



**UPR Submission
Singapore – June 2015**

Singapore's constitution formally guarantees rights to freedom of expression, peaceful assembly, and association, but these rights are severely and routinely restricted in practice. Government-dominated control of media outlets is exacerbated by an interlocking system of laws and regulations designed to curb the speech of those with critical views in all media, and a judiciary willing to fine and imprison alleged violators for sedition, defamation, and "scandalizing the judiciary" when government institutions or leaders are the objects of criticism.

During its previous Universal Periodic Review (UPR) in 2011, Singapore was unwilling to accept important recommendations related to freedoms of expression, association, assembly, misuse of defamation laws, the death penalty and corporal punishment, and decriminalizing sexual relations between consenting men.

Freedom of Expression, association and assembly

The Media Development Authority (MDA) under the Ministry of Information, Communications and the Arts (MICA), has the broad authority to censor broadcast media, the Internet, films, music, and computer games, and to sanction broadcasters for content on broad national security, public order and decency grounds. 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 on vague and overbroad grounds. All films and videos to be shown in Singapore must be approved by the Board of Film Censors.

The Singapore authorities banned the award winning documentary film "To Singapore with Love" on grounds that it undermined national security by giving a sympathetic depiction of political exiles who had fled Singapore. Film director Tan Pin Pin appealed the decision, saying that "differing views about our past" should be aired, "even views that the government disapproves." The Films Appeal Committee denied her appeal. Authorities also took action against director Ken Kwek's satirical film "Sex, Violence, Family Values," banning it immediately after it premiered in Singapore in October 2012. However, after international and national outcry, and an appeal of the decision by the director, the MDA reclassified the film and permitted its release under its most restrictive category after certain scenes were altered.

The **Undesirable Publications Act** gives sweeping authority to government officials to ban any broadly defined publication, including electronic information, that the government deems "obscene" or "objectionable," yet provides vague definitions of what fall into categories such as being "injurious to the public good."

The government has moved to increase its control over on-line content. The **Broadcasting Act** requires the registration of any online news website that receives, over a two-month period, an average of at least 50,000 unique visits per month from Singapore Internet addresses and is involved in "the propagation, promotion or discussion of political or religious issues related to Singapore." Registering websites must provide a 50,000 Singapore dollar (US\$40,000) performance bond to guarantee that they will promptly take down content that the MDA designates as inappropriate.

The Breakfast Network, an outspoken news website, chose to close down in December 2013 rather than comply with the MDA's requirements. Other news websites such as The Online Citizen, Mothership, and The Independent Singapore agreed to register under these burdensome conditions.

In February 2015, Singaporean police arrested a Singaporean and an Australia who were co-editors of the news portal The Real Singapore, and subsequently charged them in April with seven counts of sedition for publishing articles that authorities claimed had a "tendency to promote feelings of ill-will and hostility between different groups of people in Singapore." In May, the MDA decided to suspend the operating license of The Real Singapore, ruling it had violated the MDA's Internet Code of Practice.

Singapore's government also enforces an onerous requirement on registered news websites by preventing them from receiving foreign funds from any entity for any purpose. The MDA also requires that government owned or linked Internet Service Providers (ISP) – none are independent – and Internet Content Providers (ICP) must use their "best efforts to ensure that prohibited material is not broadcast."

The **Newspaper and Printing Presses Act**, 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 by the government to "interfere" with domestic politics.

Singapore passed a new **Protection from Harassment Act (POHA)** in 2014. In presentations at Parliament, the authorities presented the legislation as being needed to protect individuals and public servants and public service workers from "indecent, threatening, abusive, insulting words or behavior." Yet within a year of passage, the POHA had become a new tool for restricting legitimate freedom of expression. In a dispute over a patent, the Attorney General's Chambers -- acting on behalf of the Ministry of Defense – sued Dr. Ting Choong Meng for continuing to allege patent theft by the Defense Ministry. After The Online Citizen ran a story on Dr. Ting in January 2015, they were warned and ultimately sued under the POHA as well, using article 15 of the act, which criminalizes making of "any statement of fact about any person...which is false in any particular about the subject [and] has been published by any means."

In addition, the government also uses the **Official Secrets Act** and the **Sedition Act** to limit the right to free expression. The latter is particularly concerned with race and class disharmony and incitement to "disaffection" with Singapore's government.

The government's control through media ownership facilitates its ability to restrict free expression. Two corporations, MediaCorp and Singapore Press Holdings Limited (SPH), dominate the media in Singapore. MediaCorp, wholly owned by a government investment company, is the largest radio and television broadcaster. 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.

Recommendation:

- 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, and lift onerous and overbroad requirements on online news portals and Internet Service Providers that police content and block restricted materials.

Defamation and contempt of court

The year 2014 marked the first time a sitting prime minister, Lee Hsien Loong, sued a fellow Singaporean in his private capacity. The suit focused on Roy Ngerng Yi Ling's criticism of the management and investment strategies of

the Central Provident Fund, and the leadership of Prime Minister Lee on the board. Soon thereafter, Tan Tock Seng Hospital fired Ngerng for "conduct incompatible with the values and standards expected of employees" in a move that was publicly applauded by the minister of health.

Lee sought a summary judgment against Ngerng and the court awarded him S\$29,000 in court costs. A trial to determine damages is set for early July 2015.

Singapore maintains the archaic offense of "scandalizing the judiciary," which can be imposed for any criticism of the judiciary or a specific judge. In October 2014, the authorities called on the court to hold in contempt Alex Au, a popular blogger and activist for LGBT rights and migrant worker empowerment, for scandalizing the judiciary in connection with two of his posts on his online blog. Both posts referenced the respective timing of two constitutional challenges to section 377A of the penal code, which criminalizes sex between male persons. Au contended that the scheduling of the appeals to Singapore's highest court had been manipulated to enable the chief justice to sit on the first case to reach the highest court, and that accordingly his confidence in the judiciary on LGBT rights was quite low. Au argued in court that his writings constituted fair criticism consistent with the right to freedom of speech and expression. The court acquitted him on one case, but found him guilty on the other, and in March 2015 levied a S\$8,000 fine (US\$6,000). Au has appealed the guilty verdict.

Recommendation:

- 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.

Peaceful Assembly

In Singapore, strict censorship regulations overlap with and reinforce curbs on the right to peaceful assembly. Authorities use two laws, the 2009 **Public Order Act (POA)** and the **Public Entertainment and Meeting Act (PEMA)**, to control and shut down any public rallies or demonstrations, public discussions, and unauthorized political meetings.

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. The POA also requires a permit for a "cause related" activity, even if only one person is involved in a show of support for or against a position, person, group, or government.

For four months beginning in June 2014, blogger Roy Ngerng spoke out about the Central Provident Fund in the designated "protest area" at Hong Lim Park. In September, a dispute between competing events led to charges against Ngerng and five of his colleagues for conducting a march rather than "a rally at a fixed spot" as set out in the permit. All were charged with the crime of being a public nuisance, opening them to being fined up to S\$1,000 (US\$750) apiece. Ngerng and fellow blogger Han Hui Hui were also charged under the Parks and Trees Act with holding a demonstration without a permit that could incur a S\$5,000 (US\$3,750) fine. The cases are scheduled to be heard in August 2015.

Recommendation:

- Amend the Public Order Act to establish a regulatory system for public demonstrations that accords with international rights standards and gives priority to protecting the rights to freedom of expression and peaceful assembly.

Freedom of Association

The Societies Act requires that organizations with at least 10 members register, but permits the government to deny applications on grounds that its “purposes [are] prejudicial to public peace, welfare or good order” or that registration would be “contrary to the national interest.”

In October 2013, the Ministry of Finance denied the application of the Community Action Network (CAN) to register under the Companies Act, stating that it would be “against national interest.” Specifically, the Finance Ministry found that prior activities to assist migrant workers by applicant Jolovan Wham, the proposed co-director of CAN, meant that CAN might serve as a “vehicle for unwarranted labor agitation, especially among foreign workers.” Yet Wham serves as executive director for the Humanitarian Organization for Migrant Economics (HOME), which is an internationally recognized organization that has received numerous awards and which works in collaboration with the Ministry of Manpower, UN agencies, foreign embassies, and others. In denying the application for CAN, the Finance Ministry also accused Wham of activism that “appears to be divisive and confrontational in nature” and claimed that his work could “negatively impact the bilateral relations between Singapore and those countries” and “impact on the supply of foreign labor or the inflow of foreign investment.”

Recommendation:

- Amend The government should review and revise the Societies Act to bring it into accordance with international human rights standards, and ensure that the registration process is non-discriminatory and permits the registration of organizations with views on social, economic and political issues that differ from the government.

Criminal Justice

Arbitrary Detention

The Singaporean government releases very little information about its criminal justice system, making it difficult to know how many persons are administratively detained under the Internal Security Act (ISA), Criminal Law (Temporary Provisions) Act (CLA), Misuse of Drugs Act and the Undesirable Publications Act, all of which permit warrantless arrest and do not provide for judicial review. The ISA permits holding alleged security risks for 30 days, after which executive branch officers may order two-year terms renewable indefinitely. The CLA follows the same procedure but shortens the time periods involved. While detainees have the right to counsel, no challenge to the substantive basis for their detention is permitted.

Recommendation:

- Repeal all legal provisions that permit the use of detention without trial in laws such as the Internal Security Act, the Criminal Law (Temporary Provisions) Act, and the Misuse of Drugs Act.

Death Penalty, corporal punishment

Singapore maintains the death penalty despite the growing international trend against the cruel practice. Two crimes remain subject to the mandatory death penalty: murder with intent to kill and executive involvement in a large-scale drug distribution network. However, when a court determines that a murder was committed without intent to kill or a small-scale drug courier is either determined to be a “drug mule” without understanding or can provide valuable incriminating evidence, life without parole accompanied by caning may be imposed instead of the death sentence.

Singapore permits the use of caning against boys and men ages 16 to 50, a practice that inflicts excruciating pain and produces lifetime after-effects. Caning is mandatory for crimes such as drug trafficking and immigration offenses, and is discretionary for some 30 other violent and non-violent offenses.

Recommendations:

- Immediately eliminate all mandatory death penalty sentences, and impose a moratorium on the application of the death penalty until capital punishment is abolished.
- End caning and all other forms of corporal punishment, and repeal all legislation that permits such punishments.

Labor Rights

During its previous UPR in 2011, Singapore had accepted recommendations to “continue to strengthen efforts to protect the rights of foreign workers” and to “extend the protection afforded by labour law to the entire range of domestic workers.” Although the constitution gives workers in the private sector the right to form or join trade unions, these rights are severely restricted in practice.

Foreign workers 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. The National Trades Union Congress maintains an inappropriately close relationship with the ruling People’s Action Party and the government.

Singapore has vigorously prosecuted employers and recruiters who physically abuse foreign domestic workers or fail to pay wages. But Singapore refuses to include domestic workers under the Employment Act, denying them basic labor protections, and preserves a sponsorship system that ties a domestic worker to a specific employer. Employers in turn retain the right to cancel migrant workers’ contracts, making them subject to immediate deportation. In practice, employers often use the threat of contract cancellation to intimidate workers into accepting 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.

Recommendation:

- Extend the Employment Act to provide full coverage to domestic workers.

LGBT Rights

Two constitutional challenges to section 377A of the penal code on “outrages on decency,” which criminalizes all sexual relations between two male persons, were rejected by the court.

In July 2014, the National Library Board removed three children’s books with alleged LGBT themes from library shelves. The book “Who’s in Our Family?” was pulped, but after pushback from civil society groups, the information minister Yaacob Ibrahim overruled the board’s decision to destroy “And Tango Makes Three” and “The White Swan Express: A Story About Adoption,” and the books were shifted to the library’s adult section.

The annual Pink Dot festival in support of LGBT rights celebrated its seventh year with the largest gathering ever, an estimated 28,000 people who met in Hong Lim Park in June 2015. However, Singapore authorities continue to refuse to allow Pink Dot to register as a formal organization or foundation in the country.

Recommendation:

- Repeal section 377A of the penal code.