

UNIVERSAL PERIODIC REVIEW ON SINGAPORE

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Prepared by

Think Centre

1. Introduction

2. The Government of Singapore needs to do more work to remedy well-documented human rights problems and ensure compliance with international human rights standards. The Think Centre (independent civil society) report seeks to highlight the rights and recommendations to remedy well-documented human rights problems and calls for compliance with international human rights standards. Think Centre report is calling for the full recognition and fulfilment of Singapore's obligations under the Universal Declaration of Human Rights (UDHR). Singapore has ratified few UN Conventions.

3. This submission is a result of close monitoring of the socio-political developments in Singapore over a decade corroborated from publicly accessible sources i.e. news articles, court rulings, relevant socio-political blogs, as well as official websites of political parties, the Government and international bodies such as the United Nations. Think Centre is an independent non-governmental organisation (NGO) registered as a society since 2001. The Centre aims to critically examine issues related to political development, democracy, rule of law, human rights and civil society.

4. Current Normative and Institutional Framework for the Promotion and Protection Of Human Rights

5. The Republic of Singapore is a member of the United Nations since 1965 and therefore is bound to observe her obligations to respect human rights as ascribed in the *United Nations Charter* as well as the *Universal Declaration of Human Rights* (UDHR) which is accepted globally as customary international law. With regard to ratifications of international Human Rights treaties and conventions, the Singapore Government has consistently adopted the position that they do not “value form for its own sake and will accede to these conventions if there is substantive value in doing so and [...] are prepared to implement all their provisions.” After 45 years of independence, Singapore therefore remains on record with some of the least number of ratifications of international human rights conventions and till date have only ratified (through ascension) in 1995, the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) and *Convention on the Rights of the Child* (CRC). Singapore has only most recently ratified the *Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in armed conflict* in 2008. It should be recalled that Singapore had placed many reservations on key principles of both conventions upon their ascension: Articles, 2, 9, 16, 11 and 29 under CEDAW; Articles 3, 4, 5, 10, 16, 17, 18, 28, 32 and 37 under CRC. Singapore adopts a cultural relativist stance when referencing its internal laws as justification for its reservations.

6. Constitutional and legislative framework

7. The Constitution of Singapore is the supreme law of the Republic of Singapore. Fundamental freedoms (of the citizens) are guaranteed under Part IV of the Constitution and comprise the following: Liberty of a person i.e. of life and liberty (Article 9), Prohibition of slavery and forced labour (Article 10), Protection against retrospective criminal laws and repeated trials (Article 11), Equal protection (Article 12), Prohibition of banishment and freedom of movement (Article 13), Freedom of speech, assembly and association (Article 14), Freedom of religion (Article 15), Rights in respect of education (Article 16). These liberties however are guaranteed with restraints due to the fact that Article 149 of the constitution confers power on the Parliament to enact laws that are contrary to the liberties enshrined in Part IV. This is compounded by the fact that Singapore have a unicameral legislature dominated by the current ruling People's Action Party (PAP) since 1965 which enables the Government to amend any part of the constitution at will as well as enacting statutory laws that effectively encroaches and severely weakens the constitutional freedoms beyond the limits of reasonable and legitimate grounds for restrictions.

8. Institutional framework

9. The Government of Singapore does not, as matter of practice, publicly announce any concrete action plans with regard to the implementation of its human rights obligation at the national level. There is currently no

national human rights institution and there are no plans on record by the government to consider establishing one.

10. PROMOTION AND PROTECTION OF HUMAN RIGHTS

11. Freedom of expression, association and peaceful assembly, and the right to participate in public and political life

12. The **right to freedom of speech and expression** has been most severely curtailed in the Singapore context. The Government controls all avenues of speech and expression through a multitude of legislative and institutional means at its disposal and this includes: statutory laws (inherited or enacted by the parliament), government bodies that draw up and implement administrative rules, regulations and policies that govern the expression and reproduction of any speech, writing (including online) and even artistic/cultural performances in all forms of medium. In particular political expressions by domestic residents and citizens, in whatever form or medium, are subjected to constraints under the force of law.

13. Censorship has therefore become a chronic feature in everyday life occurring in all forms of public expression; the authorities consistently try to normalise and institutionalise the censorship discourse and this is expressed by the convening of a Censorship Review Committee (CRC), every 10 years since 1981, by the Minister for Information, Communication and the Arts. Many arts and cultural groups experience various forms of censorship through the control in access to public funding of arts/performance projects or issuance of permits, which is the purview of the National Arts Council (funding) and the Media Development Authority (permits), both of which are under the Ministry of Information, Communications and the Arts. The lack of clear defined boundaries hampers development of local artists especially when their works are related or perceived to contain political commentary/criticism. Cuts in funding or administrative denial of performance/exhibition spaces have occurred when the governing authorities believed that they have, such as through performances, promoted 'socially deviant' values/norms (e.g. homosexual lifestyle).

14. Defamation is considered both a criminal offence and a civil action in Singapore. Singapore's Defamation Act (1957) covers defamation from a civil perspective with a broad definition of defamation and it also covers libel and slander. Section 499 of Singapore's Penal Code makes defamation a criminal offence. Defamation suits have been used successfully by both the Government and members of the ruling party against local political opponents as well as a good number of foreign news organisations that published articles or commentaries criticising the political system. As the Defamation Act provides for very substantial damages to be awarded to 'vindicate the reputation of the plaintiff', some opposition politicians had been made bankrupt as a result of defamation suits and foreign news publications which lost their cases had to make substantive reparations either due to court rulings or out of court settlements. The usage of defamation suits has effectively establish a climate of fear amongst the general populace with regard to exercising critical expression on domestic politics.

15. The **right to freedom of association and peaceful assembly** has similarly come under serious curtailment especially with regards to political activities and expression by parties/groups not aligned or associated with the ruling party. For instance, charges under the Miscellaneous Offences (Public and Nuisance) Act had been brought against political party activists that held a gathering outside the Parliament House in 2008 to protest against the accelerated rise in living costs. However, no such charges were brought against organisers of a consumers' association that staged, in 2007 and 2008, similar protests also outside the Parliament House. Permits have also been denied to an opposition political party to conduct social activities in the public for their members (in 2007) on grounds that outdoor events organised by political parties have "greater potential for law and order problem". This is in contrast to an event of a similar nature that were successfully organised with the Prime Minister present as Guest-of-Honour, by a charitable body set up by the ruling party, one year after the aforementioned denial of permit.

16. New laws were also introduced to constrain **freedom of assembly**. The Public Order Act (POA) were introduced by the Ministry of Home Affairs (MHA) in March 2009 to consolidate and tighten administrative controls, such as issuance of permits, over any form of public expressions, especially political and human rights related. In the past, a gathering of four or less persons who demonstrate or propagate a certain cause were not proscribed, currently even a single person who wish to carry out such activities are now required to apply for a permit under the new law. It is currently unknown if there have been any applicants who have been successful in applying for this new particular permit.

17. The Societies Act and Trade Unions Act govern the formation of associations, societies and trade unions. The Societies Act restricts **freedom of association** by requiring organizations of more than ten people to register with the government, and only registered parties and associations may engage in organized political activity. Whereas the formation of trade unions is subjected to the approval of the Registrar of Trade Unions who has wide-ranging powers to refuse or cancel registration, particularly where a union already exists for workers in a particular occupation or industry. Migrant workers including domestic workers are restricted from forming trade unions.

18. Right to life, liberty and security of the person

19. The **death penalty** is retained in five Acts of Parliament, namely: Penal Code, Misuse of Drugs Act, Internal Security Act, Arms Offences Act and the Kidnapping Act. In Singapore, official statistics regarding the number of executions are very seldom released and all information related to the death penalty is considered to be State secrets under the Official Secrets Act. Public debate on the subject of the death penalty has generally been sparse and are controlled and dominated by the Executive branch in the mainstream media. The Government as a whole is very sensitive to criticism of its use of the death penalty and have most recently arrested British author Alan Shadrake on contempt of court charges, a day after he launched a book alleging double standards in the use of the death penalty. The Executive branch adopts a utilitarian position regarding the **right to life** in arguing for their right to impose the death penalty especially for non-violent crimes in the case of drug trafficking. The current Law Minister, Mr K Shanmugam had stated in a public dialogue session in 2010 that *“the mandatory death penalty for serious drug offences here is a “trade-off” the government makes to protect “thousands of lives” that may be ruined if illegal drugs were freely available”*. Internationally, the Government of Singapore is the leading retentionist proponent on the application of death penalty as capital punishment as evidenced by its very active role in lobbying against the UN General Assembly’s reaffirmation to the resolution on death penalty moratorium in 2008.

20. The Judiciary, with regard to the protection of human rights, do not perform the function as a check on the Executive branch and it generally affirms the principles espoused by the Government. For instance in a most recent ruling (in 2010) by the Court of Appeal chaired by the current Chief Justice alongside two other High Court justices, regarding the appeal of a Malaysian, Yong Vui Kong, against his mandatory death penalty sentence on drug trafficking charges, it was of the view that “there presently does not exist a rule of Customary International Law prohibiting the Mandatory Death Penalty as an inhuman punishment”.

21. Laws impacting on the **right to liberty and security of the person** are inherited from the colonial era and during the brief membership in the Malaysia Federation (1963-1965), this includes the Internal Security Act (ISA) and the Criminal Law (Temporary Provisions) Act (“CLTPA”). The two Acts provide broad powers of preventive detention of persons who are deemed to be a threat to the security of the nation as definable by the Executive. The ISA has been used against political opponents as well as social activists by the ruling PAP in the past (Operation Cold Store [1963], Operation Spectrum [1987]). Till today, with regard to the 22 political detainees who were detained in 1987 on the alleged grounds of being Marxist conspirators attempting to overthrow the State, no concrete evidence was produced in a court of law that is able to conclusively prove the allegation and no form of reconciliation has been attempted by the Government. The recourse of Habeas Corpus (i.e. judicial review of detention orders) has been rendered ineffectual under both ISA and CLTPA through a series of past Court of Appeals judgements and subsequent amendments (passed by parliament) in

Article 149 of the Constitution and the two Acts. The amendments also have the impact of shifting the burden of proof to the detainee to prove that his/her detention is unlawful.

22. Equality and non-discrimination

23. There are inherent contradictions in the Government's position regarding the **principle of equality** as expressed in the National Pledge that is reinforced in all state education and military institutions. In 2009, a motion moved by a Nominated Member of Parliament for equal treatment of all races was rebuffed by the Minister Mentor who is the first Prime Minister of Singapore. The said Minister cited Article 152 of the Constitution which spells out the Government's responsibility to “constantly care for the interests of the racial and religious minorities in Singapore”, in particular the Malays as “the indigenous people of Singapore”, to state the unequivocal position that the assumption of equal treatment for all races is “false and flawed”, and “completely untrue”.

24. The **principle of non-discrimination** is specified in Article 12 of the Constitution however it is limited to Citizens only. As such, the Government is notably resistant to enact any form of anti-discrimination legislations with regards to addressing discriminatory practices in society and often prefers to adopt an educational and promotional approach. This approach is problematic as persons encountering discrimination have little to no administrative recourse on grounds of discrimination except for specified categories listed in certain legislations such as the Employment Act.

25. Right to privacy, marriage and family life

26. **Privacy** is generally respected as a social norm but there are no general data protection nor privacy laws that exists in Singapore. Instead there are laws such as the Computer Misuse (Amendment) Act and Electronics Transactions Act which instil broad powers to law enforcement agencies to conduct searches on any computer without warrant. Monitoring of employee phone calls, e-mails, and internet usage in the workplace is permissible as under Singapore (property) law, workplace e-mail, telephone and computer contents are considered the property of the employer. Therefore there is no recourse on grounds of invasion of privacy for a person who loses his/her job due to the contents of the communications technology.

27. Singapore Citizens and Permanent Residents are unable to enter into any form of civil, religious or customary **marriage**, under any law within or outside of Singapore, with migrant workers who are on work permits below the classes of 'S Pass' and 'Employment Pass'. This rule applies retrospectively to migrant workers who had worked in Singapore in the past on a work permit.

28. Right to social security and adequate standard of living

29. Singapore ranks as one of the most unequal country amongst developed economies in terms of income distribution (GINI score = 42.5) with the poorest 10% of her population receiving the lowest share of income. However for decades there has been no systematic social safety net in the form of a minimum wage or unemployment benefits, whatever form of aid that exists are rendered through a 'targeted aid' approach. The Government rejects on a pro-business basis, the implementation of minimum wage or unemployment benefits nor had it considered undertaking any serious feasibility studies on the subject. Its stance is strongly supported by employers and even the labour unions. Notably, the current Secretary-General of the National Trades Union Congress, Mr Lim Swee Say, who is also a Cabinet Minister had exhorted strongly against the idea of a minimum wage even for specific sectors.

30. Right to education and to participate in the cultural life of the community

31. Special education schools catering to children with disabilities are currently not under the full purview of the Ministry of Education (MOE). There are 20 of such schools run by non-state welfare service providers, also known as Voluntary Welfare Organisations (VWOs), with only partial funding from MOE.

32. Commitments

33. The Government of Singapore does not make explicit human rights commitment at the national level, it does affirm some forms of commitments via the myriad of collective declarations made at the regional level

i.e. as a member state of the Association of South East Asian Nations (ASEAN). The earliest of which stems from the Joint Communiqué of the Twenty-Sixth ASEAN Ministerial Meeting that “reaffirmed ASEAN’s commitment to and respect for human rights and fundamental freedoms as set out in the Vienna Declaration of 25 June 1993”. Other human rights related declarations at the ASEAN level includes: Declaration Against Trafficking in Persons Particularly Women and Children, Declaration on the Elimination of Violence Against Women in the ASEAN Region, Declaration on the Protection and Promotion of the Rights of Migrant Workers, Hanoi Plan of Action (Point 4.8). The most significant commitment Singapore made at the regional level is the ASEAN Charter which specifies the principles that all member states, including Singapore, has agreed to which vis a vis human rights are Article 1, point 7 and Article 2 part (i) and (j).

34. Recommendations

35. International human rights obligations

36. We urge the Government of Singapore, in accordance to the obligations ascribed in the United Nations Charter and in the spirit of respecting human rights spelt out clearly in the Universal Declaration of Human Rights, to ratify or ascend, in the shortest time possible, the following conventions and optional protocols that are of most significance and relevance to the Singapore context namely: a) International Covenant on Civil and Political Rights (ICCPR), b) International Covenant on Economic, Social and Cultural Rights (ICESR), c) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), d) International Convention on the Protection of the Rights of Migrant Workers and Members of their Families (MWC), e) Convention on the Rights of Persons with Disabilities (CRPD), f) Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, g) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, h) UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

37. To ratify key international human rights treaties (as above) and ensure treaties are enforceable and that domestic law is in full compliance with treaty obligations and in line with international human rights standards.

38. Domestic Legislations and Policies

39. In the fullest interest of all members of the Singapore society, we urge the Government of Singapore to review all legislations, with the view of abolishment or replacement of such laws, that were made more appropriately for the times and context of strife especially those inherited from during the colonial era, temporary merger with Malaysia and the immediate period after separation. In today’s, globalize world, such laws are no longer appropriate and have only served to deny Singaporeans to participate in all aspects of society as a full citizen. Such laws are: Internal Security Act (ISA), Criminal Law (Temporary Provisions) Act (“CLTPA”), Sedition Act and the Defamation Act.

40. We also urge the Government of Singapore to review its position regarding its responsibilities to fulfil the Economic, Social and Cultural rights of the people in Singapore especially with regards to providing adequate social security (Minimum standards) as in ILO Convention 102 and implemented on a system wide basis as opposed to targeted aid.

41. Institutions

42. To enhance the applicability of the above recommendations, we urge the Government to convene and set up a National Human Rights Institution such as by way of a Commission, to study and recommend how best to harmonise international human rights obligations with domestic legislations, policies and practices that serves to protect and promote the rights of all people in Singapore.

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