

A Collective of Singapore NGOs (COSINGO)¹ submission for Universal Periodic Review

21st June 2015

¹ COSINGO consists of MARUAH (www.maruah.org), Function 8 (<https://fn8org.wordpress.com>), Humanitarian Organization for Migration Economics (HOME, <http://home.org.sg>), The Online Citizen (<http://www.theonlinecitizen.com/theonlinecitizen-team>), Transient Workers Count Too (endorsing on issues relating to migrant workers; <http://twc2.org.sg/who-we-are>). All groups are registered groups in Singapore who have been advocating with the government on pertinent matters. The COSINGO report was coordinated by MARUAH.

Universal Periodic Review – 2015

Executive Summary

1. We acknowledge that our Singapore government has ratified the Convention on the Rights of Persons with Disabilities, removed the mandatory element in the death penalty for cases involving drug trafficking, and also passed a national Anti-Trafficking law. There have also been some measures to respond more quickly to the economic needs of people and to their needs to be re-skilled for work. Also, there have been attempts to support the Universal Periodic Review process, with the Government meeting more civil society actors, including groups focusing on issues relating to sexual orientations and gender identities.
2. In this combined report from civil society actors we highlight key issues that concern and affect us deeply. We have placed more attention on political security issues as this is one of the main areas with the most serious human rights challenges. We also review key economic rights issues, including sustainable living standards, and also on social cultural issues, relating to issues of race, rights of migrant workers and women.

Political-Security Rights

3. It is our view that constitutionally-protected rights continue to be overly restricted in Singapore. The State continues to detain people using the Internal Security Act, a non-transparent, controlling instrument.² Freedom of speech and expression are over-regulated, for example the censorship of films and other forms of artistic expression, as well as in the approvals needed to speak in public spaces. Singapore's Constitution arguably goes too far in placing restrictions on the freedom of speech and expression. Article 14(2)(a) of the Singapore Constitution allows Parliament to restrict freedom of speech and expression in the interest of 'friendly relations with other countries', and to 'provide against contempt of court [and] defamation'. The specific inclusion of contempt of court and defamation as grounds to limit freedom of speech and expression is at odds with international practice, and more importantly, has caused problems in Singapore, which are discussed below.
4. The right to freedom of assembly is also restricted. It is subject to the Public Order Act (POA)³ which requires a permit for any 'cause-related activity'. The Speakers' Corner was

² Please see other reports by MARUAH and Function 8

³ Chapter 257A.

set up to give Singaporeans a platform to air their views, but it is subject to approvals, security scrutiny through CCTVs, and restrictions from the conditions in the Maintenance of Religious Harmony Act⁴, the POA and the Public Entertainment and Meetings Act (PEMA). These Acts direct what can be discussed, and come into effect in a non-transparent way, when an individual speaker or a group is charged with an offence.

5. COSINGO calls for a public review of the laws governing freedom of speech and expression, and for the State to be transparent in how the laws are applied. These issues are elaborated below.
6. Freedom of Expression – Article 14(1)(a) of the Singapore Constitution guarantees freedom of speech and expression, but this is subject to restrictions that Parliament may impose for certain stipulated purposes set out in Article 14(2)(a).⁵ The Speakers' Corner, located in Hong Lim Park, was designated in 2000 as the only public area in Singapore where citizens and permanent residents⁶ can give public speeches without a Public Entertainment Licence, provided these speeches do not touch on matters of race and religion. However, the use of the space is approved by the National Parks Board (NParks) which also governs the terms and conditions.⁷ The Commissioner of Parks and Recreation has the power to revoke approval of an event if, in his/her opinion, the event may 'endanger or cause discomfort or inconvenience to other users of the national park, nature reserve or public park'.⁸
7. Recent enforcement actions at the Speaker's Corner are disconcerting. In October 2014, Ms Han Hui Hui and five others were charged with a public nuisance offence after taking part in a Speakers' Corner protest which allegedly disrupted a charity carnival held in the same park. Ms Han was charged with allegedly organising a demonstration without approval.⁹ Prior to her being formally charged, Ms Han's approval to demonstrate in the Speakers' Corner was revoked by NParks after she was arrested.¹⁰ After a 'blanket refusal' was issued,

⁴ Chapter 167A.

⁵ These are: "...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."

⁶ PRs need to apply for a Police permit to organize or speak at Speakers' Corner. <https://www.nparks.gov.sg/speakers-corner-registration-form>

⁷ <https://www.nparks.gov.sg/~media/nparks-real-content/gardens-parks-and-nature-reserve/hong-lim-park/speakers-corner-terms-and-conditions.ashx?la=en> (accessed 16 March 2015).

⁸ Parks and Trees Regulations, Regulation 4(2)(b).

⁹ The Straits Times, "Six protesters, including activist Han Hui Hui and blogger Roy Ngerng, charged with public nuisance" (27 October 2014, <http://www.straitstimes.com/news/singapore/courts-crime/story/bloggers-han-hui-hui-roy-ngerng-court-face-two-charges-over-hong-l>, accessed 16 March 2015).

¹⁰ The Straits Times, "NParks cancels approvals for Han Hui Hui event at Hong Lim Park on Oct 25" (21 October 2014, <http://www.straitstimes.com/news/singapore/more-singapore-stories/story/nparks-cancels-approvals-han-hui-hui-event-hong-lim-park>, accessed 12 June 2015).

Ms Han sought judicial review against NParks' decision. The case is still in process but she is disallowed from using Speakers' Corner.¹¹

8. Freedom of Assembly and the Public Order Act – The Singapore Constitution guarantees limited freedom of assembly.¹² Legislation such as the Public Order Act (POA) and the Public Entertainments and Meetings Act (PEMA) place further restrictions on peaceful freedom of assembly. PEMA allows for the arrest without warrant of those who are suspected of committing an offence under the Act.¹³ The POA regulates assemblies and processions in public places and requires the organiser of an assembly or procession to apply for a Police permit.¹⁴ The Speakers' Corner, as described above, is also subjected to the POA and PEMA, and has CCTVs since July 2009. In February 2015, a Singaporean activist's application for a permit for a planned event at Speakers' Corner was denied by the police.¹⁵ Mr Gilbert Goh's Facebook page for the event stated that the event was meant to 'rally people behind a campaign to make Thaipusam¹⁶ a public holiday' and to lobby the government 'to allow musical instruments to be played during the Thaipusam procession'.¹⁷ The police stated that Mr Goh's application was denied because the event 'runs a significant risk of public disorder and could incite feelings of hostility between different racial and religious groups in Singapore'.¹⁸ In another incident under the Act, on 5 November 2013, 10 people were arrested for 'planning a march without a permit in Singapore' as part of the global 'Million Mask March',¹⁹ and the organiser of the event, Mr Jacob Lau Jian Rong, was convicted and fined S\$1,000.²⁰ More recently, in April 2015, two Singaporeans were arrested for standing outside the Istana²¹ carrying placards with the words 'no justice' and 'you can't silence the people' written on them.²² They were alleged to have organised a public assembly without a permit even though they were the only ones present.

¹¹ The Straits Times, "March 25 deadline for blogger Han Hui Hui to decide on lawyer for constitutional challenge" (25 February 2015, <http://www.straitstimes.com/news/singapore/courts-crime/story/march-25-deadline-blogger-han-hui-hui-decide-lawyer-constitutional>, accessed 16 March 2015).

¹² Article 14(1)(b) of the Singapore Constitution guarantees the right to assemble peacefully without arms. This right is circumscribed by Article 14(2)(b), which allows Parliament to impose restrictions on the right 'as it considers necessary or expedient in the interest of the security of Singapore or any part thereof or public order'.

¹³ Section 18 of the PEMA.

¹⁴ Public Order Act (Cap. 257A). Section 7(2) sets out the instances where the police commissioner may refuse to grant a permit, such as when the commissioner has 'reasonable ground for apprehending' that the proposed assembly or procession may 'cause feelings of enmity, hatred, ill-will or hostility between different groups in Singapore'. The Act explicitly governs assemblies and processions that have the purpose of demonstrating support for or opposition to the views or actions of any person, group of persons or any government; to publicise a cause or campaign; or to mark or commemorate any event. As such, it directly engages Article 14 of the Singapore Constitution which guarantees freedom of speech and assembly.

¹⁵ Channel News Asia, "Gilbert Goh denied Speakers' Corner permit" (12 February 2015, <http://www.channelnewsasia.com/news/singapore/gilbert-goh-denied/1655096.html>, accessed 16 March 2015).

¹⁶ Thaipusam is a Hindu festival celebrated mostly by the Tamil community on the full moon in the Tamil month of Thai

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ A world-wide anti-establishment protest. See e.g. The Telegraph, "What is the Million Mask March?" (6 November 2014, <http://www.telegraph.co.uk/technology/news/11212615/What-is-the-Million-Mask-March.html>, accessed 16 March 2015).

²⁰ <http://news.asiaone.com/news/crime/man-fined-1k-organising-procession>

²¹ The residence of the President of Singapore.

²² Channel NewsAsia, "Duo arrested for organising public assembly without permit outside Istana" <http://www.channelnewsasia.com/news/singapore/duo-arrested-for/1766516.html>

9. Sedition Act²³ – The Act was invoked in 2005 when three bloggers were taken to task for their racist posts. Since then, there has been a disturbing trend of resorting to the Act on publicly expressed views that touch on race. In 2012, two 17-year-old males were arrested for making racist remarks online.²⁴ In 2013, Leslie Chew, the cartoonist behind the online satirical comic ‘Demon-cratic Singapore’, was investigated under the Act for a comic strip that ‘suggested that Malays are suppressed by the Government’.²⁵ Although the Attorney-General’s Chambers eventually decided not to prosecute Chew under the Act, Chew was nevertheless charged for contempt of court.²⁶ More recently, during Thaipusam²⁷ three men were arrested on 6 Feb 2015 for alleged offences committed during the religious procession.²⁸ In another case Ai Takagi and Yang Kaiheng were arrested under the Sedition Act for allegedly ‘posting remarks online that could promote ill-will and hostility among the different races in Singapore’.²⁹ The duo ran a socio-political website, The Real Singapore, which was ordered to shut down by the Media Development Authority (MDA) for articles that were ‘against public interest and national harmony’³⁰, even though the courts have yet to give a verdict.
10. Censorship – Artistic expression continues to be restricted when the subject matter touches on politically-sensitive topics. The theatre scene is tightly regulated - the scripts of all plays must be vetted in advance by MDA, which has the right to ban performances it views as ‘contrary to the public interest’.³¹ A recent film on political exiles, by Singaporean director Ms Tan Pin Pin, was given a ‘Not Allowed for All Ratings’, which is effectively a ban on public screenings of the film. The MDA assessed that the film ‘undermine(d) national security because legitimate actions of the security agencies to protect the national security and stability of Singapore (were) presented history in a distorted way, as acts that victimised

²³ It is an offence to do, attempt to do or conspire with someone to do a seditious act; to utter seditious words; and to print, produce, distribute or import a seditious publication.²³ A seditious tendency is defined as, inter alia, a tendency to ‘promote feelings of ill-will and hostility between different races or classes of the population of Singapore’.²³ The punishment for sedition is a fine not exceeding SGD\$5,000 or an imprisonment term not exceeding 3 years, or both.²³

²⁴ The Straits Times, “Two teens arrested over racist posts” (2 July 2012, <http://news.asiaone.com/News/AsiaOne+News/Crime/Story/A1Story20120701-356542.html>, accessed 12 June 2015).

²⁵ The Straits Times, “Cartoonist under probe for ‘racially insensitive’ works” (25 April 2013, <http://news.asiaone.com/News/AsiaOne+News/Crime/Story/A1Story20130425-418315.html>, accessed 12 June 2015).

²⁶ The Straits Times, “Cartoonist won’t face action for sedition” (30 July 2013, <http://news.asiaone.com/news/singapore/cartoonist-wont-face-action-sedition>, accessed 12 June 2015).

²⁷ Thaipusam is a religious festival celebrated by Singapore’s Tamil community. It is an annual procession by Hindu devotees seeking blessings, fulfilling vows and offering thanks.

²⁸ Channel News Asia, “3 Singaporean men charged over incident at Thaipusam procession” (7 February 2015, <http://www.channelnewsasia.com/news/singapore/3-singaporean-men-charged/1643112.html>, accessed 16 March 2015).

²⁹ Straits Times, “Couple behind The Real Singapore website charged with sedition” (14 April 2015, <http://news.asiaone.com/news/singapore/couple-behind-real-singapore-website-charged-sedition>, accessed 26 May 2015).

³⁰ Channel News Asia, “Govt orders shutdown of The Real Singapore” (3 May 2015, <http://www.todayonline.com/singapore/mda-suspends-licence-socio-political-website-real-singapore>, accessed 12 June 2015).

³¹ http://www.mda.gov.sg/AboutMDA/ServiceStandards/Documents/Video_Game_Submission_Guidelines.pdf

innocent individuals.³² More recently, a hit song by Taiwanese singer Jolin Tsai was banned from radio and TV in Singapore because it featured same-sex marriage.³³ Further, the National Arts Council (NAC) recently revoked its grant to Sonny Liew for his work, *The Art of Charlie Chan Hock Chye*, on the eve of its launch because of its ‘sensitive content’³⁴. No further clarification was forthcoming.

11. Social Media Websites - MDA has implemented tighter online regulatory controls. From 1 June 2013, the MDA requires websites ‘that report regularly on issues relating to Singapore and have significant reach’ among website visitors in Singapore to apply for individual licenses, which will be subject to annual renewal. These websites must then post a "performance bond" of \$50,000 and remove any objectionable content within 24 hours of receiving a government order.³⁵

12. Contempt of Court – Cartoonist Leslie Chew was charged with contempt of court in 2013 for publishing four comics in his online satirical comic strip, ‘Demon-cratic Singapore’, that ‘singled out allege [sic] preferred treatment by a kangaroo court to foreigners and high-profile personalities’.³⁶ It was only when Chew apologised for the comics that the charges were dropped.³⁷ In another case, the court pronounced a guilty verdict in January 2014 on prominent socio-political blogger, Alex Au. He was fined S\$8,000 for contempt of court³⁸ for a blog post that contained remarks about timings, procedures and the composition of the bench on the hearing of a case by the Court of Appeal regarding Section 377A. This was seen as ‘scandalising the judiciary’. Mr Au is appealing this decision. Under case law, a person will be held liable for scandalising contempt if he intended to publish the impugned article; further, the Prosecution must prove beyond a reasonable doubt that the impugned article is not ‘fair criticism’ and that it constitutes a ‘real risk of undermining public confidence in the administration’.³⁹

³² Media Development Authority, “MDA has classified the film “To Singapore, With Love” as Not Allowed for All Ratings (NAR)” (10 September 2014, <http://www.mda.gov.sg/AboutMDA/NewsReleasesSpeechesAndAnnouncements/Pages/NewsDetail.aspx?news=639>, accessed 11 June 2015).

³³ The MDA’s Free-to Air Television Programme Code states: "Music associated with drugs, alternative lifestyles (e.g. homosexuality) or the worship of the occult or the devil should not be broadcast." See also The Straits Times, “Jolin Tsai’s same-sex marriage music video and song banned on TV and radio, MDA clarifies” (26 May 2015, <http://www.straitstimes.com/lifestyle/music/story/jolin-tsai-same-sex-marriage-music-video-banned-tv-and-radio-mda-clarifies-20>, accessed 11 June 2015).

³⁴ Today, “NAC withdraws grant for graphic novel publisher due to ‘sensitive content’” (29 May 2015, <http://www.todayonline.com/singapore/national-arts-council-revokes-grant-for-graphic-novel-Sonny-Liew>, accessed 11 June 2015).

³⁵ <http://www.gov.sg/government/web/content/govsg/classic/factually/20130618-factually-onlinelicensingframework>, accessed 12 June 2015.

³⁶ Bloomberg, “Singapore Cartoonist Faces Contempt of Court Action” (26 July 2013, <http://www.bloomberg.com/news/articles/2013-07-25/singapore-cartoonist-faces-contempt-of-court-action>, accessed 12 June 2015).

³⁷ The Straits Times, “Cartoonist apologises, AGC drops contempt of court action” (7 August 2013, <http://news.asiaone.com/news/singapore/cartoonist-apologises-agc-drops-contempt-court-action>, accessed 12 June 2015).

³⁸ Section 7(1) of the Supreme Court of Judicature Act (Cap. 322) and section 8 of the State Courts Act (cap. 321) empower the courts to punish for contempt of court.

³⁹ *Attorney-General v Au Wai Pang* [2015] SGHC 16.

13. Defamation – In May 2014 Mr Roy Ngerng, a blogger, was brought to court under the Defamation Act by Mr Lee Hsien Loong, whom we assume is acting in his private capacity and not as the Prime Minister. Mr Lee’s lawyers demanded that Mr Ngerng remove the article in question, issue an apology on his blog, and offer compensation. Mr Ngerng acceded to all the demands, including removing four other articles, and made an offer of S\$5,000 as compensation. Mr Lee’s lawyers, however, dismissed the amount as ‘derisory’,⁴⁰ and commenced legal action on 30 May 2014. In January 2015, Mr Ngerng was ordered by the court to pay \$29,000 to Mr Lee. This was the first case in Singapore where a defendant was found liable for defamation over an online article.⁴¹ Given the proliferation of the Internet as an open platform to discuss and debate various issues, the use of defamation lawsuits is likely to have a chilling effect on the freedom of speech and expression. While freedom of speech and expression is not absolute and has to be exercised responsibly, in our view, there are more constructive ways of responding to online dissent (both valid and invalid) than resorting to a defamation lawsuit.

14. Penal Code – Amos Yee, a 16-year-old at time of offence⁴², uploaded a video criticising the late Mr Lee Kuan Yew and published a caricature with superimposed faces of Mr Lee and former British Prime Minister, Margaret Thatcher, having sex. He also criticised Christianity and Christians in his video, a subsequent online petition garnered support from Christians who said they were not offended. Police reports were made against him and subsequently he was charged and found guilty under Sections 298⁴³ and Section 292(1)(a)⁴⁴ of the Penal Code. Regardless of whether one agrees with the opinions expressed, using the law as a sledgehammer in response to such cases is undesirable when there are other means to attempt reconciliation. We should stop using this approach to all matters which has led to Mr Yee being brought to court in shackles and leading to him being currently in prison remand. Amos Yee is continuing to test the system and has views that show his cynicism of State power and laws.

15. University Tenures – University tenures remain a vague process. A former lecturer at Nanyang Technological University, Dr Cherian George is respected as an intellectual,

⁴⁰ Today, “Blogger’s S\$5,000 offer for damages ‘derisory’: PM Lee’s lawyers” (27 May 2014, <http://www.todayonline.com/singapore/bloggers-s5000-offer-damages-derisory-pm-lees-lawyers>, accessed 11 June 2015).

⁴¹ AFP News, “Singapore PM wins defamation suit against activist” (7 November 2014, <https://sg.news.yahoo.com/singapore-pm-wins-defamation-suit-against-activist-092131139.html>, accessed 12 June 2015).

⁴² The offence was kicked into action as there were complainants but it is still debated as an issue of dealing with diverse views or whether it merited being classified as an offence.

⁴³ This section creates the offence of uttering words with the deliberate intent to wound the religious or racial feelings of any person.

⁴⁴ This section creates the offence of (among other things) transmitting by electronic means an obscene drawing, painting, representation or figure, etc.

writing often on political & media matters and is much valued by students. However his tenure⁴⁵ was not given and this became a controversial issue with international academics offering support to Dr George. The University's views have drawn much scepticism and till today there is no transparency on the system. Dr George eventually left Singapore to work in Hong Kong.

16. Privacy - The Personal Data Protection Act (PDPA) regulating the processing of personal data by private organisations came into effect in 2014. However, the Act does not apply to personal data held by the public sector and exemptions introduced by Ministerial Order suggest that the government is not fully committed to protecting the right to privacy. We are alarmed at this disparity and recommend the PDPA to be extended to include data on individuals held by government agencies.

17. Protection from Harassment Act - The new law, which came into force from November 2014, included online acts of harassment, alarm or distress to a victim. The Online Citizen (TOC) wrote an article on Dr Ting Choon Ming, who alleged that the Ministry of Defence (MINDEF) infringed on his patent rights and forced him to withdraw his case in a legal "battle of attrition". MINDEF took out a case against TOC to ask, under this Harassment Act, that the website take down or post a clarification on the article. Editors of TOC posted the clarification before the application was filed. The court granted MINDEF's application in May 2015. The case is currently under appeal.

18. Caning⁴⁶ – We ask for a review of this law that allows caning for criminal offences. It is a human right violation and should be stopped. Migrants who are here illegally should not be caned as they are already imprisoned and today we take fingerprints as identity markers.

Recommendations

19. Freedom of Assembly and the Public Order Act

We recognise the legitimate need to regulate public assemblies and processions in the interest of safeguarding public order and safety, which is in the same vein as measures taken by other countries such as the United Kingdom and its Public Order Act 1986.⁴⁷ We also

⁴⁵ The Independent Singapore, "Cherian speaks up about NTU's tenure rejection" (10 May 2014, <http://theindependent.sg/blog/2014/05/10/cherian-speaks-up-about-ntus-tenure-rejection/>, accessed 12 June 2015).

⁴⁶ Section 325-332 of the Criminal Procedure Code. Judicial Caning is reserved for male convicts under the age of 50, for a wide range of offences under the Criminal Procedure Code, and is also used as a disciplinary measure in prisons..

⁴⁷ Public Order Act 1986 (United Kingdom) (<http://www.legislation.gov.uk/ukpga/1986/64/contents>, accessed 16 March 2015).

recognise the need for vigilance in today's world where there are security threats. But it is a question of striking a balance and not becoming over-zealous or hanging on to age-old practices when the world is moving on in terms of knowledge and expression.

20. We ask that permit denials under the law be used sparingly and only in the most severe circumstances, such as where there is incontrovertible/strong evidence that a planned event aims to incite hatred towards a particular group in society, and not one that merely seeks to raise awareness of contemporaneous issues that touch on race and/or religion.

21. Freedom of Speech and the Speakers' Corner

We ask that the Speakers' Corner, as the only public place in Singapore where Singaporeans can exercise their constitutional right to freedom of speech, be liberated. An approval process should be only used for logistical purposes. NParks should not take up this role as its primary role is to 'enhanc(e) the greenery of Singapore'⁴⁸. There should be no 'blanket refusal' for a Singaporean citizen to speak or organise demonstrations at the Speakers' Corner. The approving body should be independent of the government. Alternatively, we can do away with such an approval scheme and instead replace it with an electronic means of handling the logistics. We also ask that by the next UPR in 2020 Singapore has an open system and people can speak from various points and not just at Speakers' Corner, without an approval system to speak. We also ask for greater liberalising and transparency in applying the POA, PEMA.

22. The Sedition Act

We are keenly aware of the need to keep terrorism and associated threats at bay. Nevertheless, we call for a clearer separation on issues relating to race and religion, and speech that *incite* violence or hatred against a racial and/or religious community. We are of the view that incitement to violence or hatred should be the legal standard in deciding whether comments that touch on race and religion should attract criminal sanctions. We ask for amendments to the Sedition Act and cite the United Nations Rabat Plan of Action⁴⁹ as an example as it has a six-part threshold test for forms of speech that are prohibited under criminal law.

23. Contempt of Court

⁴⁸ See the "About Us" page on the National Parks Board website (<https://www.nparks.gov.sg/about-us>, accessed 16 March 2015).

⁴⁹ Office of the High Commissioner for Human Rights, "Between Free Speech and Hate Speech: The Rabat Plan of Action, a practical tool to combat incitement to hatred" (<http://www.ohchr.org/EN/NewsEvents/Pages/TheRabatPlanofAction.aspx>, accessed 12 June 2015).

While we recognise that the Singapore Court of Appeal has sought to clarify on the law on scandalising contempt,⁵⁰ we ask for the abolition of scandalising contempt as it has a deep chilling effect on freedom of expression. Failing that, we ask for the government to make legislative changes to allow for defences to scandalising contempt, and to provide clear guidance to the boundaries of the offence and eliminating unnecessary restrictions on freedom of speech.

24. Preventive detention without Trial

This, in its current form, should become a thing of the past. Those arrested should have access to lawyers, be charged in court and put on trial, if necessary in a closed court.

25. Protection from Harassment Act

This law needs to be reviewed to ensure that the right to fair comment is protected, and to provide a space for ‘offending’ or offended parties to clarify and mitigate on their positions, without any intervention from either of these parties.

26. The Defamation Act

As a matter of principle, we object to the use of defamation lawsuits by government officials against its critics, regardless of whether the offending statement is defamatory or not. Defamation proceedings are costly, often resulting in hefty damages awarded to the plaintiff, and the threat of financial ruins is likely to deter the average person from criticising the government. While it can be argued, to some extent, that such deterrence would foster responsible criticism as the speaker would take care not to make careless or baseless allegations, we believe that there are more constructive ways to foster responsibility in exercising freedom of speech. For instance, instead of taking an offending critic to court, the public official could publish a statement in the press or on the relevant website, refuting the critic. We call for a review of the Defamation Act to ensure that allegations of defamation and defamation lawsuits do not suppress the provision of constructive and debatable opinions. As public officials (including government officials) owe a duty of accountability to the public, defamation lawsuits brought by public officials should be subjected to a higher standard of review than those brought by purely private parties. Namely, in addition to proving the test for defamation under Singapore law⁵¹, the public official plaintiff should

⁵⁰ See e.g. *Shadrake Alan v Attorney-General* [2011] SGCA 26.

⁵¹ Under Singapore law, a statement or publication is defamatory if it tends to:

- (a) lower the plaintiff in the estimation of right-thinking members of society generally;
- (b) cause the plaintiff to be shunned or avoided; or
- (c) expose the plaintiff to hatred, contempt or ridicule. (*Low Tuck Kwong v Sukanto Sia* [2012] SGHC 233)

bear the burden of proving that the alleged defamatory statement is false. This would ensure that public officials bring only the most serious cases to court, and by proving his critic wrong, it would also boost public confidence in the official's conduct. This would simultaneously minimise the impression that the defamation lawsuit is a tool used by the government to silence (justly or unjustly) its critics. If the evidence to be proffered by the public official plaintiff is of a sensitive nature, in camera court proceedings should be allowed, but only if it is absolutely necessary.

Economic Rights

27. Right to an adequate standard of living: general - Unlike most high-income countries, Singapore has no minimum wage.⁵² The Progressive Wage model sets a de-facto minimum wage termed an “entry-level wage” of \$1,000 for low-income workers⁵³; however this is still lower than the minimum wage in countries with a similar cost of living and is restricted to a limited number of industries. Income data is also difficult to interpret because it is calculated based on full-time employed residents – (including non-citizen permanent residents who generally need employment to remain in the country) – instead of all working Singaporean workers. For example, the median monthly income for full-time employed residents is \$3,770, which is higher than the median income of full-time Singaporean workers of \$3,566.⁵⁴ Furthermore, in 2009, the definition of “part-time employee” was altered such that “part-time” employees work less than 35 hours a week, previously 30 hours.⁵⁵
28. Right to an adequate standard of living: elderly - Citizens above the age of 65 formed 12.4% of the population in 2014.⁵⁶ This number is expected to rise significantly to 20% by 2030.⁵⁷ The minimum retirement age is 62. While the Retirement and Re-employment Act (RRA) requires employers to offer re-employment to eligible employees, it only does so until the age of 65.⁵⁸ The RRA also permits employers to reduce the salary of an employee once they turn 60; if the employee does not agree with this reduction, they must either retire or be retired.⁵⁹
29. Right to social security - As of 1 Jan 2015, the mandatory Central Provident Funds⁶⁰ contribution rates for employees aged above 50 to 55 years have increased by 0.5%.⁶¹ This has increased the pressure on employees within this age range as social security becomes an added burden and reduces the money they have for daily expenses.⁶² Despite high social security contribution rates (more than 30% of monthly salaries); employees do not receive

⁵² “Singapore does not have a minimum wage.” (<http://www.mom.gov.sg/employment-practices/salary/paying-salary>, accessed 15 Mar 2015)

⁵³ “The cleaning sector is the first to have the Progressive Wage Model as a mandatory licensing requirement. The other sector is security and most recently, the landscape industry.” (<http://www.channelnewsasia.com/news/singapore/resident-cleaners-see/1836008.html>, accessed 17 May 2015)

⁵⁴ “Make foreigners, PRs count in income data” (Feb 28, 2015 <http://www.straitstimes.com/news/opinion/eye-singapore/story/make-foreigners-prs-count-income-data-20150228>, accessed 6 Mar 2015)

⁵⁵ Employment (Part-Time Employees) (Amendment) Regulations 2008, came into operation on 1 Jan 2009

⁵⁶ National Population and Talent Division: 2014 Population in Brief (Sep, 2014 <http://www.nptd.gov.sg/portals/0/homepage/highlights/population-in-brief-2014.pdf>, accessed 13 Mar 2015)

⁵⁷ Committee on Ageing Issues: Report on the Ageing Population (2006, http://app.msf.gov.sg/Portals/0/Summary/research/CAI_report.pdf, accessed 13 Mar 2015)

⁵⁸ Section 7A(1) of the Retirement and Re-employment Act

⁵⁹ Section 5 of the Retirement and Re-employment Act

⁶⁰ Central Provident Funds (CPF) is a comprehensive social security system that enables working Singapore Citizens and Permanent Residents to set aside funds for retirement. It also addresses healthcare, home ownership, family protection and asset enhancement.

<https://mycpf.cpf.gov.sg/Members/AboutUs/about-us-info/cpf-overview>, accessed 17 June 2015

⁶¹ <http://mycpf.cpf.gov.sg/Employers/Gen-Info/cpf-Contri/ContriRa.htm>, accessed 13 Mar 2015

⁶² “More savings, but technician prefers take-home pay” (1 Mar, 2015 <http://business.asiaone.com/news/more-savings-technician-prefers-higher-take-home-pay>, accessed 13 Mar, 2015)

comparable benefits. In 2014, Singaporeans contributed over \$29 billion to CPF but were only able to withdraw \$17 billion, or 6% of the total of \$275 billion in CPF reserves.⁶³ The CPF Minimum Sum which further restricts access to social security funds for retired workers has risen by 7% annually and is currently at \$155,000.⁶⁴ Part of the reason for the low return on retirement funds is that from the late 1990s, the Government began to keep part of the annual returns from the investment of the CPF funds to build up the country's reserves which, are estimated to be the largest in the world today on a per capita basis. As a result, Singapore's pension funds are not pooled from tax revenues but rather limited to individual's own contributions which are capped. This is significantly regressive as the lower income pay a larger proportion of their incomes into the pension funds than higher income individuals. These funds then go on to earn lower interest rates (albeit with principal guaranteed) than the return on investment in the main sovereign wealth fund that invests the funds.

30. Right to Housing – Housing is widely available through a public housing scheme which provides 99-year leasehold apartments to the majority of the population, although there are restrictions on singles and non-traditional families. Divorcees are also at risk of losing their apartments through forced sales when the divorce is completed, unless certain conditions are met. Unlike public housing elsewhere, the costs of apartments are significantly higher than the median annual income. This has had an impact on the affordability of homes in Singapore. However, the Singapore public housing model may still be sustainable if public housing is pegged on a “cost” basis instead of Singapore's “market pricing” basis – pegging to market prices.

31. Public assistance - People who are unable to work due to old age or disability, and have little or no means of income and family support, are eligible for Public Assistance (PA). Elderly who apply for PA must prove that their children are unable to support them.⁶⁵ As of 2013, only 3,421 PA cases are active,⁶⁶ a low number compared to countries with similar costs of living. Hong Kong, for example, supports close to 450,000 with its equivalent of a welfare programme⁶⁷.

⁶³ http://mycpf.cpf.gov.sg/CPF/About-Us/CPF-Stats/CPF_Stats.htm , accessed 11 Mar 2015

⁶⁴ “Work out your CPF sums for retirement” (17 Feb, 2015 <http://business.asiaone.com/news/work-out-your-cpf-sums-retirement>, accessed 13 Mar 2015)

⁶⁵ <http://app.msf.gov.sg/ComCare/Find-The-Assistance-You-Need/Permanently-Unable-to-Work>, accessed 6 Mar 2015

⁶⁶ <http://app.msf.gov.sg/Research-Room/Research-Statistics/Number-of-Social-Assistance-Cases>, accessed 6 Mar 2015

⁶⁷ See page 5 of “Statistics on Comprehensive Social Security Assistance Scheme”

(<http://www.statistics.gov.hk/pub/B71209FB2012XXXXB0100.pdf>, accessed 15 Mar, 2015) Linda Low, “Central Provident Fund in Singapore,” HKCER Letters, Vol.41, November 1996, <http://www.hkcer.hku.hk/Letters/v41/rllow.htm> Edward Ng, “Central Provident Fund in Singapore: A Capital Market Boost or a Drag?” A Study of Financial Markets, http://aric.adb.org/pdf/aem/external/financial_market/Sound_Practices/sing_cpf.pdf

32. Healthcare - Singaporeans have access to world class healthcare through some modern health facilities in both the public and private sectors. However, the majority of healthcare in Singapore is paid for by out of pocket expenditure and employer funded health insurance. Government subsidies account for about a third of overall health expenditure while the Medisave scheme which comprises individual medical savings accounts, Medifund (a safety net for the very poor) and Medishield (a catastrophic health insurance policy which has a high deductible) – the “3Ms – account for around 10% of total health expenditure. This has had an impact on Singaporeans as Credit Counselling Singapore has reported that “unexpected medical bills” are among the top 5 reasons that people in Singapore get into debt⁶⁸.

Recommendations

33. We recommend that the government becomes transparent in the use of funds and the Budget according to normative approaches.

34. We also ask that the government introduce minimum wages for all, revise the public housing approach to sustain lower-income families and individuals, and those who had become bankrupt.

35. We ask for closer scrutiny of those growing old to ensure that they are adequately provided for and not just on public assistance as many have been responsible citizens.

36. We ask for continued improvements to the social security system to ensure that people will have cash to sustain themselves into ripe old age and to have adequate medical coverage.

Sock-Yong Phang, “The Singapore Model of Housing and the Welfare State,” Research Collection School Of Economics, 2007, http://ink.library.smu.edu.sg/cgi/viewcontent.cgi?article=1595&context=soe_research

⁶⁸ <http://www.straitstimes.com/news/business/banking/story/five-reasons-people-singapore-get-debt-20141029>

Sociocultural Rights

37. **Right to Protection against Trafficking** - Singapore is both a destination and transit country for the trafficking of women and girls for sex and labour exploitation, as well as Cambodian and Filipino men for Singapore-manned fishing boats.⁶⁹ Victims suffer from various abuses⁷⁰. The Government has made significant improvements to the prevention of trafficking in persons and legal protection of trafficked victims⁷¹, by enacting the Prevention of Human Trafficking Act in December 2014. However, the Act has limitations, with a focus more on sex workers than recognising that foreign workers too can be trafficked. Challenges include access to medical treatment, social support and legal aid to encourage foreign victims to report their cases or to participate in investigations and prosecutions of traffickers and supporting foreign victims in the pursuit of civil suits⁷². Protection of victims from being prosecuted for immigration offences inadvertently committed while being trafficked⁷³ still remains unclear in practice. Currently, there is no law regulating the foreign bride trade, some of which include trafficked cases. The Government demonstrated inadequate efforts to prosecute and convict traffickers⁷⁴. While the Government has partially funded shelters serving vulnerable populations, including suspected victims of trafficking, it has not operated any trafficking-specific shelters⁷⁵.

38. **Migrant Workers' Rights**⁷⁶ - The Government has adopted legislative and practical measures to improve the well-being and protection for migrant workers.⁷⁷ Despite these improvements, foreign workers still suffer underpayment, unjustified salary deductions, prolonged delays in salary payment, exclusion from pay increments, and receive no compensation for injuries. There are still instances of forced and premature repatriations of workers, through the engagement of repatriation companies which illegally confine and use violence against workers⁷⁸. The 'mandatory day' off for migrant domestic workers in 2013

⁶⁹ United States of America Department of State, "Trafficking in Persons Report" (June 2014)

(http://www.state.gov/j/tip/rls/tiprpt/2014/?utm_source=NEW+RESOURCE:+Trafficking+in+Persons+R, accessed on 22 Mar 2015).

⁷⁰ Sallie Yea, "Troubled Waters: Trafficking of Filipino Men into the Long Haul Fishing Industry through Singapore" (December 2012). According to this study, the men were universally deceived during the recruitment process. Examples of on-board abuses include excessive working hours, no days off, inadequate food, lack of treatment for injuries and sickness, lack of protective gear whilst working, and enforced isolation – sometimes for years – on the vessel

⁷¹ Other examples include amendments of the Penal Code to extend extra-territorial jurisdiction over Singaporean citizens and permanent residents who sexually exploit children in other countries, and make organizing or promoting child sex tourism a criminal offence.

⁷² United States of America Department of State, "Trafficking in Persons Report" (June 2014).

Vivienne Wee and Goh Li Sian for The Straits Times, "Anti-trafficking law: Singapore can do better" (Dec 21, 2014)

(<http://www.straitstimes.com/news/opinion/more-opinion-stories/story/anti-trafficking-law-singapore-can-do-better-20141221>, accessed on 22 Mar 2015).

⁷³ Vivienne Wee and Goh Li Sian for The Straits Times, "Anti-trafficking law: Singapore can do better" (Dec 21, 2014).

⁷⁴ United States of America Department of State, "Trafficking in Persons Report" (June 2014).

⁷⁵ United States of America Department of State, "Trafficking in Persons Report" (June 2014).

⁷⁶ Also see report from NGOs, TWC2 (Transient Workers Count Too) and H.O.M.E (Humanitarian Organisation for Migration Economics)

⁷⁷ Examples include the Settling-In Programme for first-time foreign domestic workers (FDWs), which has been implemented since May 2012; and the legislation of a mandatory weekly day off for FWDs from January 2013.

⁷⁸ Foreign workers are attached to a specific employer who would be made responsible for their repatriation. This renders them vulnerable to coercive power by employers, and in great difficulty changing to different employers.

is not mandatory as employers can “compensate” a worker when she forgoes her day off or still request her to perform “light duties” during her day off⁷⁹. Domestic workers continue to be excluded from paid annual and medical leave, public holidays, overtime pay, and the Work Injury Compensation Act (WICA). Unreported work injuries, denial or delay of medical care for injuries further exacerbates the situation of foreign workers in Singapore⁸⁰, with employers not always providing adequate maintenance for workers. Workers do not get adequate union representation. While the National Transport Workers’ Union (NTWU) has enrolled more foreign transport workers in the union, “contract workers like those from China remain excluded from full membership under the terms of the union’s collective agreement with SMRT⁸¹.⁸² Certain nationalities among foreign workers also bear higher costs when working here. For instance, Bangladeshi workers pay much higher agent fees than Indian workers⁸³. Legal rights of workers should also be respected - in the aftermath of the Little India Riot, 53 of the suspected rioters were repatriated without access to a trial⁸⁴. Such expediency can come at the cost of ensuring due justice. Levelling the playing field for every foreign worker is an important area for the government to look into, including increase staff to enhance governance.

39. Women’s Rights – The Government still struggles with gender equality. Though it has undertaken legislative reforms and adopted a range of legislative measures to enhance women’s rights⁸⁵, gender equality is not enshrined in the Singapore Constitution. While there is a partial withdrawal of reservations of Article 2 and 16 of CEDAW, there are still limitations to women’s roles because of Syariah Law. While there are Muslim countries⁸⁶ that have no reservations on these CEDAW Articles, making gender equality a norm, Singapore abstains. This also has an impact on women with diverse gender orientations to be equals in Singapore. In addition the Penal Code law of 377A⁸⁷ also limits recognition of women and men of diverse sexual orientation as equals. Issues related to equality in parenting roles, securing decision-making executive positions at work, access to flexible

⁷⁹ <http://www.mom.gov.sg/Documents/MPE%20Publications/fdw-weekly-rest-day.pdf>, accessed 19 Mar 2015.

⁸⁰ Chok, S. (2014), “RISKY BUSINESS: Death & Injury on Singapore’s Construction Sites” (http://www.academia.edu/8470637/RISKY_BUSINESS_Death_and_Injury_on_Singapores_Construction_Sites, accessed 19 Mar 2015).

⁸¹ SMRT is a private transport company that manages the Trains, most of the buses and taxis in Singapore. www.smrt.com.sg/

⁸² Wong, Singapore Strike: The Full Story (<http://blogs.wsj.com/indonesiarealtime/2013/08/31/singapore-strike-the-full-story/>, accessed 18 Apr 2015)

⁸³ Chin, Survey Uncovers Exorbitant Agent Fees Suffered By Bangladeshi Workers (<http://twc2.org.sg/2013/08/29/survey-uncovers-exorbitant-agent-fees-suffered-by-bangladeshi-workers/>, accessed 18 Apr 2015)

⁸⁴ Liang, Little India Riot: Repatriation of 53 workers under way (<http://www.straitstimes.com/breaking-news/singapore/story/repatriation-53-workers-under-way-20131220>, accessed 18 Apr 2015)

⁸⁵ CEDAW Committee – 49th Session, “Concluding observations of the Committee on the Elimination of Discrimination against Women - Singapore” (5 January 2012).

⁸⁶ Muslim countries such as Tunisia has lifted their reservations on Art 16, (<http://www.hrw.org/news/2014/04/30/tunisia-landmark-action-women-s-rights>, accessed May 16, 2015).

⁸⁷ The Straits Times “Why Court of Appeal rejected arguments that Section 377A was unconstitutional”; <http://www.straitstimes.com/news/singapore/courts-crime/story/why-court-appeal-rejected-arguments-section-377a-was-unconstitutio#sthash.IJzFARtX.dpuf>

work arrangements – all are still lacking in a society where the women and men share equality in education.⁸⁸ Foreign domestic workers (FDWs) are discriminated against as it is a condition of their work permit⁸⁹ that they can be sent home if they get pregnant. This has led to some FDWs terminating pregnancies⁹⁰ and they also cannot marry Singapore men. There is also little transparency about the conditions under which foreign wives can qualify for permanent residence and citizenship, with the only criteria listed on ICA's website being the duration of marriage⁹¹. This is despite a newly introduced measure that allows couples to submit an application for a Letter of Long-term Visit Pass Eligibility (LLE) before marriage, which will inform the couple on whether or not the foreign spouse qualifies for long term stay in Singapore⁹². It is also not known how the newly revised Long Term-Visit Pass (LTVP) application process, which came into effect in January 2015, works to their benefit. Only those with LTVPs are allowed to work in Singapore. Those without are not allowed to work, to earn their own income, and they have no social network to rely on⁹³. Foreign wives who are abused by Singapore husbands fear that if they report the abuse, their husband will stop sponsoring their visit passes and they will have to return to their home country, separated from their children⁹⁴.

40. Disability Rights - The Singapore government ratified the UN Convention on the Rights of Persons with Disabilities. Recent efforts include a consolidated administration to look into the needs of the disabled. However the Compulsory Education Act still does not include children with disabilities. The government provides financial support up to 4 times that of a 'normal' child. But the affordability of special education and accommodation of the needs of persons with disabilities remains unclear, including how adequately parents are supported in this process. Where accessibility is concerned only around 80% of bus routes are wheelchair accessible, and the target is to achieve 100% only in 2020⁹⁵. More importantly there is no⁹⁶ adequate holistic planning to remove barriers to accessibility, so that connections between individual components of the transport network or from transport nodes to nearby locations are disabled-accessible. Similarly, not all government schools are fully wheelchair-

⁸⁸ AWARE, "CEDAW Shadow Report" (May 2011), pp. 45 para 5.9. In 2013, only 8.3% of women held board positions in Singapore.

⁸⁹ This is regulated under the Employment of Foreign Manpower Act

⁹⁰ HOME, "CEDAW Shadow Report" (July 2011), pp. 9 para 47.

⁹¹ Immigration and Checkpoints Authority, "New Long-Term Visit Pass Scheme (LTVP+)", (http://www.ica.gov.sg/news_details.aspx?nid=12665, accessed May 16, 2015).

⁹² Immigration and Checkpoints Authority, "New measures to help prospective Singaporean – Foreigner couples better plan for their future", (http://www.ica.gov.sg/news_details.aspx?nid=13268, accessed May 16, 2015).

⁹³ AWARE, "Feedback for the Singapore Budget 2012: Calling for an inclusive budget to support a caring society" (Feb 2012), pp.7.

⁹⁴ SCWO, "Protection, Care and Reintegration of Victims of Human Trafficking" (For submission at the ASEAN Confederation of Women's Organisations, ACWO, Regional Seminar) (Oct – Nov 2013), pp.9 para 4.6.

⁹⁵ Retrieved from <http://www.lta.gov.sg/content/ltaweb/en/public-transport/system-design/enhancing-physical-accessibility-for-all.html>

⁹⁶ Retrieved from <http://www.moe.gov.sg/initiatives/compulsory-education/>

accessible⁹⁷. Employment is the greatest concern. While things have improved, Singapore still does not have anti-discrimination legislation. Employers though have an Open Accessibility Fund and Training Programme Funds⁹⁸ to tap into to buy assistive technology. But it is not clear how widely these are used to offer employment to the disabled. In addition it is also unclear how many persons with disabilities have a career path.

Recommendations

41. We urge the Government to adopt a more comprehensive victim-centric approach to the Prevention of Human Trafficking Act to ensure that victims have the right to accommodation, food, counselling services, legal aid, medical treatment and social support while their case is ongoing; victims should not be prosecuted for being undocumented immigrants or for working ‘illegally’ or for any illegal immigration infractions inadvertently committed while being trafficked; and victims have the right to work and a decent income while their case is ongoing. The Government should also accede to the Palermo Protocol, and increase investigations and prosecutions of trafficking offences.
42. We ask the government to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; Extend the Employment Act and the Work Injury Compensation Act to cover Foreign Domestic Workers; increase vigilance and governance over employers and places of employment.
43. We ask for amendments to the Singapore Constitution and so fully remove the reservations to Articles 2, 11, and 16 of the CEDAW Convention and to remove the discrimination against men and women of diverse sexuality. We also ask that foreign domestic workers be not discriminated against and that women who marry Singapore men be treated equally as a citizen.
44. An anti-discrimination law should be enacted. We also ask for a repeal of Section 377A of the Penal Code to remove stigmatisation against a community of citizens with diverse sexual orientations.

⁹⁷ Retrieved from <http://www.moe.gov.sg/media/forum/2011/12/support-for-students-with-special-needs.php>

⁹⁸ <https://www.sgenable.sg/employment/open-door-programme-odp/>

45. We ask the government to become more committed to its State Obligations in providing for children with disabilities with better education and to increasing the employment opportunities.