDA has indicated that it does not intend to monitor the Internet or electronic mail use but to block access to material that contains pornography or excessive violence or incites racial or religious hatred. Those responsible for sites that violated the Code of Practice sometimes faced sanctions, including fines.

The MDA’s Class Licence Notification (1996) contains the regulatory requirements for both Internet Service Providers and Internet Content Providers. It is an automatic licensing framework and there is no need to obtain prior approval from the MDA. Under this “Class Licence scheme”, as it is commonly referred to, Internet Content Providers and Internet Service Providers are deemed to be automatically licensed and have to observe and comply with the Class Licence Conditions and the Internet Code of Practice, which outlines what the community regards as offensive or harmful to Singapore’s racial and religious harmony.

One of the “lesser-known but highly politicised aspects of the Class Licence” is that the MDA Act (Chapter 172 of the Singapore Statutes)

⁷⁷ Hamilton, Andrea, “Questions of censorship: a ban on political film and video sparks debate”, *Asiaweek*, 27 March 1998, <http://www.singapore-window.org/80327aw.htm>



empowers the authority to specify Class Licence conditions periodically. One of these conditions ‘requires the pre-registration of all websites dedicated [to] or seeking to promote political or religious causes’.⁷⁸ Under these rules, at least three web-based civil society groups were required to register themselves as political websites and/or organisations.

The now-defunct Sintercom, Singapore Internet Community, ran uncensored Internet fora (chat rooms) and a section called “Not ST”, which was meant to be an alternative to the pro-government *Straits Times* newspaper. The government told Sintercom’s organisers that registration of their website was necessary ‘to emphasise the need for content providers to be responsible and transparent when engaging in the propagation, promotion or discussion of political issues’. Sintercom complied with the government’s request but eventually shut down its website, well known for its alternative take on politics, at the end of August 2001.⁷⁹ Its founder Tan Chong Kee blamed the arbitrariness of political terminology within the Class Licence policy, adding his belief that civil society was a “lost cause” in Singapore.⁸⁰

Fateha.com, a web-based Muslim civil society group, also defunct, was ordered in March 2002 to register its Internet portal as a political website after its founder and spokesperson, Zulfikar Mohamad Shariff, posited that the PAP’s policies of discrimination against Muslims and its military alliances with the United States and Israel may have prompted local Muslim extremists to hatch terror plots.⁸¹

Another site, Talking Cock was established in 2000 and is popular amongst Singaporeans—it has over 7000 registered users. Talking Cock is a satirical, and highly political, website run by journalists, writers, cartoonists, playwrights, teachers, lawyers and doctors.

⁷⁸ Lee, Terence, “Emulating Singapore: towards a model for Internet regulation in Asia”, in Steven Gan, James Gomez and Uwe Johannsen (eds.) *Asian Cyberactivism: Freedom of Expression and Media Censorship*, (Bangkok, Thailand: Friedrich Naumann Foundation, 2004).

⁷⁹ World Press Freedom Review 2001, <http://www.freemedia.at/wpfr/Asia/singapor.htm>

⁸⁰ Lee, see note 78 on page 41.

⁸¹ Gomez, James, *Internet Politics: Surveillance & Intimidation in Singapore*, (Bangkok: Think Centre, 2002). Zulfikar Mohamad Shariff, “Fateha.com: challenging control over Malay/Muslim voices in Singapore”, in Steven Gan, James Gomez and Uwe Johannsen (eds.) *Asian Cyberactivism: Freedom of Expression and Media Censorship*, (Bangkok: Friedrich Naumann Foundation, 2004).



Singapore Review is another Internet discussion forum that offers refreshing and uncensored writings on Singapore life and politics. The forum's disclaimer reads: "Have you been STRAITS TIMED?.....We put back in what the Straits Times takes out."⁸²

The Internet Code of Practice and the Class Licence policy set the precedent for more laws in this area. This Act stipulated that editors and owners of websites were to be held responsible for what surfers posted on the online forums. There was no guarantee of freedom from prosecution since most posts were anonymous and cannot be controlled, so it was with this in mind that the multi-partisan civil society organisation Think Centre closed down its "Speaker's Corner Online" discussion forum in protest. The ramifications of the amendments to the Parliamentary Elections Act are discussed further in section 7.6.

Ownership and Political Links

Government-linked companies (GLCs) own all local Internet Service Providers (ISPs)—namely Singnet, Starhub Internet and Pacific Internet. The ISPs' senior positions are staffed with former or current senior servants or others who were in public service and are trusted by the PAP government. A few are known PAP members. Some examples are detailed below.

⁸² http://groups.yahoo.com/group/Sg_Review



Singnet is Singapore's largest ISP and the Internet service provider subsidiary of Singtel, a public telecommunications company which is in turn majority-owned by Temasek Holdings, a government-linked company. SingTel's president and chief executive officer, Brigadier General Lee Hsien Yang, is the brother of current Prime Minister Lee Hsien Loong. One of the company's directors, Heng Swee Keat, is also the current Permanent Secretary of the Ministry of Trade & Industry.⁸³

Starhub Internet is a subsidiary of Starhub Pte Ltd, which is part of the GLC Singapore Technologies Telemedia, which has a 50 per cent majority share. See section 7.2 above for details of its ownership and political links.

Pacific Internet is also a part of Singapore Technologies. Its chairman, Low Sin Leng, "has held senior positions in various Singapore Government bodies including the Ministries of Finance, Education, and Trade and Industry".⁸⁴ One of its directors is Judy Lim, a former chief executive of two public hospitals. Another director, Lee Tsao Yuan, a former senior lecturer in the National University of Singapore, holds senior posts in another GLC.⁸⁵

Electoral Restrictions

The government also has legislation on Internet use by political parties and non-governmental organisations. More rules were put in place ahead of the November 2001 general election by the ruling PAP. The justification given was that limits were necessary, as disinformation could be spread quickly online.

The first "skirmish" between the PAP government and opposition parties took place even before any opposition parties had set up websites and any rules regarding politics and elections on the web had been formulated. The National Solidarity Party (NSP) and the Singapore Democratic Party (SDP) started with web-based discussion boards and mail list discussion groups; in the case of the SDP, its announcements were published via the Singaporeans For Democracy website. During the 1997 general elections, both parties had to take down information and pictures of their candidates from these sites because they were told by government authorities that electioneering on the Internet was prohibited. Such practices were eventually declared legal in 2001. The Internet thus came under regulation with regards to how it is used during elections.

⁸³ Based on SingTel Group Structure, 2004.

⁸⁴ Based on Pacific Internet Management Portfolio, 2004.

⁸⁵ Tan, Amy, "Singapore loosens up but media controls remain", Reuters, 23 May 2002, <http://www.singapore-window.org/sw02/020523r1.htm>

On 17 October 2001, the Parliamentary Elections [election advertising] regulations came into effect. Section 78A, 3(a) states “any persons or group of persons in Singapore (other than a political party, a candidate or his election agent) which...provides any programme on the World Wide Web through what is commonly known as the Internet under a class licence...and a person or a group of persons shall be regarded as required to register with the Media Development Authority of Singapore even though the time permitted for such registration has not expired”.

Election advertising is banned on polling day, and this also applies to advertising on the Internet, as stated in Section 78B of the Parliamentary Elections regulations. The regulations restrict the content on websites during elections, stipulating substantial fines or imprisonment or both for any breach. As reported by the Reuters news agency, the amendments allow websites belonging to political parties to publish posters, manifestos, candidate profiles, party profiles, events and positions on issues. However, non-party political sites are prohibited from carrying party banners and candidate profiles, as well as publishing campaign materials or running election advertisements. Election surveys and exit polls are also barred.

The above stated legislation was used during the 2001 general elections, when several opposition parties were threatened with legal action by the elections department if they did not remove certain articles promptly from their respective websites. According to the elections department, these articles could be construed as “election advertising”. NGOs like Think Centre were also affected. One instance was when it received a letter from the department threatening prosecution if it did not remove from its website an article written by a member of the youth wing of the SDP. Such a broad rule that prevents the publication of information which may be deemed to be campaigning for any party or candidate effectively prevents non-party political websites and organisations from monitoring the campaign or covering the elections.⁸⁶

Other Emerging Legal Matters

Another area of Internet regulation is the possible introduction of anti-spam laws. The Infocomm Development Authority of Singapore (IDA) is working with ISPs to come up with ways to fight e-mail spam. IDA spokesperson Jennifer Toh said that the Authority is looking at “legal means” to counter spam. Currently, Singapore does not have any anti-spam legislation. If complaints are received, the local ISPs warn their customers who are sending spam mail to stop. Those who do not stop their activities will not be able to use the services of the ISP. However, this does not prevent spammers from going to another local or foreign ISP. In extreme cases such as a deliberate and malicious “mail-bombing”

⁸⁶Gomez, 2002, see note 81 on page 42.



campaign, the spam sender can be charged under the Computer Misuse Act (1993, 2003), with possible penalties of up to SGD 10,000 (USD 5,900) in fines and/or three years in prison.

Although it would be complex to deal with the question of legal jurisdiction, overseas sites have come under the scrutiny of the Singaporean authorities, particularly if they are operated by Singaporeans. The Singapore government has said that it is prepared to prosecute its citizens who operate pornographic sites located on servers outside the country. In January 2001, the now-defunct Project Eyeball news site reported that the Computer Crimes Division of Singapore's Criminal Investigation Department had stated that "the police will trace the location of the site and ask the overseas hosting company to help with investigations". The Singapore government has shown a willingness to enforce this, and the mere threat of it seems to be effective at the moment.

A Singaporean man was arrested by the Thai police for threatening by email to attack the then-prime minister Goh Chok Tong, and to bomb the Singapore and United States embassies in Bangkok during the 2003 APEC summit in the Thai capital. Kevin Chia was arrested at his home in downtown Bangkok after Thai police tracked emails which he had sent to an official Singaporean website ahead of the summit in October 2003.⁸⁷

Developments in Wireless and Mobile Phone Technology

At the beginning of 2003, a sample base of nearly three million people aged 15 and over revealed that the majority of Singaporeans own mobile phones. By June 2004, the total market penetration of mobile phones had reached 3,655,900 or 87.4 per cent of the population of Singapore.⁸⁸

The mobile phone market is dominated by three main telecommunications companies: Singtel, Starhub, and MobileOne (M1). As in the case of the former two, the ownership and political links of M1 reveal the extent of government involvement in the telecommunications sector. M1 is partially-owned by Singapore Press Holdings and the chairman of its board of directors, Lim Chee Onn, was a former minister

⁸⁷ "Singaporean arrested in Thailand after threats against PM Goh, embassies", Agence France Presse, 9 October 2003, http://quickstart.clari.net/qs_se/webnews/wed/aq/Qapec-thailand-attacks.RSgU_DO9.html

⁸⁸ (Statistics on Telecom Services, 2004). Statistics on Telecom Services for 2004. IDA Singapore. <http://www.ida.gov.sg/idaweb/factfigure/infopage.jsp?infopagecategory=factsheet:factfigure&versionid=1&infopageid=12703>

in the prime minister's office. He is also the current director of the GLC Temasek Holdings.

Legislation on the use of wireless technology has been introduced to keep pace with the increasing numbers of mobile phone users and a more technologically-savvy and connected society. There are also laws governing the use of mobile phone SMS (Short Messaging Service) during election periods.⁸⁹ This is provided for under Part III of the Parliamentary Elections Act (1954, 2002):

Regulations for other election advertising
78A. —(1) The Minister may make regulations —
(a) prescribing the form and manner in which details as to the names and addresses of the publisher of any election advertising not comprising printed matter and of the person for whom or at whose direction it is published must be included in such election advertising for the purpose of complying with section 61 (1) (c) (ii).

SMS is also increasingly used by groups as a means to mobilize civil society. In early 2003, six people appeared outside the US embassy carrying anti-war placards and were detained by police. They told the police that they had received an SMS on their mobile phones urging them to participate in an anti-war demonstration at the US embassy.⁹⁰

⁸⁹ Gomez, James, "The Control and Censorship of Political Expression in the Singapore Media", Yahoo! Groups Sg_Review Messages, 27 July 2004, http://groups.yahoo.com/group/Sg_Review/message/1249

⁹⁰ "Two women stage brief protest outside US embassy", Agence France Presse, 15 February 2003, <http://www.singapore-window.org/sw03/030215a1.htm>



8. DEFAMATION LAW

In Singapore, defamation is categorised as both a civil wrong and a criminal offence. When prosecuted as a criminal offence under Chapter XXI, Section 499 of the Penal Code, the accused faces a penalty of up to two years imprisonment and/or a fine.

Libel in publications is dealt with specifically under the Defamation Act (1957, 1997), Chapter 75 of the Singapore Statutes. Where the media is concerned, the Defamation Act covers broadcast statements (Section 3), slander of the plaintiff's title in publication (Section 6), unintentional defamation with published words (Section 7), provisions for issuing a public apology in any newspaper (Section 10), and qualified privilege of newspapers (Section 12). Section 3 covers broadcasting via the new media, i.e. Internet, an instance of which is discussed in detail in section 8.4.

Alarming, the government seems to be making increasing use of court proceedings and defamation laws against those who report or express dissenting views. The threat of potentially ruinous civil defamation suits or possible criminal prosecution is an obstacle to the legitimate expression of political dissent and independent public reporting generally.

The PAP has very successfully made the PAP and government synonymous—thus an attack on the PAP is an attack on the government. This probably has implications in suits for damages—particularly during election campaigns when statements by rivals are taken not as criticisms of PAP candidates but as criticisms of the government

8.1. Formal Restrictions and Attacks against Foreign Media

These libel laws have been used against the foreign media. The PAP government, or individual government ministers, have filed libel suits against foreign publications for articles or op-ed pieces that it/they deem to be contrary to the defamation laws. Listed below are some selected examples of libel suits against the foreign media.

In 1994, the *International Herald Tribune* published an article which commented on then-Deputy Prime Minister (DPM) Lee Hsien Loong's rise through the army's ranks. DPM Lee, along with Senior Minister Lee Kuan Yew and then-Prime Minister Goh claimed that the article defamed them. The paper subsequently published an apology. Nevertheless,

Section 10 of the Defamation Act, which covers “Apology in mitigation of damages”, was not successful in preventing the officials’ libel suit and the damages awarded to them because it was simply not taken into account.

On 5 August 2002, Bloomberg published an online column about alleged nepotism within the Singapore government and its business enterprises. The column alleged that Ms Ho Ching, Deputy Prime Minister Le Hsien Loong's wife, was promoted to the senior position in the main government investment holding company because of her relationship with the senior leadership. In August 2002 the Bloomberg news service, upon knowledge of a possible defamation suit, publicly apologised and agreed to pay USD 338,000 (SGD 595,000) in damages to Prime Minister Goh and Senior Minister Lee Kuan Yew.

On 2 September 2004, *The Economist* magazine issued a public apology to the Prime Minister Lee Hsien Loong and his father, senior statesman Lee Kuan Yew, for a report about the GLC Temasek Holding’s “recent aggressive expansion” in an article on 14 August, against the background of the appointment of the Lee family members to State-linked companies. The magazine reportedly paid SGD 390,000 (USD 297,000) in damages as well as legal costs to the Lees.⁹¹

Singapore’s defamation laws allow plaintiffs the possibility of winning substantial judgements for damages and legal costs. Accordingly, threats of defamation actions alone can often prompt the media to apologise and pay damages for perceived slights, a situation which inevitably creates an environment of caution when expressing criticism.

8.2. Local Media Reports and Libel of Political Opponents

Although the local media has not been subjected to the same level of libel pressure as foreign media, it nevertheless plays a role in the libel process that is often overlooked in discussions of the media in Singapore. Often what is reported in the local media is used as evidence in libel suits against opposition politicians and critics, and the journalists are frequently asked to verify their reports in courts.

During the last decade, ruling party leaders have sued opposition politicians J.B. Jeyaretnam, Chee Soon Juan, and Tang Liang Hong for defamation several times, as defamation laws are not lifted during election campaign periods.

⁹¹ “Economist magazine apologises to PM”, Reuters, 2 September 2004, <http://www.singapore-window.org/sw04/040902re.htm>



In 1997, Tang Liang Hong, formerly of the Workers' Party, was hit by 13 such libel suits from the Prime Minister Goh Chok Tong, and other members of the ruling PAP, which won 81 of the 83 seats in Parliament in the January 2 general elections. On March 11, Tang lost 12 out of the 13 suits after the judge said that Tang, who fled Singapore after the elections saying he feared for his life, had offered no defence. During the election campaign, he had been accused by Goh of being a “Chinese chauvinist” who endangered Singapore's racial harmony. This was dutifully reported in the mainstream local media with little or no reference to the context of Tang’s speech, made during the election campaign.

At the end of 2001, then-senior minister Lee Kuan Yew and former prime minister Goh Chok Tong sued Chee Soon Juan, leader of the opposition Singapore Democratic Party, for defamation based upon comments Chee had made during a campaign rally prior to the November general elections. During the 2001 campaign, Chee issued a public apology, which he later retracted, then countersued the Senior Minister for calling him a “liar” and a “cheat”. In August 2002 a court ruled that Chee's earlier statements had effectively conceded the defamation charges, but ordered a hearing to set the amount of damages. It was reported in September 2004 that the two plaintiffs want at least a total of USD 500,000 in damages.⁹²

In 2001, J.B. Jeyaretnam, an opposition non-elected Member of Parliament (M.P.) from the Worker's Party (WP), lost an appeal and was declared bankrupt for failing to pay the defamation damages stemming from an earlier WP publication. The bankruptcy forced Jeyaretnam to resign his parliamentary seat. Jeyaretnam formally apologised to Senior Minister Lee Kuan Yew and nine other ruling party members for remarks made during the 1997 campaign; remarks which had been the basis for a 1998 judgement in favour of the Prime Minister. In exchange for the apology, the 10 men dropped defamation lawsuits against Jeyaretnam, and agreed to forgo damages.

⁹² “Ex-PMs seek heavy damages from opposition leader”, Agence France Press, 6 September 2004, <http://www.singapore-window.org/sw04/040906af.htm>



Photo: Chee Soon Juan

8.3. Libel in Opposition Party Publications

The content in opposition or alternative media is sometimes used by the government as evidence in order to sue for libel against opposition politicians. The High Court ruled in late November 1998 that the Worker's Party (WP), its then-leader and ex-member of parliament J. B. Jeyaretnam and another member, A. Balakrishnan, had defamed members of a committee tasked to organise a Tamil Language Week in 1995. The suit was filed by a member of the ruling PAP, R. Ravindran, and nine other people (including four other PAP politicians) who alleged that an article published in the Worker's Party newspaper the *Hammer* defamed them by calling them government stooges.⁹³ The Workers' Party agreed to pay SGD 200,000 (USD 119,000) in damages and costs to five politicians. The five politicians, including the Foreign Minister, Shanmugam Jayakumar, had claimed SGD 1 million (USD 594,000) for the article published in August 1995, which had charged them with attempting to use the Tamil-Language Week to further their own careers. The article also accused the government of paying lip-service to promoting the language, one of the four official tongues in the multi-cultural island-State.

In 1999, two of the 10 plaintiffs in the 1995 suit commenced bankruptcy proceedings against Jeyaretnam. They also filed a petition to wind up the Workers' Party on grounds of insolvency. The immediate consequence of this would have been that both Jeyaretnam and Low Thia Kiang, a Non-Constituency Member of Parliament, and MP for Hougang, would lose their seats in parliament. However, after initiating the process, the plaintiffs decided to hold off and explore other options. Since 1999, Jeyaretnam has had to fight off a series of attempts to bankrupt him arising from the damages awarded to the plaintiffs in the case. He opted for an instalment plan on the condition that he would be declared bankrupt if he was to default on any of the instalments.

⁹³ "Workers' Party argues against libel ruling", Associated Press, 21 April 1999, <http://www.singapore-window.org/sw99/90421ap.htm>



In July 2001, it was reported that Jeyaretnam was to pay S\$175,513 (USD 104,000) to the Tamil Week creditors in addition to unspecified costs associated with the court hearings. He was declared bankrupt in January 2001. Under the Singapore Constitution a bankrupt may not hold a seat in parliament; hence, he was barred from Parliament.⁹⁴

The ruling of the High Court led to interesting developments. The judgement made on 30 November stipulated no order in terms of the contributions payable between JB Jeyaretnam, Balakrishnan and the WP. JB Jeyaretnam commenced a proceeding to secure a contribution from Balakrishnan, and subsequently amended this suit to include a contribution from the WP. Although the WP initially challenged this claim, they later chose to reach a settlement of SGD 10,000 (USD 5900) on the condition that JB Jeyaretnam no longer seeks a contribution from the WP with regards to this claim, and with the WP not conceding any liability.

8.4. Libel on the Internet

Libel laws are also applicable to the Internet. Section 3 of the Defamation Act states that: “For the purpose of the law of libel and slander, the broadcasting of words by means of telecommunication shall be treated as publication in a permanent form.”

Zulfikar Mohamad Shariff, founder and editor of the now-defunct Fateha.com, a news site which aims to provide an alternative view and discussion forum for Muslim issues in Singapore, questioned the appointment of Lee Kuan Yew’s family members to government-linked companies. His computer was seized by the police as part of a formal investigation into whether his Internet postings had constituted criminal defamation. Zulfikar had fled the country for Australia asserting that the Singapore’s judicial system was politically biased.

8.5. Responses from International Organisations

Record libel damages awarded to cases involving political opponents and critics have led several international organisations to argue that the use of defamation proceedings discourages political dissent and criticism of government policy.

⁹⁴ Lloyd-Smith, Jake, “Bankruptcy drives out independent MP”, South China Morning Post, 24 July 2001, <http://www.singapore-window.org/sw01/010724sc.htm>

In his report to the Commission in 2000, the United Nations Commission on Human Rights' Special Rapporteur on freedom of opinion and expression described libel and defamation suits as impediments to freedom of expression. He noted the existence of "prohibitive fines for libel which in a number of instances would strangle economically the independent press, a political party, an association or any individual. In this regard the Special Rapporteur considers that disproportionate remedies or sanctions can significantly limit the free flow of information and ideas."⁹⁵

Over the years, ARTICLE 19 has consistently expressed concern that defamation laws represent one of the most serious threats to open discussion which underpins the notion of democracy. Whilst acknowledging that defamation laws clearly can serve a legitimate purpose, protecting reputations by providing redress against certain types of statements, there is a fear that defamation laws may be abused and go well beyond any legitimate purposes, thereby threatening to prevent discussion on matters of public interest. It is vitally important in a democracy that open criticism of government and public bodies be facilitated. Government critics should not be threatened with libel suit, especially with criminal defamation.

ARTICLE 19 considers that defamation should not be made a criminal offence. The threat of harsh criminal sanctions, particularly imprisonment, has a profoundly chilling effect on the freedom of expression. ARTICLE 19 is also of the opinion that civil defamation provisions that allow for high monetary penalty should be reformed. Such award is likely to bring negative effects on freedom of expression. Civil defamation regimes should ensure that damage awards are strictly proportional to the harm actually caused. Non-monetary awards should be prioritised wherever possible. A fixed ceiling for compensation for non-material harm to reputation should be set out in law and the maximum should be awarded only in the most serious of cases.⁹⁶

Amnesty International has also repeatedly expressed concern over the fact that government leaders have used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. The continued success of government leaders' suits in the last decade has fostered an environment of public caution about political speech and a culture of self-censorship within the news media, and has inhibited opposition politics.

⁹⁵ *Commission on Human Rights Resolution 2003/42*, E/CN.4/2003/L.11/Add.4.

⁹⁶ *Defining Defamation: Principles on Freedom of Expression and Protection of Reputation* (London: ARTICLE 19, July 2000), Principle 15.



The annual country reports issued on Singapore by the US State Department suggest that the government has ‘increased its bullying of opposition politicians’.⁹⁷

9. OTHER RESTRICTIONS ON FREEDOM OF EXPRESSION

As discussed in Chapter 4, the right to “freedom of speech and expression” is guaranteed under Article 14(1)(a) of the Singapore Constitution. However, the Constitution immediately goes on to place restrictions on this right in Article 14(2)(a). According to this clause, parliament may pass laws which restrict freedom of speech and expression for the following reasons: in the interests of national security, friendly relations with other countries, public order, morality, restrictions designed to protect the privileges of parliament or to provide against contempt of court, defamation, and incitement to any offence. Further, courts in Singapore have taken the view that common law restrictions on freedom of speech are preserved by the Constitution. According to this legal interpretation, the restrictions override the right of expression itself.⁹⁸

As outlined in the preceding chapters, a variety of laws restrict publishing and broadcasting, including via the Internet. Singapore’s media laws, including those governing restrictions on publishing and broadcasting, are derived from British law, with modifications to suit the local context.⁹⁹ These restrictions are used in the name of national security, public order, morality, to safeguard parliament and the dignity of courts and reputation.

These laws include the MDA Broadcasting (Class Licence) Notification (2001), the Internet Code of Practice (1997), Broadcasting Act (1994, 2002), Films Act (1981, 2002), Defamation Act (1957, 1997), Internal Security Act (1960, 1997), Newspapers and Printing Presses Act (1974, 2003), Official Secrets Act (1935, 2004), Parliamentary Elections Act (1954, 2002), Undesirable Publications Act (1967, 2003), Essential (Control of Publications and Safeguarding of Information) Regulations (1966), and the Printing Presses (Applications and Permits) Rule (1972).

⁹⁷ “Government bullied oppositions last year: US report”, the *Straits Times*, 2 February 1998.

⁹⁸ Ang Peng Hwa & Yeo Tiong Min (Compiler), “The Singapore legal system”, in *Mass Media Laws and Regulations in Singapore*, (Singapore: AMIC, 1998).

⁹⁹ *Ibid.*

9.1. Restrictions on Whistle Blowing and Leaks

Restrictions are also in place for matters of national security. Journalists must be aware of the Internal Security Act (ISA) (1960, 1997), under which they can be detained without trial. They can be fined or jailed if they breach laws in contempt of court or contempt of parliament. The Official Secrets Act (OSA) (1935, 2004) deters them from being on the receiving end of leaks.

One instance of official restriction was an incident in 1993 where *Business Times* editor Patrick Daniel and correspondent Kenneth James, together with a government official and two employees from a security firm were prosecuted under the OSA for publishing sensitive information revealed to them regarding unreleased economic growth figures. Daniel and James returned to work after being found guilty and paying a fine. This action appeared to be a signal to civil servants that leaks would not be tolerated.¹⁰⁰

Other important pieces of legislation that are in place to secure control of the media by the government are the Essential (Control of Publications and Safeguarding of Information) Regulations, 1966, which prohibit publication or dissemination of protected information without official consent.

The Johannesburg Principles emphasise that no one should be punished for disclosing information where this is in the overall public interest, even if it is formally classified as a “State secret” or “official secret” and even if its release might adversely impact on, say, military interests or foreign policy.¹⁰¹ For example, a journalist may come into the possession of cabinet documents that disclose an important impending policy change relating to the country’s financial and economic policies or that provides evidence of corruption within the civil service. In such cases, the media, exercising their function as “watchdogs” of democracy, are under a duty to publish the information.

Protection for disclosure in the public interest should not only extend to the media. Those who, in the course of their employment, come across classified material that discloses wrongdoing should also benefit from protection if they decide, in good faith, to release it. Protection for so-called whistleblowers is a vital element in freedom of information and encourages good administrative practices at all levels of the civil service.

¹⁰⁰ Stokes, Kerry, “Singapore - most successful dictatorship on earth”, 15 July 2001, http://policestate.blogspot.com/2004_07_01_policestate_archive.html. George, see note 55 on page 29.

¹⁰¹The *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*, ARTICLE 19, (London: 1996), Principles 15 and 16.



9.2. Protecting Friendly Relations with Other Countries and Ethnic Groups

The restriction intended to protect friendly relations with other countries stands out particularly. The Singapore Constitution, Article 14(2)(a), stipulates that

Parliament may by law impose —
(a) on the rights conferred by clause (1) (a), 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;

Under this provision, the media in Singapore must avoid criticising the actions of neighbouring States. One of the reasons given by journalists themselves for this restriction is Singapore's dependence on other countries, although this over-reliance has begun to change in recent years. In 1997, forest fires in Indonesia led to Singapore being blanketed by smog for months. As the smog worsened, the media in Singapore became bolder in pointing out that the fires were due to human action. Towards the end, an article even took the Ministry of Environment to task for initially downplaying the gravity of the fires.¹⁰²

The Printing Presses (Applications and Permits) Rule 1972 deals with articles which are deemed to have sensationalised racial or ethnic emotions and those that cause any misunderstanding between Singapore and Malaysia. The concern over the possibility of the media stoking tensions between Singapore and Malaysia must be understood within the context of the history of disputes between the two countries; these include the ownership of the island of Pedra Blanca; a long-term water supply agreement; the citing of Malaysia's Customs, Immigration and Quarantine facilities in Singapore; the frozen shares of 172,000 Singaporean investors in the Central Limit Order Book (CLOB)—a market for Malaysian shares in Singapore; and the withdrawal of savings from the Central Provident Fund for Malaysians working in Singapore.

Under the broad provisions of the Internal Security Act (ISA), the government may also restrict or place conditions on publications that incite violence, counsel disobedience to the law, might arouse tensions among the various segments of the population (races, religions, and language groups), or those which might threaten national interests, national security, or public order.

¹⁰² Ang & Yeo, see note 98 on page 53.

As outlined in Chapter 4, freedom of expression can indeed be restricted and limited. However, any restriction on the right to freedom of expression must meet a strict three-part test, which requires that any restriction must be a) provided by law; b) for the purpose of safeguarding a legitimate public interest; and c) necessary to secure that interest.

Furthermore, in regards to the restriction on freedom of expression due to threat to national security and public order, the Johannesburg Principles state that:

...expression may be punished as a threat to national security only if a government can demonstrate that:

- (a) the expression is intended to incite imminent violence;
- (b) it is likely to incite such violence; and
- (c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.¹⁰³

9.3. Restrictions on Foreign Publications

Restrictions also apply to foreign publications. Although they do not require licensing, they are regulated in two ways. Firstly, publications with pornography or content which may be contrary to the public interest are regulated under the Undesirable Publications Act (1967, 2003). Publications like *Playboy* and *Penthouse* are banned. Secondly, foreign publications may be regulated under the 1986 amendments to the Newspapers and Printing Presses Act. Periodicals which are published weekly or more frequently require a permit for circulation. Their circulation in Singapore may additionally be restricted if they ‘interfere with domestic politics’. Exactly what constitutes “interference” is vague, and is left to the discretion of the information minister, which ‘leaves editors guessing where the line of tolerance might be drawn’.¹⁰⁴

Restricted publications have included *Time*, the *Far Eastern Economic Review*, *Asiaweek*, *The Economist*, and the *Asian Wall Street Journal*. These cases, most of which involved the Singapore government’s assertion of its “right of reply” to allegedly defamatory articles occurred from the mid-1980s onwards.¹⁰⁵ The *Far Eastern Economic Review* was the exception. Its restriction followed libel action by Senior Minister Lee Kuan Yew over an article in the magazine.¹⁰⁶

¹⁰³ *The Johannesburg Principles*, see note 101 on page 55, Principle 6.

¹⁰⁴ Rodan, 2000, see note 3 on page 2.

¹⁰⁵ *Ibid.*

¹⁰⁶ Davies, see note 53 on page 27.



The law barring the circulation of Malaysian newspapers is still in place, as the information minister has not granted a permit to a newspaper proprietor or distributor to bring them in and circulate them.¹⁰⁷ Furthermore, both the Singapore and Malaysian governments have an agreement not to circulate each other's newspapers; Malaysian newspapers can only be obtained from the Malaysian High Commission.¹⁰⁸

9.4. Restrictions on the Internet

As discussed in Chapter 7, broadcasting via the Internet is also governed according to the Internet Code of Practice administered by the Media Development Authority (MDA). The list of restricted material under the Code of Practice include contents which jeopardise public security or national defence; excite disaffection against the government; undermine public confidence in the administration of justice; satirise any race or religion; encourage permissiveness or promiscuity; depict under-aged sex, explicit sexual activity, homosexuality, bestiality and necrophilia.

Restrictions can be enforced by implementing rules on the use of the Internet by individuals, groups or organisations. Websites which deal with sensitive topics, principally religion and politics, have to register with the MDA. Registration requires the websites' editors and publishers to sign a declaration accepting 'full responsibility for the contents...including contents of discussion groups carried on it'.

¹⁰⁷ Newspapers and Printing Presses Act, Section 22(1) :

Permit required for sale and distribution in Singapore of newspapers printed or published in Malaysia

22. —(1) No newspaper printed in Malaysia shall be published, sold, offered for sale or distributed in Singapore unless the proprietor of the newspaper or his agent has previously obtained and there is in force a permit granted by the Minister authorising the publication, sale or distribution of the newspaper in Singapore, which permit that the Minister may in his discretion grant, refuse or revoke, or grant subject to conditions to be endorsed thereon.

¹⁰⁸ Ang, 2001, see note 52 on page 27.

10. FREEDOM OF INFORMATION AND SECRECY

In Singapore most official information that is within the public domain is generally considered to be quite accurate and is updated every few days or quarterly, depending on the type of information. These include general social data, population census data, official audit reports of government agencies, election contributions and expenditures, national government budget records, and government loans and contracts¹⁰⁹ There is, however, no Freedom of Information Act in Singapore. Instead, information disclosure is regulated in a variety of informal and formal ways. A combination of formal regulations and an informal culture of secrecy stifle the public's access to information in Singapore, in spite of the advances in and promotion of information technology.

There have been some positive reforms following the 1997 Asian financial crisis towards increased corporate and fiscal transparency, involving disclosures of commercial interests and the data facilitating them. However, there is generally limited media freedom for reporting on social and political issues, freedom of information, as well as the political accountability of GLCs and other State economic interests. The PAP authorities still exercise a high degree of control over such information.¹¹⁰

10.1. Formal Regulation of Disclosure of Information

Information disclosure and dissemination are regulated through a series of laws, particularly the Official Secrets Act (OSA), which states that any person who divulges any type of information which is prejudicial to the safety or interests of Singapore shall be guilty of an offence.¹¹¹ The OSA mainly deals with the disclosure of information to foreigners and foreign governments, and determining if these are considered offences under the Act. The parts of the OSA which fall under this clause are:

Section 3: Penalties for spying. In subsections (1) and (2), summarised, it states that "If any person for any purpose prejudicial to the safety or interests of Singapore" is in the vicinity of any prohibited place within the meaning of the Act, or makes any visual recording intended to be useful to a foreign power or enemy, obtains or communicates to others any secret official code, photograph or other information which is meant

¹⁰⁹Gomez, 2001, see note 13 on page 11.

¹¹⁰Rodan, 2004, see note 4 on page 3; See Chapter 6 above.

¹¹¹Gomez, 2001, see note 13 on page 11.



to be useful to a foreign power or enemy, that person “shall be guilty of an offence”. In subsection (3), the authorities may issue a permit to take or make photographs, drawings, maps, measurement, soundings or surveys, and may require the relevant persons to submit these recordings or images to the authorities for examination. In subsection (6), a person may be convicted if his purpose in obtaining and communicating information is deemed to be for “a purpose prejudicial to the safety or interests of Singapore unless the contrary is proved”. In subsection (7), a Magistrate’s Court may issue a search warrant to look for and seize drawings and photographs if the Court “is satisfied that there is reasonable cause to believe that a photograph or drawing contains matter or information prejudicial to the safety or interests of Singapore”. Subsection (8) states that the minister in charge may “order the photograph or drawing to be forfeited, or order that any part of the photograph or drawing be obliterated, erased or removed” if he considers that “the photograph or drawing contains matter or information prejudicial to the safety or interests of Singapore”.

Section 5: Wrongful communication, etc., of information. Subsection (1) states that if any person has in his possession any information and uses it “for the benefit of any foreign Power other than a foreign Power for whose benefit he is authorized to use it, or in any manner prejudicial to the safety or interests of Singapore...that person shall be guilty of an offence.” Further, it is stated in subsection (3) that in proceedings against a person for an offence under this section, he shall be deemed to be in possession or control of such information and “to have unlawfully communicated that information to a foreign Power or to have used that information or thing in a manner prejudicial to the safety or interests of Singapore.”

Section 6: Unauthorised use of uniforms, falsification of reports, forgery, impersonation and false documents. In subsection (2) it is stated that a person who retains any official document “when he has no right to retain it, or when it is contrary to his duty to retain it” for any purpose which is prejudicial to the safety or interests of Singapore, shall be guilty of an offence.

Section 7: Communications with foreign agents to be evidence of commission of certain offences. In subsection (1), when a person is charged with an offence under Section 3, the fact that he had been communicating or attempting to communicate with a foreign agent, “shall be evidence that he has, for a purpose prejudicial to the safety or interests of Singapore, obtained or attempted to obtain or to communicate information” which might benefit a foreign power or enemy.

Further, the Emergency (Essential powers) Act (1964) prohibits members of the armed forces from communicating with the media, particularly the newspapers.¹¹²

The Government of Singapore Investment Corporation (GIC) is a government-controlled business and financial entity noted for its lack of disclosure of information. Established in 1981 to manage Singapore's foreign reserves, it is exempted by law from filing balance sheets, profit-and-loss statements, publishing annual reports or reporting to parliament. It is only accountable to the accountant-general, auditor-general and the president, to whom it submits its financial statements and proposed budgets. The GIC's website "provides no clue on its asset allocation or investment returns and only contains what-an-exciting-organisation stuff aim[ed] at attracting young talent to join the team".¹¹³

In 1988, *The Economist* magazine closed its Singapore offices after its journalists were denied access to government briefings.¹¹⁴ In 1993, the government went even further when it prosecuted a number of people under the Official Secrets Act who were involved in the publishing of "flash" GDP estimates—early calculations of the most recent economic growth—before they were officially released.¹¹⁵

The Evidence Act (1996, 2003), Chapter 97 of the Singapore Statutes, contains a provision (Section 125) which forbids anyone from producing 'any unpublished official records relating to affairs of State', as evidence in court except with the permission of the permanent secretary, subject to the control of the president. The fact that public officials cannot be compelled to answer questions in court, either related to their official duties or questions which would ordinarily be improper to ask, for any reason,¹¹⁶ only serves to reinforce the official "culture" of information non-disclosure. Cumulatively, this provides for a comprehensive control by public officials of the disclosure of information, thus, providing substantial protection for the government and its officials from investigation by the courts via an extremely broad claim of executive privilege.¹¹⁷

There is an apparent lack of transparency and public accountability in the public service sector. Information concerning government officials, military personnel records and foreigners is deemed to be confidential and is not made public. Information which is available is generally not available online and costs are involved in obtaining it. For instance, payment is required for access to copies of floor plans of public housing.

¹¹² Stokes, see note 100 on page 55.

¹¹³ Ong, Lynette, "Investment Singapore style", *Asia Times*, 19 July 2001, <http://www.singapore-window.org/sw01/010719at.htm>

¹¹⁴ Stokes, see note 100 on page 55.

¹¹⁵ Seow, 1998, see note 14 on page 11.

¹¹⁶ Stokes, see note 100 on page 55.

¹¹⁷ *Ibid.*



Generally, information which the government chooses to publish can be found in the National Library, or purchased from the Singapore National Printers, or in some cases, directly from the relevant department, statutory board or ministry.¹¹⁸

10.2. A Culture of Secrecy

An informal culture of secrecy permeates various levels of Singapore society, especially in the civil service. This is the product of over 40 years of authoritarian rule, during which the workings of the government were guided by the notion of secrecy. International agencies researching information on human rights violations, capital punishment and detentions under the Internal Security Act often have to rely on questions asked by opposition politicians in parliament. Foreigners who attempt to access this kind of information find it difficult to deal with officials who are not used to accommodating such requests. Whilst officials are forthcoming, many tend to be suspicious of the motives of the person or group seeking information, and people find it much easier to obtain information in their personal capacity as citizens rather than as representatives of organisations or as journalists. Foreign journalists in particular face this problem.¹¹⁹

Several cases involving the lack of transparency have been recorded in academe and the media, including the government's investments and losses in the Suzhou industrial park project,¹²⁰ which were undisclosed, prompting one investor in 1999 to ask what happened.¹²¹ While there was a report of estimated losses from the chief executive of the development

¹¹⁸ Gomez, 2001, see note 13 on page 11.

¹¹⁹ Ibid.

¹²⁰ Ben Dolven, *Far Eastern Economic Review*, December 6, 2001:

Set up in 1994, the SIP [Suzhou Industrial Park] was billed as a way for Singapore's industrial planners to show the Chinese how to run an industrial park. A brainchild of Singapore Senior Minister Lee Kuan Yew, the park features landscaped, tree-lined boulevards and a strict plan for balancing industrial and residential areas. But for years, the five-star rents it charged to pay for its five-star infrastructure--huge land reclamation, fail-safe electrical supply, a water treatment plant--made it hard to compete with the bevy of other industrial parks appearing nearby. In a sense, Singapore's planners were swimming against the tide because investors were looking to Suzhou for costs lower than Shanghai's, and the SIP was charging Shanghai-style prices. Facing tougher competition than expected and with municipal authorities promoting other parks, Singaporean leaders complained publicly about their partners, even lamenting that another industrial zone across town known as the New District was featured on more billboards than the SIP. Losses piled up. In 1997, Lee said the Singapore project might "bow out" if the city didn't give it priority. All this culminated in 1999 with the transfer of majority ownership from the Singapore side to Suzhou. The Singapore consortium--government bodies and government-linked firms--cut its stake from 65 per cent to 35 per cent. Singaporean board participation shrank. All but three of the civil servants managing the park went home.

¹²¹ Gomez, 2001, see note 13 on page 11.

company, the government's losses remain undisclosed.¹²² Other information which remains shrouded in secrecy includes information about the cadre, party stalwarts, and system of the ruling People's Action Party; indeed, the identities and strength of the PAP's cadre membership remains secret.¹²³

The government also routinely withholds economic data. A number of incidents have highlighted this: in the midst of concerns over the number of foreigners being employed in Singapore, a group of researchers at the Nanyang Technological University argued in a study that three out of every four new jobs over the previous five years had gone to foreigners. The government responded by stressing that the "true figure" was one out of ten. The researchers admitted that there had been a flaw in their calculations. There are still no reliable figures on the size of the foreign labour pool and its breakdown across different sectors. Another example was an allegation by two economists that 'Singapore's economic success was based on increased inputs, particularly capital, rather than productivity growth'. The government rebutted this by clarifying the "real" productivity figure, but 'without entirely demolishing the entire argument'.¹²⁴ There is also no official data on the portfolio or returns for the Central Provident Fund, Singapore's State-run pension system, which is a fund of more than SGD 50 million (USD 29.7 million).¹²⁴

Singaporeans are 'sometimes rankled by the secrecy surrounding the GLCs, since these favoured firms are suspected of stifling private-sector competition', as well as the Government of Singapore Investment Corporation (GIC), which is charged with investing the country's offshore wealth, estimated at more than USD 100 billion. It is not known what assets the GIC holds, or what returns it has achieved.¹²⁵ The GIC does not disclose details on Singapore's financial reserves. Deputy Prime Minister Lee Hsien Loong who argued that the GIC's activities are fully accountable to the government stated in parliament that this 'veil of secrecy was necessary to protect the Singapore dollar from speculative attacks'.¹²⁶ This informal culture of secrecy can be described as a 'strategic fog maintained around economic data' that makes it impossible to monitor the government's performance record. Its 'refusal to open government accounts to scrutiny seems less a matter of national security than of concern that transparency would reveal the Government's investment performance for all to see'.¹²⁷

¹²² "Losses in Singapore Suzhou project to hit US\$90 million", Agence France Presse, 15 September 1999, <http://www.singapore-window.org/sw99/90915afp.htm>

¹²³ Koh Buck Song, "The PAP cadre system", *The Straits Times*, 4 April 1998, <http://www.singapore-window.org/80404st1.htm>

¹²⁴ Restall, Hugo, "More transparency, please", *Asian Wall Street Journal*.

¹²⁵ *Ibid.*, 8 August 2000, <http://www.singapore-window.org/sw03/030808a2.htm>

¹²⁶ Agence France Presse, "Singapore defends secrecy surrounding reserves", 16 May 2001, <http://www.singapore-window.org/sw01/010516a3.htm>

¹²⁷ Pritchard, Simon, "Lion City runs out of excuses for secrecy", *South China Morning Post*, 6 June 2001, <http://www.singapore-window.org/sw01/010606sc.htm>



On another level, it is common knowledge that government employees and university staff are not allowed to make public statements. Any public engagements or media contact often requires prior approval from their immediate supervisors. They are also not allowed to sign off letters to the press using their official designations.

In the media, when interviews are a matter of public record, civil servants tend to avoid answering questions directly. “The years of hostile and impatient treatment of the PAP’s opponents have apparently inspired a self-imposed conspiracy of silence among the news media.”¹²⁸ Journalists continue to complain that they cannot get information easily and on time, and that they have to put up with old-style suspicion and reluctance on the part of the civil servants when it comes to releasing information.¹²⁹

In the arena of publications, alternative books published by civil and political groups are not widely available in Singapore, despite the fact that they are not banned. Some bookshops are reluctant to stock them, reportedly because they are afraid of government retribution. For books or reports published overseas, distributors and bookstore owners must submit copies of them to the Media Development Authority to secure approval to sell them. When the MDA is asked whether a controversial title is banned in Singapore, it invariably replies that the work has not been submitted for vetting. The book industry in Singapore is largely self-regulated, hence, it censors itself. Business interests combined with an apparent fear of reprisals, results in a limited availability of such books, leaving only one or two specialist bookstores which carry alternative political titles. This environment contributes to the lack of freedom of information in Singapore.¹³⁰

10.3. Intrusion of Privacy

Discussions on freedom of information and secrecy are linked to those of privacy. Privacy is often an important part of any freedom of information legislation or policy where a balance needs to be struck between the interests of the individual and public as a whole. It is, however, also open to abuse.

¹²⁸ Lingle, Christopher in David Birch, *Singapore Media – communication strategies and practices*, (Melbourne: Longan Cheshire, 1993), pp.106.

¹²⁹ Gomez, 2001, see note 13 on page 11.

¹³⁰ *Ibid.*

Privacy Laws

The Singapore Constitution does not contain any explicit right to privacy. The High Court has, however, ruled that personal information may be protected from disclosure under a duty of confidences¹³¹. Otherwise, the country has no governmental authority affiliated with privacy or data protection, except for a small privacy division within the Ministry of Finance.

In conjunction with the Electronic and Privacy Information Center (EPIC), Privacy International (PI) has been publishing an annual "Privacy and Human Rights Report" featuring Singapore since 2001. The reports from 2002 continually note that there "is no general data protection or privacy law in Singapore." The reports highlight the absence of privacy laws and independent institutions which safeguard the privacy of the individual. Conversely, the government has been aggressive in using surveillance to promote social control and limit domestic opposition.¹³²

Officially-Sanctioned IT Surveillance

The government has broad discretionary powers under the Internal Security Act (1960, 1997), the Criminal Law Act (1955, 2005), the Misuse of Drugs Act (1973, 2004), and the Undesirable Publications Act (1967, 2003) to conduct searches without a warrant if it determines that national security, public safety or order, or the public interest are at risk.¹³³

In January 1995, the Singapore government made use of a complex computer programme to sift through some 80,000 private electronic mailboxes in search of pornography. However, concerns have been expressed that the same programme would allow them to copy legitimate email messages and could be used to detect politically sensitive keywords in any correspondence.¹³⁴ Such an attack on privacy has been made possible by the development of considerable capacity to infiltrate personal computers connected to the Internet and private data systems.¹³⁵

In April 1999, a student at the National University of Singapore complained to the police when she discovered that her computer had been scanned without authorization. It emerged that the Ministry of Home Affairs' IT Security Unit had been asked by SingTel to look for a

¹³¹ See EPIC and Privacy International: Privacy and Human Rights 2002.

¹³² Ibid.

¹³³ EPIC and Privacy International, note 130 on page 54.

¹³⁴ Lingle, see note 128 on page 64.

¹³⁵ "Aspects of Contemporary Governance in Singapore", a thesis by Ross Worthington, pp.237.



Trojan horse virus. SingTel had engaged the Home Affairs ministry to carry out the surveillance without informing their customers.¹³⁶

On 7 January 2000, Reuters reported that the Singapore authorities had issued guidelines for Internet Service Providers on remote scanning of their clients' computers, following the computer scanning incident mentioned above. These guidelines also state that scanning should obtain only minimum information from subscribers' computers and should not allow the provider to capture, store or record information on sites or data that users were accessing or had accessed in the past.

Another implication of this surveillance is that it is permissible for an employer in Singapore to monitor the employee's phone calls, emails, and Internet usage. Under Singapore property law, workplace email, telephone and computer contents are the property of the employer. If an employee loses his job because of the contents of his communications, he has no grounds for defence based on an invasion of privacy.¹³⁷

Regulations Regarding IT Use and Privacy Concerns

As discussed in Chapter 7, the government requires ISPs to block any sites containing material which undermines public security, national defence, racial and religious harmony and public morality. As a result, more than 100 sites considered pornographic are thought to have been blocked. ISPs have to follow a code of conduct and must have an operating licence. They must also install filters which block most pornographic material on their systems. However, these filters are reportedly also used to bar access to sites carrying political content, particularly during the election period.

The government pushed through two major computer and Internet laws in 1998. The Computer Misuse Act (1993, 2003) gave the police wide powers to intercept online messages. The authorities could also decode encrypted messages in the course of investigations and under supervision by a prosecutor. The other law, the Electronic Transactions Act (1998, 2004) dealing with e-commerce, allows the police to seize and search computers without a warrant and to obtain disclosure of documents for an offence related to the Act.

An amendment to Section 15A of the Computer Misuse Act was passed by parliament in November 2003 to authorise pre-emptive scanning of electronic networks, to detect possible threats and a person's arrest before an offence is committed. Also, any person or organisation can be ordered to take measures to prevent computer attacks, as these could jeopardize

¹³⁶ Stokes, see note 100 on page 55.

¹³⁷ Gomez, 2001, see note 13 on page 11.

the city-State's defence, essential services or foreign relations. Cyber-criminals can now be imprisoned for up to three years.

Member of Parliament Ho Geok Choo said the amendment was 'very much like the cyberspace equivalent' of the ISA. The ISA, as discussed above, has long been used by the regime to make arbitrary arrests of political dissidents. Some MPs criticised the vague phrasing of the law and Chee Soon Juan, secretary-general of the Singapore Democratic Party, said it was just an excuse for the government to control Internet activity.

In a bid to allay fears about the measure, MP Ho Geok Choo said law-abiding citizens need not worry about an invasion of privacy or that the powers given to the government were too broad. Ho Geok Choo told Parliament that the new legislation has a "narrow focus" and that the government's powers would only be used in the face of imminent threat and "special situations". It is important to note that the law does not specify what action the minister can take in the event of "imminent attacks". Furthermore, no independent body to review such decisions was mentioned at the time.

Although not publicised widely, the police unit responsible for computer crimes is the *Computer Crimes Division* within the Criminal Investigation Department. It conducts investigation, forensic examination and prosecution into technology-related offences committed under the Computer Misuse Act, such as hacking and unauthorised access to accounts. The division consists of the Technology Crime Investigation Branch, the Technology Crime Forensic Branch, and the Technology Crime Research Branch.

10.4. Principles of an Access to Information Law

Singapore is one of the most secretive countries in the region, and where government sponsored invasion of privacy and surveillance is most advanced and widely practised. Merely introducing an access to information law will not improve freedom of information in the country. Legislation that restricts the public's access to information, such as the OSA and Evidence Act, should be repealed or at least amended. The government should also improve the protection of privacy of its citizens.

It is unlikely that the Government of Singapore will introduce an access to information law in the near future. However, should it decide to do so,



here are some of the principles that should be enshrined in an access to information law:¹³⁸

- **A presumption of openness:** every document or piece of information under the control of a public authority should be subject to disclosure unless it is covered by an “exception” expressly set forth in legislation, with the burden of justifying refusal to disclose the information falling on the government (rather than requiring the “applicant” to prove that the information should be released).
- **Coverage of institutions and documents that is both wide and deep:** the information regime should apply broadly across all public bodies and cover all information held by public bodies.
- **A narrow and precise range of exceptions to the right of access, set out in legislation:** this is consistent with the basic test for restrictions on freedom of information, namely that they should be set out in law and be limited to what is needed to protect a legitimate countervailing interest.¹³⁹
- **Processes to facilitate access:** all public bodies should be required to establish open, accessible systems to process requests for information and ensure compliance with the law. Requests should be processed within strict time limits and any refusals should be accompanied by written reasons. The costs associated with following these processes should not be prohibitively high and they should be waived or reduced for requests for personal information or for requests in the public interest (for example where the request is made by the media).
-
- **Meetings of governing bodies relating to matters of high public interest should be open to the public:** this is necessary so that the public have the opportunity to know what the government is doing on its behalf and to participate in decision-making processes. This should include formal meetings of elected bodies and their committees, planning and review boards and boards of public authorities. Notice of such meetings should be provided to the public, and meetings should only be closed in accordance with established procedures and where there are sufficient reasons for closure.
- **Protection for whistleblowers:** individuals should be protected from any legal, administrative or employment-related sanctions for releasing information on wrongdoing. Wrongdoing may include the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a public body. It also includes a serious

¹³⁸ These principles are taken from *The Public's Right to Know: Principles on Freedom of Information Legislation* (London: ARTICLE 19, 1999). Available at: <http://www.article19.org>.

¹³⁹ Section 26(7)(b) of the Telecommunications Law, for example, reflects a common exception to the presumption of openness, the protection of information that is deemed commercially sensitive or “commercial in confidence”. It reads: “(b) CRA may, at the request of an applicant or person who lodged representations, determine that any document or information relating to the financial capacity or business plans of any person or to any other matter reasonably justifying confidentiality, shall not be open to public inspection, if such document or information can be separated from the application, representations or other documents in question.”

threat to health, safety or the environment, whether linked to individual wrongdoing or not. Whistleblowers should benefit from protection as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing. Such protection should apply even where disclosure would otherwise be in breach of a legal or employment requirement.

- **Independent appeals mechanism:** anyone whose request for information has been refused should have the right to appeal that refusal to an independent administrative body and, from there, to the courts. Otherwise, access will largely depend on the discretion of officials, who will be influenced by the culture of secrecy which is currently in place.



Photo:

Demonstration by four people in August 2005 demanding greater transparency and accountability in Singapore's state-managed pension fund and other government-linked agencies. This demonstration was broken up by a dozen of anti-riot police



11. INFORMAL RESTRICTIONS AND HARASSMENT OF THE MEDIA

The corollary of the “incremental and persistent harriving of the press”, has been that ‘most reports on Singapore have become so uncritical as to be verbatim press releases crafted by Singapore’s self-promoting Information Ministry’.¹⁴⁰ A system of economic obstacles and self-censorship, as well as direct harassment, contributes to the restrictive environment in which the media have to work.

11.1. Economic and Structural Impediments

Economic considerations by the Singapore press are thought to lead to a system wherein publishers value their “bottom line” more highly than they value their editorial freedom. The link to economic growth is tangible and personal: with attractive pay and bonuses, and one of the earliest stock-option schemes in the country, senior journalists have little incentive to “jump ship” to an anti-government vehicle, even if one existed.¹⁴¹

Likewise, exploiting the commercial instincts of international media organisations, the information minister can restrict the local circulation of foreign publications “engaging in the domestic politics of Singapore”. When this is done, the lucrative English-language Singapore market is closed to these international publications, thereby affecting their access to revenue and profits.¹⁴²

Structural issues must also be considered. For instance, access to printing presses necessary to produce large print-runs is limited in Singapore. The SPH has invested in a multi-million dollar printing press with the capacity to make fast and large print runs; this has effectively given it a monopoly over printing facilities in Singapore. When the *Today* newspaper was launched, one of the main problems faced by MediaCorp was securing of printing facilities that could print the required volume of papers. One solution was to have a morning edition and an afternoon edition. The afternoon edition was essentially the same paper with some changes in the front few pages.

¹⁴⁰ Lingle, see note 128 on page 64.

¹⁴¹ George, see note 55 on page 29.

¹⁴² Rodan, 2000, see note 3 on page 2.

11.2. Self-Censorship and “Out of Bounds Markers”

It has been noted throughout this work that a consequence of restrictive media regulations and structures is the creation of a culture of self-censorship in the mainstream press. An interesting example of this self-censorship is the fact that managers of printing facilities are often unwilling to print election posters and other election materials for opposition parties because of the fear of harassment.¹⁴³

Other informal unwritten restrictions include “out-of-bounds (OB) markers” —self-imposed limits for debate on various issues. OB markers appear to be becoming more widespread. It has been announced that ‘there is no policy too sensitive to question, nothing which is taboo and must not be raised’ but that ‘the Government may defend the policy vigorously, especially if it is an important one and the Government thinks the criticism is not justified’.¹⁴⁴ In essence, the “out-of-bounds markers” delineate where and what the mainstream media can, and cannot, report on. However, these OB markers are crossed on a regular basis by the alternative media, particularly online media outlets. It is also stressed that government policies considered to be fundamental ‘should not be contradicted by opinion columnists in the press; the proper place to contest these fundamental issues is in an election before the electorate’.¹⁴⁵

OB markers are not enshrined in law, and often their yardstick is well below those “freedoms” provided for in Singapore law. Rather, individuals try to “read” the actions and statements of political executives in order to work out where these parameters lie, and to determine what topics are “disallowed”. It is assumed that if one crosses such OB markers one runs the risk of some kind of sanction by the political executive. This environment inevitably breeds a climate of self-censorship, which prevents individuals from exploring the full freedoms provided for in law.

11.3. Journalists’ Perception on Government Control of the Media

The values and opinions of some senior local journalists also determine how the political content is presented, particularly when it relates to the

¹⁴³ Seow, Francis, *Beyond Suspicion: The Singapore Courts on Trial*, (Yale University Press, 2004), pages vi-vii

¹⁴⁴ George, see note 55 on page 29.

¹⁴⁵ George, Cherian, “Newspapers: Freedom from the press”, Paper presented at the Conference on *The Limits of Control: Media and Technology in China, Hong Kong and Singapore*, Graduate School of Journalism, North Gate Hall, University of California, Berkeley, on April 2-3 1998, <http://www.singapore-window.org/80402cg.htm>



opposition and critics of the government. Most local journalists will certainly point out that the PAP government does not control the media and that the media is a private commercial enterprise. They argue that the *Straits Times* is not an official government paper¹⁴⁶, and that people read other things.

Furthermore, local journalists argue that they report on political content the way they do out of patriotism. This then makes criticism of policies of the PAP government and its leaders in Singapore anti-Singapore and pro-Western. There is a presumption among some local journalists that the West represents Singapore in a negative way.¹⁴⁷

Finally, local journalists claim that the absence or restriction of alternative political content in the local media is far from the truth. Instead, local journalists will point to numerous reports on opposition parties and personalities. However, often these reports are negative in nature, dealing with libel suits and individual difficulties, and soliciting positive opinions about the ruling party.

The truth of the matter is that very few local journalists have good and established contacts with opposition parties and their members. Often they send emails, or telephone selected individuals hoping to get a response. If they cannot contact the top party leadership, local journalists target the next rung down and so on, until they find someone willing to comment. Hence its not surprising that press reports on opposition parties are based on a single opposition source, or made up of remarks made by party members who are not part of the decision making body of political parties. On other occasions, because local journalists do not have access to the bigger opposition parties and their leaders, they write instead on fringe parties and non-existent parties.

Former *Straits Times* journalist turned academic, Cherian George, noted in his review of the Singapore media that the media has taken upon itself the duty of deciding whether the opposition has opinions which are worthy of reporting. This starkly contrasts with the expected role of the media in a democracy—namely to report what opposition commentators say regardless of the editor’s view about the quality of these statements:

Opposition politicians complain of unfair coverage, not without some justification. The press does not seem to subscribe to the theory that the opposition is an

¹⁴⁶ Chua Lee Hoong, “Singapore”, in Asad Latif (ed.) *Walking the Tightrope: Press Freedom and Professional Standards in Asia*, (Singapore: Asian Media Information and Communication Centre, 1998).

¹⁴⁷ Chua Chong Jin, “Singapore: Misrepresented republic”, in Anura Goonasekera & Chua Chong Jin (eds.) *Under Asian Eyes: What the West Says, What the East Thinks*, (Singapore: Asian Media Information and Communication Centre, Sasakawa Peace Foundation, School of Communication and Information, Nanyang Technological University, 2002).

indispensable pillar of democracy, and therefore inherently newsworthy regardless of its quality. Instead, opposition politicians must satisfy editors that they are offering serious and credible ideas, before they are deemed worthy of more than minimal coverage.¹⁴⁸

George goes on to criticise the justification given by the press corps for such self-censorship, namely that its unsympathetic treatment of the opposition is a fair reflection of public opinion.¹⁴⁹ George's statement provides us with an insight into why there has been so little reportage in the Singapore media on the political opposition and why this has led to the widespread view that there is no opposition in Singapore. The opposition is either kept out of the local media or when it is reported, the focus is highly negative.

11.4. Informal Harassment

Apart from the vaguely-defined OB markers and self-censorship, the mainstream media faces little informal restriction or harassment on the whole. However, in November 2003, an adviser to the former prime minister Lee Kuan Yew verbally reprimanded *Today* editor Mano Sabnani for allowing a report to be published about a trip by Lee's wife to London for medical reasons, in the article "SM Lee and the eye opening trauma in London" which alleged that his wife had received preferential treatment in a London hospital.¹⁵⁰ Another report said that Mr Lee met and personally reprimanded staff members of the newspaper Mr Ernest Wong, Group Chief Executive Officer of MediaCorp (which publishes the newspaper), editor Mano Sabnani, deputy editor Rahul Pathak and journalist Val Chua, who wrote the story.¹⁵¹ Chua reportedly had her press accreditation suspended.¹⁵²

It has been reported in the foreign media that the media in Singapore consistently follows the PAP government's position on most issues, and that the PAP government strongly influences the print media through meetings and ad-hoc contacts with journalists and editorial staff.

Reporter Sans Frontieres' *Singapore 2003 Annual Report* states that independent news on freedom of expression in Singapore itself is not found in the local press. For the international press, the 'Ministry of

¹⁴⁸ George, see note 55 on page 29, pp. 180.

¹⁴⁹ Ibid.

¹⁵⁰ Sammyboy.com, 2003.

¹⁵¹ "Exclusive: SM Lee vents anger at TODAY - SM Lee vents anger at newspaper for report about his wife", *The Optica*, 22 November 2003, <http://groups.yahoo.com/group/TheOptical/message/145>

¹⁵² Reporters Without Borders. 2004(a) Internet Under Surveillance – Singapore, http://www.rsf.org/article.php3?id_article=10771



Information and the Arts has an extensive infrastructure' which monitors reports by foreign journalists in detail. The 'tone of an article can be enough to precipitate a phone call' from the ministry. While these calls are sometimes friendly, they serve to inform the journalists that 'their reports are the subject of intense scrutiny'. Many foreign journalists are aware that their telephone conversations are possibly tapped.¹⁵³

Letter-writing can also be a form of informal harassment of the media. For example, in response to an article in the *Far Eastern Economic Review* (FEER) describing the Singapore government as a "fiscal predator" with high-taxing and unnecessarily austere economic policies, then-deputy prime minister Lee Hsien Loong's press secretary wrote a strong rebuttal to the magazine's editor 'denying the points raised in the article and questioning the motives for publishing it'.¹⁵⁴ In 2005, Chen Hwai Liang, Press Secretary to Prime Minister, Republic of Singapore accused the FEER made "unsubstantiated and misleading statements" about Singapore's GLCs. In other contexts, this would be seen as a right to reply issues, but in the case of the Singapore government there has been a pattern of harassment over the years that has taken up a great deal of column space, and places indirect pressure on the editors of foreign publications.¹⁵⁵

A further worrying development is the possible threat of detention in a mental health institution for those expressing critical views. Former *Straits Times* journalist Robert Ho, was arrested and remanded in a mental health institution in November 2001 for allegedly posting inflammatory articles on the Singaporeans For Democracy website and the newsgroup soc.culture.singapore during that year's general elections in October, and inciting members of the public to break the law.¹⁵⁶

11.5. Legal Precedents to Further Harassment

In July 2002, Judge Choo Han Teck ruled in a libel suit brought by a businessman against the Singapore Press Holdings group that courts could force journalists to reveal the sources of their information in civil cases, thus, rejecting the local century-old "newspaper rule" protecting sources, which dated back to the colonial period. He said that while lawyers and their clients were exempt from revealing sources, "Journalists, like members of respectable callings such as priests and

¹⁵³ Rodan, 2000, see note 3 on page 2.

¹⁵⁴ "Government rejects magazine's 'fiscal predator' tag", Agence France Presse, 13 May 2004,

<http://www.singapore-window.org/sw04/040513af.htm>

¹⁵⁵ *Far Eastern Economic Review*, Jan/Feb 2005, can be read at the Think Centre's website: <http://www.thinkcentre.org/article.cfm?ArticleID=2532>

¹⁵⁶ <http://www.escapefromparadise.com/NewFiles/seow.html>

doctors”, did not have this privilege. He added that it was up to each court to decide whether such revelation was appropriate.¹⁵⁷

¹⁵⁷ World Freedom Review, see note 79 on page 42.



ARTICLE 19 champions freedom of expression and the free flow of information as fundamental human rights that underpin all others. We take our name from Article 19 of the Universal Declaration of Human Rights. It states:

Everyone has the right to freedom of opinion and expression; the right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

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