



## UPR Submission Singapore

October 2010

Singapore has been governed since 1959 by the People's Action Party (PAP), which currently occupies 82 of 84 parliamentary seats. During that period, the government has maintained a carefully crafted legal and policy structure that reinforces its power and authorizes wide-ranging restrictions on internationally recognized rights to freedom of expression, association, and assembly.

Laws authorizing detention without trial continue to be used regularly. Criminal and civil defamation suits are commonly employed by leading senior government officials to retaliate against and ultimately bankrupt political opponents. Capital punishment is mandatory for certain drug offenses and is still in effect for a wide range of other crimes. Use of ill-treatment in the form of caning continues to be standard practice within the criminal justice system.

### **Freedom of expression, association, and assembly**

Although Singapore's constitution guarantees rights to free expression, peaceful assembly, and association, these rights are severely restricted in practice. Government-dominated control of media outlets is exacerbated by an interlocking system of laws and regulations designed to curb expression of opposition views in various media, and the courts' willingness to fine and imprison alleged violators for sedition, defamation, and contempt of court when official institutions or leaders are the objects of criticism.

#### Freedom of expression

##### *Media ownership*

Two corporations, MediaCorp and Singapore Press Holdings Limited (SPH) dominate the media in Singapore and severely limit the availability of competing viewpoints. MediaCorp, wholly owned by a government investment company, is the largest radio and television broadcaster in the country. SPH, a private company, is heavily invested in newspapers and magazines and its on-line editions on the internet. The government must approve, and can remove, persons who are holders of SPH management shares who, in turn, can appoint or dismiss all directors and staff. Satellite dishes are banned though cable subscribers have access to foreign news and entertainment programming.

##### *Censorship*

The Media Development Authority (MDA) under the Ministry of Information, Communications and the Arts (MICA), has the broad power to censor broadcast media, the internet, films, music, and computer games and to sanction broadcasters for content which threatens or offends public interest or order, national harmony, or good taste and decency. Provisions in the Broadcasting Act, Films Act, the Newspaper and Printing Presses Act, and the Undesirable Publications Act elaborate on the comprehensive reach of the MDA.

The Films Act authorizes the banning, seizure, censoring, or restricting of written, visual, and musical offerings should their content be deemed to threaten stability, offend morality, or further racial or religious animosity. It authorizes the police to search a home for unlicensed materials and take into custody alleged offenders. All films must be approved by the Board of Film Censors. Although a March 2009 amendment permits endorsement of a political party or politician and allows on-line undramatized election advertising. MICA is still empowered to ban a film on the broad grounds that it runs contrary to public interest.

On July 15, 2009, Martyn See, received a MDA letter referencing his submission to the agency of two films, "Singapore Rebel" and "One Nation Under Lee." The latter film was refused permission to be distributed unless scenes were deleted. In July 2010 the MDA ordered See to remove from the Youtube website and his blogsite the video, "Ex-political prisoner speaks out in Singapore," alternately titled "Dr. Lim Hock Siew." The film features a November 2008 speech by Dr. Lim detained under ISA in 1963. The MICA said it would not tolerate those once held as security threats to "undermine public confidence in the government."

Singapore's Internet Code of Practice requires Internet Service Providers (ISP), all of which are government owned or linked, and Internet Content Providers (ICP) to use their "best efforts to ensure that prohibited material is not broadcast." Such efforts may require licensees to deny access to sites or refrain from a relationship with selected newsgroups.

The Newspaper and Printing Presses Act serves to regulate more traditional media. It permits the MICA to exercise control of a newspaper company including its shareholder and management activities, requires annual licensing of all publications, and provides the minister the right to refuse or revoke a license or to impose specific conditions that must be met for a license to be valid. The Act also permits restrictions on the circulation of any foreign media deemed to interfere with domestic politics. The Undesirable Publications Act adds CD-ROMs, sound recordings, and computer generated drawings to the list of material subject to censorship.

In addition to the above, Official Secrets Act and Sedition Act limit free expression. The latter is particularly concerned with race and class disharmony and incitement to "disaffection" with Singapore's government. In May 2010, Vincent Cheng, held under the Internal Security Act in 1987, agreed for the first time to speak about his detention at an event sponsored by students from the Singapore National University History Project. Under government pressure, the National Library Board, the venue operator rescinded the invitation to him.

#### *Defamation and contempt of court*

Over the years, Singapore's leaders have filed defamation cases, seeking and winning apologies and punitive damages from the Singapore Democratic Party, assorted columnists and editors, the *Far East Economic Review*, *Bloomberg News*, the *Financial Times*, *The Economist*, and *Time Magazine*. Most recently, in 2010, the New York Times Company was held liable for a piece in the *International Herald Tribune* on dynastic politics in East Asia. Under Singapore's law, plaintiffs do not carry the burden of proof and there is no latitude for defendants who write on matters of public interest or concerning public officials. Singapore's Court of Appeal has consistently rejected a responsible journalism defense.

Singapore additionally maintains the archaic offense of "contempt of court" which can be imposed merely for criticism of the judiciary. The *Wall Street Journal* and one its senior editors were found guilty of contempt for pieces published in its Asia edition in 2008.

In a case heard in court in October 2010, Singapore's attorney-general charged Alan Shadrake, the British author of *Once a Jolly Hangman: Singapore Justice in the Dock*, with contempt for "scandalizing the judiciary" for alleging that rather than strictly observing the death penalty law (which mandates execution for murder, treason, and some 20 drug trafficking-related offenses) the courts' decisions may have been affected by political and economic pressures, biases against the "weak," "poor," or "less-educated," and PAP interference. The attorney cited 14 statements in the book, including the title, to argue that Shadrake's allegations and insinuations "muzzle confidence in the courts' impartiality, integrity and independence." The prosecution warned media outlets that publicizing Shadrake's remarks could lead to their being charged as well.

#### Freedom of assembly

Laws and regulations also restrict freedom of assembly, and are reinforced by Singapore's censorship regimen. The two most important such laws are the 2009 Public Order Act and the Public Entertainment and Meetings Act (PEMA).

PEMA mandates that a police permit be procured for most non-social or cultural outdoor events, including political meetings. The definition of a "political meeting" is open to the discretion of relevant authorities. In July 2010, Dr. Chee Song Juan, Singapore Democratic Party (SDP) leader, who had been convicted for giving an address without a permit during the run-up to elections in April 2006, requested the government to provide clear guidelines for what constitutes an "address" under the Act. In the case in question, Dr. Chee was arrested for talking on the street to passersby for some four minutes in an attempt to sell *The Democrat*, his party's newspaper.

The 2009 Public Order Act (POA) is even more chilling on assembly. It requires a permit for any "cause related activity," defined as a show of support for or against a position, person, group, or government, even if only one person takes part. The POA further decrees that during so-called major events, police may issue "move on" orders for alleged disorderly conduct, and may ban filming of their operations if it endangers their officers.

In March 2010, the Singapore High Court overturned an acquittal of several SDP leaders accused of conducting a procession without a permit in September 2007. The SDP members had walked casually on a sidewalk wearing political t-shirts, took time outs in their walk, and evidently hindered no one. The High Court judge, however, declared that "evidence on record shows that the respondents had a political purpose for what they called a 'walk.'"

The government relaxed rules governing the Speakers' Corner to permit limited demonstrations and the use of amplification. Although a police permit is no longer required to use the Corner, the park site is ringed with five closed circuit television cameras and speakers must register on line and show their IDs before they can speak. They must be Singapore citizens or permanent residents and may not discuss topics that could generate dissension among Singapore's ethnic or religious communities. Speaking at the Corner provides no protection from application of sedition and defamation laws and from related regulations.

#### Freedom of association

The Societies Act requires any organization with more than 10 members to register. However, registration may be denied on grounds that an organization's "purposes [are] prejudicial to public peace, welfare or good order" or that registration would be "contrary to the national interest."

Only political parties or organizations are permitted to engage in "political activities."

## **Criminal Justice System**

### *Arbitrary detention*

The Internal Security Act (ISA), Criminal Law (Temporary Provisions) Act (CLA), Misuse of Drugs Act (MDA) and Undesirable Publications Act permit arrest and detention without warrant or judicial review. The government refuses to make statistical information regarding the numbers held for breach of any one of the four laws publicly available.

The ISA targets persons considered to pose a threat to public security, safety, and order. It permits the Minister of Home Affairs to order an initial 30-day detention period. Executive branch officers may then order two-year detention terms which are renewable indefinitely. Although suspects have the right to counsel, they are not permitted to challenge the substantive basis for their detention. In fact, detainees are expressly forbidden from contesting their detention through the criminal justice system, but must take their cases to a government advisory body which, in turn, can make non-binding recommendations to Singapore's president. While Singapore previously used the ISA to target opposition critics, it now claims to no longer do so.

The CLA targets individuals engaged in organized crime and drug trafficking. Although the time periods involved are shorter, the detention processes are similar to ISA procedures. The Undesirable Publications Act focuses on prohibition of obscene and objectionable materials and actions against those producing such materials.

### *Caning*

Caning, a physical punishment that is cruel, inhuman and degrading treatment and can amount to torture, is an additional mandatory punishment for medically fit males between 16 and 50 who have been found guilty and sentenced to prison for a range of crimes including drug trafficking, rape, and immigration offenses. A sentencing officer may, at his discretion, order caning in other cases involving some 30 violent and non-violent crimes. The maximum number of permissible strokes administered at any one time is 24. The Singapore Criminal Procedure Code Act 2010 provides that a lighter rattan is to be used for a maximum of 10 strokes on children subject to caning.

In addition to judicially sanctioned caning, males serving in the military are subject to caning as are prisoners and reform school inmates who violate discipline. Caning is also used in Singapore secondary schools.

Statistics on caning are not made public. The most recent available information comes from the US Department of State, which reported that in the first ten months of 2009, 4,228 convicted persons were sentenced to caning, of which 99.8 percent were carried out.

## **Labor rights**

Singapore continues to restrict the right to organize and collectively bargain in several key areas.

Although the constitution gives workers in the private sector the right to form or join trade unions, these rights are restricted in practice. Foreign workers, who comprise a significant proportion of Singapore's workforce, are legally barred from serving as trade union officers, trustees, or staff without Ministry of Manpower approval. Legal recognition of unions is further subject to the approval of the Registrar of Trade Unions who can refuse or cancel registration, particularly when a union in a given occupation or industry already exists. The

Trade Unions Act prohibits government employees from joining trade unions unless the president of Singapore allows an exception. Under the Trade Union Act, rank and file union members do not have the power to vote to accept or reject collective agreements negotiated by their representatives.

### **Foreign domestic workers**

Singapore continues to vigorously prosecute employers and recruiters who physically abuse foreign domestic workers or fail to pay wages. Singapore refuses to include domestic workers under the Employment Act, denying them basic labor protections, and the government preserves a sponsorship system that ties a domestic worker to a specific employer. The employer in turn retains the right to cancel a migrant worker's contract, making her subject to immediate deportation. In practice, employers often use the threat of contract cancellation to intimidate workers to accept unlawful work conditions, restrict their movements, and prevent them from filing complaints.

A standard contract for migrant workers is required by the government, but fails to address issues such as long work hours and poor living conditions. Instead of guaranteeing one day off per week and a set number of rest hours a day, employer and employee negotiate rest days within set limits, and an employer may without penalty disregard recommendations for a minimum number of hours of rest per day. The contract also fails to prevent denial of annual or medical leave, requires immediate deportation of pregnant workers, and stipulates that no foreign domestic workers may marry a Singaporean.

### **Recommendations**

Repeal all provisions that permit the arbitrary imposition of preventive detention in laws such as the Internal Security Act (ISA), the Criminal Law (Temporary Provisions) Act (CLA), and the Misuse of Drugs Act (MDA).

End the use of all forms of corporal punishment, such as caning, and repeal all legislation that permits caning as a punishment for criminal offenses, and in the military, prisons, reform schools, and educational institutions.

Immediately amend all legislation providing for mandatory use of capital punishment, and suspend all applications of the death penalty while the government is amending laws to eliminate capital punishment.

Extend Singapore's Employment Act to provide full coverage to domestic workers.

Amend the Trade Union Act to grant union members the power to have a free vote to accept or reject collective agreements negotiated by their representatives.

Repeal the Newspaper and Printing Presses Act in its entirety, and amend other laws (Broadcasting Act, Films Act, and the Undesirable Publications Act) to eliminate censorship in violation of international law, and lift onerous requirements on Internet Service Providers to police content and block restricted materials.

Amend the Public Entertainment and Meetings Act (PEMA) to clearly define what a "political meeting" is under the act, and ensure that definition is narrowly construed so as to respect the right to freedom of assembly.

Amend the Public Order Act to eliminate the requirement for a permit for any "cause related activity," which is an overbroad restriction in violation of international law; devise a regulatory system for public demonstrations that gives priority to protecting the rights to freedom of expression and assembly.

Eliminate sections of law that authorize the charge of criminal defamation, in line with the recommendations of the UN Special Rapporteur on freedom of expression that call on all states to rescind criminal defamation laws given that civil defamation laws are sufficient to protect people's reputations.