



MEDIA STATEMENT

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MARUAH Calls for Repeal of Section 377A of the Penal Code

For immediate release

As a human rights organisation, MARUAH is disconcerted by the Government's position not to take steps at this time to repeal section 377A of the Penal Code.¹ We find this decision bewildering, disappointing and disturbing, for the reasons that follow.

- **Section 377A Entrenches and Promotes Discrimination against the LGBTQ Community**

Section 377A of the Penal Code states: "Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years."²

As the italicized words above indicate, the controversial aspect of the provision is that it criminalizes sexual activity between men even if such activity occurs in private.

In a statement to the media, the Law and Home Affairs Minister, Mr K Shanmugam, said that the issue of whether section 377A should be repealed is one "closely related to social value systems".³ We agree, in that section 377A appears to be based solely on subjective opinions about the morality of the criminalized conduct in question.

We take the view that it is inappropriate for conduct that causes no harm (compared to, say, homicide and sexual assault) to be a criminal offence merely because a segment of society feels subjectively that it is immoral. It is discriminatory for sexual conduct between men to remain a crime when other conduct that some might also regard as immoral – such as sexual conduct between women, sexual conduct between women and men outside marriage, or gambling – is not similarly criminalized. People are free to try to persuade others of their moral viewpoints, but it is unjust that they should be able to plead the criminal law in support of their cause.

¹ Chapter 224, 2008 Revised Edition.

² The provision may be accessed online at the Singapore Statutes Online website at <https://sso.agc.gov.sg/Act/PC1871#pr377A->.

³ Tan Tam Mei, "Shanmugam on India decriminalising gay sex: Singapore society to decide which direction to take", *The Straits Times* (7 September 2018) <<https://www.straitstimes.com/singapore/shanmugam-on-india-decriminalising-gay-sex-singapore-society-to-decide-which-direction-to>>.

While the Government has affirmed that it “does not and will not enforce 377A”,⁴ the fact remains that the presence of section 377A in the statute book continues to marginalize LGBTQ people, causing them to be regarded as less than full members of society, and often feeling that they must hide who they are because of their gender identity or sexual orientation.

MARUAH believes that by repealing section 377A, the Government will help to end discrimination against LGBTQ people. This will contribute positively towards stopping hate speech directed towards, and vilification of, the LGBTQ community, and encourage dialogue amongst communities to promote greater understanding and inclusivity. MARUAH hopes that the Government will act courageously to have section 377A repealed by the Parliament, and thereby help to build bridges between communities.

- **Matters that Profoundly Affect People’s Human Rights Cannot be Decided by Poll**

The Minister for Law and Home Affairs commented that when the Executive and Legislature decide whether legislation should be amended or repealed, “depending on the legislation, public opinion can be relevant”. He also noted: “The majority are opposed to any change to section 377A, they are opposed to removing it.”⁵

MARUAH is concerned that this suggests the Government will rely largely on polls, such as the one conducted by Ipsos Public Affairs in July and August 2018,⁶ to determine its policy towards section 377A.

Assuming that polls of this nature accurately capture public opinion on the issue, where a law like section 377A profoundly affects the lives and human rights of LGBTQ people, pointing to a poll to rationalize that a majority in society is not ready to accept a change in the law is unacceptable.

Moreover, negative attitudes towards LGBTQ people can hardly be expected to change when various Government policies make it very difficult for misconceptions about them to be dispelled. These policies include the prohibition of films and television programmes that “promote or justify a homosexual lifestyle”,⁷ the requirements that schools teach students “the current legal provisions concerning homosexual acts in Singapore” (that is, section 377A) and that teachers and external trainers approved by the Ministry of Education ensure “that

⁴ A statement made by Mr Janadas Devan, chief of government communications at the Ministry of Communications and Information, reported in Charmaine Ng, “Amending 377A: Unlike courts, Parliament will take into account views of public”, *The Straits Times* (8 September 2018) <<https://www.straitstimes.com/singapore/repealing-or-amending-section-377a-is-a-matter-for-parliament-shanmugam>>.

⁵ Ng, “Amending 377A”, *ibid*.

⁶ Gilaine Ng, “55 per cent of Singapore residents support Section 377A: Ipsos survey”, *The Straits Times* (10 September 2018; updated 11 September 2018) <<https://www.straitstimes.com/singapore/55-per-cent-of-singapore-residents-support-section-377a-ipsos-survey>>.

⁷ *Board of Film Censors Classification Guidelines* (1 October 2016) <<https://www.imda.gov.sg/-/media/imda/files/regulation-licensing-and-consultations/codes-of-practice-and-guidelines/acts-codes/managed-linear-tv-services-content-code-1mar2018.pdf>>, paragraph 11(d), made applicable to television programmes by paragraph 7.2 of the *Content Code for Nationwide Managed Transmission Linear Television Services* (1 March 2018) issued by the Info-communications Media Development Authority.

schools are not used as arenas for advocacy on controversial issues”,⁸ and the refusal of the authorities to register LGBTQ advocacy and support groups as companies or societies.⁹

- **Repealing Section 377A would Help to Ensure a Secular Common Space**

It is evident that many calls for the retention of section 377A are motivated by genuine religious belief.¹⁰ However, the Government has consistently held that Singapore is a secular nation, and that a secular common space must be maintained for all. For instance, in a 2010 speech, Senior Minister Goh Chok Tong said that “because we are a multi-religious society, we must ensure that we have secular common space where Singaporeans can feel comfortable whatever their beliefs. [...] By keeping religion out of the public square, we make it safe for everyone to congregate. This creates opportunities for interaction, mutual understanding and accommodation.”¹¹

Article 15 of the Constitution guarantees to all the right to freely profess, practice and propagate religious beliefs. Thus, members of faith groups have a right to their own views on gender identity and sexual orientation issues. However, this right should not be exercised in a way that infringes on the human rights of others, and denies the rightful equal status before the law that every person ought to be enjoy. MARUAH is of the view that repealing section 377A will affirm and uphold the secular common space in society.

The decision to hold on to an archaic law like section 377A is outstandingly backward. The reasons for that decision give scant respect to what every person in Singapore should be able to rightfully claim – to be treated equally and have an equal status in society. It is clear that Singapore is behind the times on this crucial matter. MARUAH therefore urges the Government to act now to repeal section 377A.

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⁸ *Scope and Teaching Approach of Sexuality Education in Schools*, Ministry of Education (30 December 2016) <<https://www.moe.gov.sg/education/programmes/social-and-emotional-learning/sexuality-education/scope-and-teaching-approach-of-sexuality-education-in-schools>>.

⁹ For example, the group People Like Us was denied registration under the Societies Act (now Chapter 31, 2014 Revised Edition) in 1997 and again in 2004: *Universal Periodic Review: Singapore – 2011: Submission by People Like Us* (30 October 2010) <https://lib.ohchr.org/HRBodies/UPR/Documents/session11/SG/PLU_PeopleLikeUs-eng.pdf> at pages 3, 4 and 6. Any society that is not registered is deemed an “unlawful society”, and it is a criminal offence to manage or assist in the management of an unlawful society, and to be a member of or attend a meeting of an unlawful society: Societies Act, section 14.

¹⁰ See, for example, Melody Zaccheus, “Church groups say they do not support repeal of 377A”, *The Straits Times* (13 September 2018; updated 14 September 2018) <<https://www.straitstimes.com/singapore/national-council-of-churches-of-singapore-says-it-does-not-support-repeal-of-377a>>; Tan Tam Mei, “Catholics urged to reject repeal of Section 377A”, *The Straits Times* (19 September 2018) <<https://www.straitstimes.com/singapore/catholics-urged-to-reject-repeal-of-section-377a>>; Toh Ting Wei, “Pergas rejects repeal of Section 377A as it can cause ‘worrying implications’”, *The Straits Times* (20 September 2018) <<https://www.straitstimes.com/singapore/pergas-rejects-repeal-of-section-377a-says-it-can-cause-worrying-implications>>.

¹¹ Goh Chok Tong, “Speech by Mr Goh Chok Tong, Senior Minister, at MUIS International Conference on Muslims In Multicultural Societies, 14 July 2010, 9:30 am at Grand Hyatt Hotel”, National Archives of Singapore website <<http://www.nas.gov.sg/archivesonline/speeches/view-html?filename=20100721003.htm>> at paragraph 19.

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About MARUAH Singapore

MARUAH is a human-rights NGO based in Singapore.

"Maruah" means "dignity" in Malay, Singapore's national language. Human rights is fundamentally about maintaining, restoring and reclaiming one's dignity, and MARUAH strives to achieve this by working on national and regional human rights issues.

MARUAH is also the Singapore focal point of the Working Group for an ASEAN Human Rights Mechanism, which is officially recognised in the ASEAN Charter as an entity associated with ASEAN.

More information on MARUAH at www.maruah.org