



SINGAPORE

Think Centre's Submission to the Universal Periodic Review of Singapore

for the 38th Session of the Working Group on the Universal Periodic Review
May 2021

Submitted 15 October 2020

Think Centre is one of Singapore's oldest political NGOs since its founding in 1999. Think Centre critically examines and advocates for civil and political rights, economic, social and cultural rights to advance a more open and pluralistic democracy, rule of law, and human rights in Singapore. Think Centre is a member of the Asian Forum for Human Rights and Development (FORUM-ASIA) and the World Coalition Against the Death Penalty.

Word count excluding endnotes and cover page: 2,750

Introduction

1. Think Centre submits this stakeholder report as a continuation of our efforts to engage the Government of Singapore to move forward in promoting fundamental human rights and to open more democratic space in Singapore. We highlight the following key areas of concern with cross-cutting implication for human rights in the country:
 - Acceptance of International Norms
 - Fundamental Freedoms
 - Discrimination
 - Right to Social Security and Adequate Standard of Living

Acceptance of International Norms

2. In 2016, out of 37 recommendations to ratify all core human rights treaties and associated optional protocols to which it is not yet a party¹. Singapore accepted only seven recommendations to consider ratifying the covenant and noted the remaining 30 recommendations². The government reported that they have a process under an Inter-Ministerial Committee on Human Rights to actively review Singapore's ability to ratify additional human rights treaties.³ This is an insular process. Civil society and the general public are not kept informed or aware of how this Committee functions. Some occasional consultations with civil society may be convened by the Ministry of Foreign Affairs on an ad hoc or irregular basis.
3. Overall, Singapore's laws privilege the government's interpretation of upholding public order and security while delimiting the citizen's constitutional rights. Singapore does not have any form of national human rights institutions.

Fundamental Freedoms

Freedom of Speech, Assembly and Association

4. Singapore accepted 5 recommendations in 2016 in relation to freedom of expression with 2 related to online⁴. Freedom of speech, assembly and association is guaranteed under Singapore's Constitution Article 14 (1)⁵. It is however subjected to qualifying clauses under Article 14 (2) which confers the Parliament of Singapore the powers to further impose laws that restricts the right to freedom of speech and expression.
5. Freedom of assembly and association remains curtailed. The **Public Order Act**⁶ allow individuals or organisers of an event to apply for permit issued by the Police Commissioner to hold an assembly. The law defines an event like demonstration by an individual person as an assembly. However, cause-based assembly, without speech making, have not been approved for such single-person activity⁷. Applicants were advised to hold their activity at the Speakers' Corner instead. Activists have been charged or investigated for organising indoor events or conducting peaceful acts individually.
6. The **Protection from Online Falsehoods and Manipulation Act (POFMA)**⁸ is the latest legislation that restricts of speech freedom in Singapore. Passed by the Parliament on 8 May

2019, and came into force on 2 October 2019. The Act empowers any Minister to issue a correction order if, any views or opinions published online, are deemed to be “factually incorrect” and has the potential that threatens against public interest. Individuals, online websites, platforms or intermediaries may be subjected to criminal charges or fines for failing to comply with any Correction Order issued. Penalties can be severe. It includes up to 10 years imprisonment, for anyone found guilty of breaking the law. It also requires social media companies to remove content or display prominent corrections at the government’s direction on their platforms, or face fines of up to S\$1 million.

7. Rights groups criticised POFMA as a tool that is easily abused for censorship purpose and suppress freedom of expression. Singapore does not have sufficient independent mechanisms that checks against the use of such legislation. Although POFMA allows alleged offenders to challenge Correction Orders: first by appealing to the originating Minister, and failing which, a court challenge may be undertaken. Politically active individuals, parties and social activists have challenged the orders made against them. Their experiences showed that the costs and actual process of taking a court action was daunting and not likely to be affordable for ordinary people. No challenge has succeeded to date.
8. In one of the court challenges brought on by a political party, the judge observed that the right to free speech is indeed constrained by the Minister’s POFMA Correction Orders, and there is clear information asymmetry between the Minister on one hand, and the maker of a statement being challenged under POFMA on the other. There is no Freedom of Information Act or its equivalent to facilitate citizen’s right to know.
9. Other problematic laws include the **Administration of Justice (Protection) Act (2016)**⁹, activists and private citizens have been charged and convicted under this law for simply criticising the independence of the judiciary system when it involves political cases. Criminal defamation under sections 499 and 500 of the Penal Code continue to be used against political critics including independent social media which published the criticism.

Death Penalty

10. The Singapore government amended its mandatory death penalty framework in July 2012. Statutory presumptions were retained in the amended laws i.e. the burden to discharge the proof of innocence remains with persons accused of drug trafficking. The mandatory death penalty can only be avoided on two conditions: if the accused is merely a courier, and provided substantive assistance to receive a Certificate-of-Cooperation issued by the Attorney-General’s Chambers. Two factors reduce the likelihood of getting the certificate. First, when the status of merely a courier prevents the accused to provide enough information to receive the certificate. Second, when the accused have borderline intelligence levels and played only the role of a mere courier.
11. Singapore resumed executions in 2014 after a two-year moratorium (2012-13). As of September 30 2020, since Singapore’s 2016 review, a total of 29 judicial executions¹⁰ were conducted. Out of which, 23 executions (79%) were for drug trafficking crimes, 6 were for murder (21%). If including post-moratorium figures, total executions stand at 35; with 28 for drug trafficking (80%), and 7 for murder (20%).

12. This reflects the partial implementation of a previously accepted recommendation in 2011¹¹ to make available statistics and other factual information on the use of the death penalty. While statistics of executions are available, these remain very limiting information. Despite the government's claims that the death penalty has a deterrent effect on combating trafficking, sale, and consumption of illicit drugs, the government as a practice, do not publicise news of executions in advance until after the fact through mainstream media reports. Executions often take place with very limited time given to the prisoners or their families.
13. The Singaporean public remains poorly informed. State commissioned studies are rare. **Comprehensive data is lacking** on the death sentences, the current death row population, and executions, disaggregated by nationality, race/ethnicity, crime of conviction, and status of the case.
14. In mid-September 2020, a Singaporean on death row who was facing imminent execution shared information which his pro bono lawyer conveyed to the public via social media. This information indicates that out of a total of 55 persons under sentence of death, male Malay Singaporeans make up 55% of Singapore's death row population. Indians (ethnicity) account for 36% of the death row population, with the majority being from Malaysia. This information, if verified, indicates that ethnic minorities, mainly convicted of drug-related offenses, may be grossly overrepresented on death row.
15. There is currently no independent pardons board to receive appeals for clemency. Clemency derives from the Cabinet's prerogative which advises the President whether to approve one. No clemency petition has succeeded since 1998.

Corporal Punishment

16. Judicial caning continues to be used in Singapore for both criminal (including non-violent crimes) and administrative offences (overstaying). Caning is also not prohibited in schools and private homes.

Discrimination

Minority

17. In the last review, the SUR said that the **Presidential Council for Minority Rights**¹² scrutinized bills to ensure that they did not unfairly discriminate against any race or religion. However, there is little transparency and the public is not educated on how this council works.
18. The council plays an advisory role to the President which must assent to bills passed by the parliament. There is further risk of conflict of interest as members of the Executive are also members of this council. There are no public reports released by the Council. There is also no avenue for the public to lodge complaints or access this Council.
19. In recent years, minorities who expressed discontent publicly with the state of affairs affecting them were investigated by the police. Despite Singapore's ascension to the ICERD

in 2017, the current legal and policy framework remains insufficient to address issues holistically.

Migrant workers

20. Singapore in its 2016 review said that all types of foreign worker housing¹³ must adhere to rules on safety and well-being with a longer-term direction to improve workers' living conditions towards larger dormitories with full facilities. The Covid-19 pandemic however revealed the gap. Migrant workers residing in purpose-built dormitories operated by for-profit operators suffered the most during the pandemic. Nearly 300,000 migrant workers¹⁴ are housed in cramped dormitories which makes safe distancing practice difficult.
21. Rights groups have consistently pointed out for many years the poor housing conditions, among other issues, migrant workers suffer. A Foreign Employee Dormitories Act (FEDA)¹⁵ was enacted in 2015 but enforcement was poor. The Act has provisions mandating dormitory operators to develop quarantine plans in the event of an infectious disease outbreak, and to provide sufficient medical facilities. These were not sufficiently fulfilled to contain the Covid-19 pandemic.
22. As of September 30, 2020¹⁶, migrant workers in dormitories constituted 94 percent (54,449) of the total confirmed Covid-19 infections (57,765) in Singapore. Early control measures involved the massive shifting of many workers out of their dormitories to other government-designated accommodations. Despite these efforts, hundreds of cases were still confirmed among migrant workers on a daily basis.
23. Migrant workers also face more restrictions than the general public and they are expected to adhere to a stricter control regime tied with punitive consequences in case of compliance failure. As of this report's writing, freedom of movement for migrant workers residing in dormitories remains severely controlled compared to the general society.

Right to Social Security and Adequate Standard of Living

24. Singapore noted a recommendation on the minimum wage in 2016.¹⁷ The State continues to be reluctant to provide a systematic social safety net in the form of a minimum wage or unemployment benefits to support basic needs. The government subscribes to an ideology of 'meritocracy', which supports a "flexible labour market" policy approach, and asserts that work is the best form of welfare. This influences the extant social welfare support programmes which is subject to means-testing or premised on efforts to seek employment.
25. The Covid-19 pandemic revealed the lack of institutional social protection measures. The government rushed out ad hoc packages to help people who lost jobs or reduced income, and for those who are considered self-employed or engaged in the economy on an informal basis with little labour and social protection. Almost 600,000 people applied for the Covid-19 Temporary Relief Fund (TRF), which gives a one-time \$500 cash grant to lower- and middle-income Singapore residents who lost jobs or incomes¹⁸; more than 117,000 self-employed persons and freelancers applied for the Self-Employed Person Income Relief Scheme (SIRS) which disburse \$3000 on a quarterly basis over nine months¹⁹; 115,000 Singapore residents applied for the Covid-19 Support Grant which gives \$800 a month for

three months to those who lost jobs or incomes, out of which 41,000 were unsuccessful due to means-testing or inadequate paperwork²⁰.

26. The pandemic has hit hard homemakers with caregiving role as they have to cope with reduced family incomes and support their family members or charges during the partial lockdown in April and May 2020. There is no or relatively fewer social assistance specifically budgeted and targeted at them during this period. Public donations were instead solicited during the pandemic to help this group.
27. Singapore has not ratified ILO Convention 111 (Employment and Occupation). It ratified 100 (Equal Pay) in 2002, but implementation remains poorly applied between public and private sectors. There is no equal pay legislation in place²¹.

Recommendations

International Norms

1. The government should publicise the work of the Inter-Ministerial Committee on Human Rights through regular and timely public reports, engage civil society on regular basis;
2. The government needs to clarify or develop publicly accessible benchmarks to work toward ratifying the core human rights treaties and associated optional protocols to which it is not yet a party;
3. Establish a national human rights institution in accordance to the Paris Principles, and or relevant commissions in line with the Paris Principles;

Fundamental Freedoms

POFMA

4. Amend its provisions to limit the use of ministerial powers to be restricted as clarification orders;
5. Ensure that any challenge to POFMA order be affordable and more accessible for ordinary people including revising court fees to a nominal fee for such challenges;
6. Enact a Freedom of Information Act to allow citizens access information to verify for themselves accuracy of information that the government asserts publicly;
7. Commission a study on current best practises of FOI and release the results to the public in a timely manner;

Public Order Act and Administration of Justice Act

8. Revise the requirement of applying for a permit and amend it to notifying the authorities instead to allow individuals to conduct peaceful assemblies or activities;
9. Limit the requirement of applying for a permit to assemblies of prescribed crowd size in areas outside of the gazetted speakers' corner;
10. Review and amend or repeal defamation and contempt of court provisions in domestic laws;

Death Penalty

11. Impose an immediate moratorium on the use of the death penalty, to review laws and policies on the use of the death penalty, with a view toward its abolition; through steps including,
12. Repealing the presumption clause of trafficking in the Misuse of Drugs Act;

13. Empower the judiciary with more discretion and remove all mandatory sentencing of the death penalty for drugs and murder cases;
14. Review, develop, or amend sentencing guidelines to prohibit the imposition and execution of the death sentence on persons with intellectual or mental disabilities, particularly for those with borderline levels;
15. Publish comprehensive data on death sentences, the current death row population, and executions, disaggregated by nationality, race/ethnicity, crime of conviction, status of the case, and gender, to reveal whether the death penalty has a disproportionate effect on minority groups, particularly people from disadvantaged backgrounds;
16. Establish a Pardons Board supported with a study on best practices;

Corporal Punishment

17. Review and limit the use of judicial caning on cases involving non-violent crimes and administrative offences;
18. Abolish the use of caning in public education institutions;
19. Conduct public information and education to limit and reduce the use of caning in private homes;

Migrant Workers

20. Work towards a comprehensive portable social security for all migrant workers to ensure at least basic income protection in future shock events similar to the pandemic;
 - Review the Foreign Employee Dormitories Act and ensure its implementation is in line with or exceeds the ILO Recommendation on Workers' Housing Recommendation, 1961 (No. 115);
 - Draw lessons from the pandemic and implement measures through a review of current laws and policies to enhance migrant workers' autonomy, including domestic workers, in addressing their issues and concerns related to income and job security, conditions at work, and easy access to physical and mental health care;
 - This can be done through the implementation of the 9 recommendations from the Joint Statement of the ASEAN Labour Ministers Meeting on Response to the impact of Coronavirus Disease 2019 (Covid-19) on Labour and Employment;

Discrimination

21. Establish an independent Commission on Equal Opportunity and discrimination, based on Paris Principles, to review and progressively abolish all forms of practice, laws and policies that contribute to discrimination and inequality of races in all areas of life especially including the workplace;
22. Allow greater freedom in the society to promote public dialogues among diverse groups, including ethnic and religious groups;
23. In parallel or independently, to ratify ILO Convention 100 and 87, enact Anti-Discrimination laws including for the workplace, and implement equal pay legislation;
24. Improve the independence of the Presidential Council of Minority Rights and improve its relevance to the public through better access and public engagement;

Right to Social Security and Adequate Standard of Living

25. Social protection must be broadened to include workers with informal status and homemakers and caregivers without stable source of income;

26. This includes institutionalizing a universal basic income, and revising the current approach of targeted aid into a systematic social safety net in the form of a minimum living wage and unemployment benefits to support basic needs in times of social or individual crisis.

¹ Singapore is not a party to International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, International Convention for the Protection of All Persons from Enforced Disappearance.

² Human Rights Council, Report of the Working Group on the Universal Periodic Review: Singapore, Addendum, (June 13, 2016), U.N. Doc. A/HRC/32/17/Add.1, para. 41, recommendations 166.11, 166.17, 166.18, 166.20, 166.21, 166.24, 166.33, 166.80, 166.156, 166.157, 166.158, 166.159, 166.160, 166.161, 166.162, 166.163, 166.164, 166.165, 166.166, 166.167, 166.168, 166.169, 166.170, 166.171 and 166.172.

³ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Singapore, Addendum, (June 13, 2016), U.N. Doc. A/HRC/32/17/Add.1, para. 5.

⁴ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Singapore, Addendum, (June 13, 2016), U.N. Doc. A/HRC/32/17/Add.1, para. 47, recommendations 166.89, 166.91, 166.201, 166.202 and 166.203

⁵ See Constitution Part IV Fundamental Liberties, part 14 on Freedom of speech, assembly and association <https://sso.agc.gov.sg/Act/CONS1963?ProvIds=P1IV-#pr14->

⁶ Public Order Act (Chapter 257A), <https://sso.agc.gov.sg/Act/POA2009#pr7->

⁷ See <https://www.onlinecitizenasia.com/2020/04/01/police-should-stop-saying-that-permits-are-required-for-public-assemblies-when-they-have-no-intention-of-approving-them/>

⁸ Protection from Online Falsehoods and Manipulation Act (2019), <https://sso.agc.gov.sg/Act/POFMA2019>

⁹ Administration of Justice (Protection) Act (2016), <https://sso.agc.gov.sg/Act/AJPA2016>

¹⁰ Judicial Executions Data, Source: Ministry of Home Affairs - Singapore Prison Service, <https://data.gov.sg/dataset/judicial-executions>

¹¹ Report of the Working Group on the Universal Periodic Review Singapore (2011), U.N. Doc. A/HRC/18/11, para.95.15

¹² Human Rights Council, Report of the Working Group on the Universal Periodic Review: Singapore, (April 15, 2016), U.N. Doc. A/HRC/32/17, para. 118.

¹³ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Singapore, (April 15, 2016), U.N. Doc. A/HRC/32/17, para. 126.

¹⁴ Remarks by Manpower Minister Josephine Teo at MTF Press Conference, 14 April 2020, <https://www.moh.gov.sg/docs/librariesprovider5/2019-ncov/delivered-remarks-by-manpower-minister-josephine-teo-at-mtf-press-conf-14-apr-2020.pdf>

¹⁵ Foreign Employee Dormitories Act 2015, <https://sso.agc.gov.sg/Act/FEDA2015>

¹⁶ Ministry of Health, Singapore, COVID-19 Situation Report (30 September 2020), <https://Covidsitrep.moh.gov.sg/>

¹⁷ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Singapore, Addendum, (June 13, 2016), U.N. Doc. A/HRC/32/17/Add.1, para. 8

¹⁸ See “Parliament: Almost 600,000 apply for cash grant from coronavirus Temporary Relief Fund, 4,000 have returned \$500 payout”, Straits Times, 4 May 2020, <https://www.straitstimes.com/singapore/parliament-almost-600k-apply-for-cash-grant-from-Covid-19-temporary-relief-fund-4000-have>

¹⁹ “Temporary relief for freelancers as they get first S\$3,000 payout from Government”, Today, 29 May 2020, <https://www.todayonline.com/singapore/temporary-relief-freelancers-they-get-first-s3000-payout-government>

²⁰ “Parliament: About one in three applications for Covid-19 Support Grant rejected, says Masagos”, Straits Times, 4 Sept 2020, <https://www.straitstimes.com/politics/parliament-about-one-in-three-applications-for-Covid-19-support-grant-rejected-says-masagos>

²¹ “Fighting inequality in the time of covid-19 - The Commitment to Reducing Inequality Index 2020”, Oxfam and Development Finance International, October 2020, P.41, <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621061/rr-fighting-inequality-covid-19-cri-index-081020-en.pdf>