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From Clampdown to Limited Empowerment: Soft Law in the Calibration and Regulation of Religious Conduct in Singapore

EUGENE K. B. TAN

The focus of Singapore's response to terrorism post 9/11 has been to reach out to the "moderate, mainstream" Muslims as a bulwark against societal implosion. This article examines the broad-based endeavor toward "religious moderation." While coercive draconian legislation remain the mainstay against extremists and radicals, the mobilization of soft law, aspirational norms, and values are consciously woven into the state's endeavors to enhance society's resilience and cohesion. They also seek to regulate religious conduct at a time when the state wishes to entrench secularism as a cornerstone of the governance of a multi-racial, multireligious society. Rights and regulation are not antithetical to each other; they are integral to the entire process of managing sociopolitical risks that presents a real danger of an incivility spiral in which distrust, fear, and suspicion conspire toward societal breakdown.

I. INTRODUCTION

As a viable, if not threatening, ideological counterweight to political and secular ideologies, religion has been both a unifying and a divisive force throughout the course of human history. In today's interconnected world, the transnational dimension has brought with it heightened concerns that religion could undermine a government's ability to protect a state's security and sovereignty. Hence, religion is still regarded with ambivalence, if not suspicion, by many governments even in liberal democracies where politics

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and theology still commingle to varying degrees. The separation of state and church (religion) is not preordained or a normal state of affairs. As Lilla (2007) notes, "Religion has its roots in needs that are rational and moral, even noble . . . Religion is simply too entwined with our moral experience ever to be disentangled from it, and morality is inseparable from politics." Given the tendency to regard secular and religious loyalties as competing, many governments acutely feel the imperative and the need to maintain vigilance.

Post 9/11, religion and national security are now even more intimately linked (Bergin et al. 2007). Religion and state security are taken seriously in Singapore although there has been no overt religious conflict since its hurried independence in August 1965 (Hill 2003, 2004).¹ In some respects, 9/11 and its aftermath have driven home the message that "religious-inspired" threats to national security are best dealt with not by indiscriminately clamping down on religion. Even as national security comes under threat, the better approach is to ensure that the citizens' religious identities remain secure. Such a paradoxical approach also entails that civil society play a bigger role in ensuring that the state and religion are both secure. In short, looking at religion merely as a security threat is manifestly inadequate in keeping both state and society safe.

Although secularism is a cardinal principle of Singapore's political governance, the Singapore government is acutely aware that religion and politics are not distinct spheres of influence and experience. It recognizes that religions tend to encompass comprehensive world views on all dimensions of human existence. Even as the state strives to keep religion and politics distinct and separate, it is also pragmatically alive to the fact that maintaining a watertight separation between these two realms is neither realistic nor sustainable (Thio 2008). The local jurisprudence establishes secularism as a legal norm encompassing two key principles: (1) the right to religious freedom is not absolute and unqualified and has to be balanced against the interests of the community and (2) the government has a central role in ensuring that there is no exuberant expression of the right to religious freedom. The chief justice observes that "Multiculturalism is a constitutionally entrenched obligation. It is part of the fabric of Singapore as a nation from the day it was born. We have to make it a success for our collective survival as a sovereign state" (Chan 2007). Aware of the power of religion to mobilize, motivate, and enforce behavior, values, and norms among the faithful, the Singapore political leadership has even mobilized religion to facilitate aspects of nation-building (Tan 2008).

More recently, the government has become more conscious and responsive to civil society's role in strengthening interfaith engagement and understanding, and the thickening of social fabric. In countering the terrorist threat, the approach has evolved rapidly from a "whole-of-government" to a "whole-of-society" approach, a significant recognition of terrorism as being "by far the most serious [security problem] that we have faced since the communist problem" (*Today* 2006). This is a tacit acknowledgment

that the security of the state, government, and society are all interlinked. The terrorism threat requires not just a security response but a holistic one, one that seeks to align the hearts and minds of the faith communities to the societal objective of harmony and peace.

Institutional efforts to deal with the terrorism threat are in essence a collective action challenge: How do societies prevent the terrorist ideology from establishing and gaining traction within a community? What can multicultural societies do to cope with the aftermath of a terrorist attack? How can societies fortify themselves to come out resiliently against the forces that seek to divide and destroy? In this article, I examine the approach taken by the Singapore government in embedding key values and norms, through law and policy, to mold and regulate behavior in the quest to nurture social cohesion and resilience post 9/11. The philosophy underpinning the legal and policy thrusts is encapsulated in the belief that religious freedom intimately requires a calibrated intersection of rights and regulation. Given the nature of the terrorism threat, this intersection of rights, responsibilities, and regulation invariably expands the role of the state even as it seeks to attend to the interests and concerns of the key stakeholders (viz citizens, the Muslim community, and policymakers) with nuanced sensitivity. Civil society can be meaningfully inducted to enhance a society's capacity to deal with the harm and to infuse legitimacy and confidence in the measures taken.

The article is organized as follows. Part II describes the Singaporean context vis-à-vis the terrorism threat. It then discusses the role of hard and soft laws in the overall institutional effort to deal with the terrorism threat. Part III discusses the legislative arsenal that the government can deploy in dealing with racial and religious threats to public order and harmony. It also discusses the limitations of hard law in the counterterrorism efforts. Part IV attempts a critical examination of two key soft law instruments, the Declaration on Religious Harmony and the Singapore Muslim Identity project, in fortifying the Singapore polity against the insidious effects of religious extremism. Part V concludes.

II. FIGHTING TERROR: HARD AND SOFT LAWS

A. THE SINGAPORE CASE

In the last few years, religious extremism and violence is presented as the severest security threat to Singapore since communism. In declaring itself "an iconic target," Singapore is gearing itself for the inevitability of a terrorist attack on its soil (*Straits Times* 2004). In the aftermath of a terrorist attack, especially by home-grown perpetrators, the policymakers' primary concern is the potential backlash against the minority Muslim community and the unraveling of Singapore's social fabric. Constitutionally recognized

as the indigenous people of Singapore, 99.6 percent of Malays are Muslims. The racial (Malay) and religious (Muslim) identities are often conflated and coterminous in official discourse, resulting in a top-down enforced reduction of individual and subgroup differences within the Malay-Muslim community, and the convenient tendency to treat it as a monolithic entity. In turn, this double-bond of race and faith inevitably nurtures stronger Malay-Muslim community self-consciousness.

While it is misleading to equate the increased religiosity of the Muslim-Singaporean community as sympathy with or support for the violent strand of Islamism, the government has always been concerned that primordial loyalties of faith and ethnicity would take precedence over civic and secular loyalties to the Singapore nation-state. In particular, the government's concern with the perceived, growing exclusivity of the Malay-Muslim community was amplified with the discovery of home-grown Islamist terrorist suspects post-9/11 (Ministry of Home Affairs 2003). This latent fear of Muslims as a Trojan horse has been heightened post-9/11, in tandem with Islamist terrorism being regularly assessed as a real, multifaceted, and strategic threat in Singapore's locale of Southeast Asia (e.g., Chalk and Ungerer 2008; Jones 2008). This is further accentuated by the Beltway's concerns over terrorism in archipelagic Southeast Asia as the "second front" in the "global war against terror" (*cf.* Gershman 2002).

Since the end of 2001, Islam has come under very close scrutiny globally. In Singapore, there were several rounds of arrests and detention of *Jemaah Islamiyah* (JI) and "self-radicalized" terrorist suspects in Singapore. These arrests of "home-grown" terrorist suspects had unsettled the Singapore polity, with anecdotal evidence suggesting that ethnic relations were strained, if not shrouded in suspicion in the initial crackdown between 2001 and 2004. The Malay-Muslims were themselves confronted by self-doubt and ambivalence. The backdrop of the government's apprehensions over the loyalty of Muslim-Singaporeans to Singapore is a long-standing issue that gnaws at the relationship between the community and the government. This legacy of a lack of mutual trust accounts for the hypersensitivity that surrounded the arrests. At the same time, the *tudung* (headscarf) controversy of 2002 unfolded and added to the strained political atmosphere. The issue at stake was whether Muslim prepubescent female students should be permitted to wear the *tudung* in national primary schools. The students were suspended from school as their parents insisted on their daughters wearing the *tudung* in school.² In 2002, 122 Muslim organizations came together, as "a matter of conscience and national concern" and publicly condemned terrorism as being at odds with Islam.³

The government had expressed its fears of the Muslim community's perceived exclusion and self-segregation from Singaporean society on religious grounds. Unfortunately, this was accompanied by unrelenting and uninformed public scrutiny over the tenability of Islamic practices and increased religiosity in Singapore. There were concerns and questions over

the overt symbols and signs of Muslim identity and beliefs, which hitherto did not arouse concern. This led the minister in charge of Muslim affairs to remark that, “Observing religious practices became a shorthand for hovering at the edge of terrorism” (Yaacob 2003). Before the launch of the Community Engagement Program in February 2006, the public discourse of the terrorist threat was inflected with a moral panic which linked increased Islamic religiosity and perceived Malay-Muslim separateness with increased susceptibility toward terrorism. These developments demonstrated that sole reliance on coercive legislation to deal with the terrorism threat was woefully inadequate.

B. RIGHTS AND REGULATION: ROLE OF HARD AND SOFT LAWS

In the area of governance and regulation, particularly in the realm of public international law, the use of hard law and, increasingly, soft law are the two main modes by which legalization has taken place. Hard law is generally understood as “legally binding obligations that are precise (or can be made precise through adjudication or the issuance of detailed regulations) and that delegate authority for interpreting and implementing the law” (Abbott and Snidal 2001: 37). Domestic legislation and international treaties are the tangible expressions of hard law. For example, antiterrorism legislations stipulate—in varying degrees of clarity and precision—the proscribed acts of commission and omission (obligations and compliance), the imposition of legally binding duties and obligations (accountability), and the punishment for transgression (sanctions). The coercive powers of hard law are useful in clamping down real and present dangers. However, they also impose severe costs and unintended consequences.⁴ Given the nature of the terrorist threat as both existential and ideational, the structural power of hard law is often not only reactionary, but also grossly inadequate as a means of preemptive, adaptive socialization and social learning prior to, during, and after a terrorism strike.

On the other hand, soft law is less definitive and does not create enforceable rights and duties. It includes a variety of processes that attempt to set rules, guidelines, or codes of conduct that share the common trait of having non-legally binding normative content that may have regulative, practical effects similar to hard law. As soft law cannot be enforced by legal means, it cannot be relied upon as a basis for deterrence, enforcement action, and punitive sanctions. However, soft law is flexible and has discursive power through its facilitative effort to set normative standards and enable social learning. This is particularly useful in situations of flux where persuasion and reflexive adjustment, rather than rigid adherence or enforcement, are needed. Soft law also has the benefit of being facilitative of efforts to internalize the norms embedded in hard law (see also Trubeck et al. 2006). For instance, the ideational standards or expectations first enunciated in soft law mechanisms can subsequently form the basis on which the practical application of the hard law can acquire effectiveness, efficacy, and legitimacy.

Soft law can also be understood as law in the embryonic stage of formation (precursor of emerging hard law) or as principles and norms that might eventually consolidate and contribute to the legal interpretation of hard law or become legally binding rules themselves. In this regard, soft law can help knowledge, norms, and values to be framed strategically and dovetail with existing normative frameworks. As such, soft law's strategic potential is its "soft power." Rather than resorting to threats (in essence, the use of hard law) or payments (bribes), soft power is the ability of a political entity to obtain what it wants by virtue of being an attractive model (Nye 2004). Specifically, soft law mechanisms in dealing with the terrorism threat can be adapted for the purposes of winning the "hearts and minds" of people by persuading the relevant stakeholders that violence and conflict are not the solutions. In Singapore's context, this means the government can use soft law to attract, socialize, and co-opt the citizenry, especially the minority Malay-Muslim community, on the imperative of ensuring that religion is not abused to sow discord, conflict, and violence. These attributes of soft law may facilitate the socialization, the formation of consensual knowledge, and a shared understanding of the terrorist threat and the desired conduct to counter it.

Furthermore, soft law can also possess the regulative and constraining effect of hard law. The utility of soft law instruments is its transformative capacity in socializing stakeholders through a consensual and confidence-building process. More directly, soft law speaks to reason, understanding, strives to develop consensus, and encourage the internalization of desired values and interests. Lawrence Kohlberg's (1976) three levels of moral development help demonstrate how soft law's iterative, quasi-prescriptive nature can engage cognitive and informed responses in developing a nuanced regulative response to a societal threat (see Figure 1).

Hard law approaches tend to elicit reasoning and responses that are primarily egocentric, denominated in self-centered terms of avoiding punishment, compliance with an authority, and group norms (levels one or two of Kohlberg's moral development). Soft law approaches encourage the movement toward a level-three moral development in which a person is able to adopt a perspective that factors the interests of affected parties based on impartial and reasonable principles. When successfully imbibed, soft law approaches result in society being able to attain the postconventional stage of moral reasoning in which critical and reflective reasoning are dominant. It is likely that the authorities now believe that exercising moral suasion over the expected and desired conduct of Singaporeans before, during, and after a terrorist attack is a better means of ensuring that society does not implode.

Although we should not view hard and soft law in binary or antithetical terms in dealing with the terrorism threat, it is crucial nonetheless to distinguish between (1) laws that seek to prevent terrorist acts from taking place and (2) laws that seek to prevent a multiracial society from imploding after a terrorist attack. The objectives of law and policy differ for both courses of action even though both are interdependent and highlight the ideal of

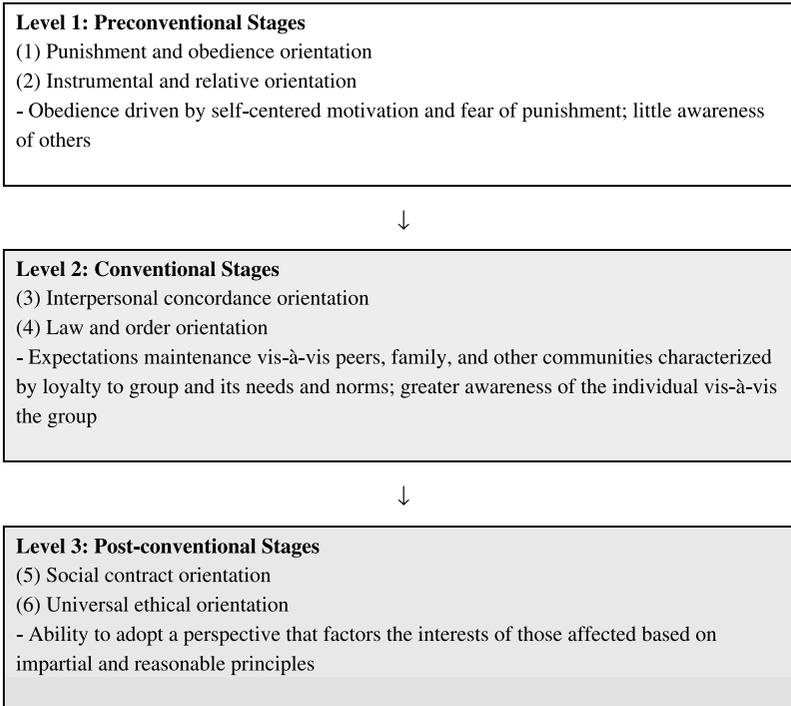


Figure 1. Kohlberg’s Stages of Moral Development.

society as a cooperative effort.⁵ For laws that seek to prevent terrorist acts from taking place, a hard law approach focusing on deterrence and sanctions would cohere with the preventative and command-and-control objectives targeted at a recalcitrant few. For laws that seek to prevent a multiracial society from imploding after a terrorist attack, it becomes imperative to emphasize a cooperative values-based culture and norms to engender ethical conduct of the masses, grounded in self-regulation, civic responsibility, and social resilience.

In Singapore, hard and soft laws are often used to complement each other to enlarge the state’s capacity to regulate as well as socialize the citizenry. The use of centralized administrative mechanisms besides the law is another feature of regulation in an authoritarian city-state. In the Singapore case study presented in this article, the putative cooperative element of the soft law approach is prominent as a societal hedge against generalized mistrust and moral panic. This discussion is not an attempt to define the perimeters of hard and soft law. Rather, it seeks in broad brush strokes, to highlight the intrinsic commonalities and differences of both approaches to prevailing issues of regulation and governance today (see further Goldstein et al. 2001).

III. FIGHTING TERROR AND DISHARMONY

A. RIGHTS, PRAGMATISM, AND PREEMPTIVE LEGISLATION

Terrorism is an asymmetric threat requiring a multifaceted response that is cognizant of the societal complexities inherent in multicultural polities. The tendency to manage the terrorist threat through a harsh regulatory regime often promotes executive power and relegates rights to a secondary role. Too often, this results in a drastic reshaping of the law in which civil liberties are given short shrift, undermining the very basis of legitimacy that these laws need. Yet such regulation can be more effective if rights are recognized and respected because they clothe the legal and political processes at work with authority, legality, and legitimacy. Of course, a rights-only framework is manifestly inadequate against terrorists who do not operate under such rules and have a wanton disregard for the rights, safety, and liberty of others. While rights underpin the foundation of modern democracies, a key challenge posed by terrorism is to balance rights with responsibilities, as well as fear and insecurity against liberty and security, within a regulatory framework.

On the other hand, the rights and responsibilities of the various stakeholders, if properly honored and executed, can contribute to efficient and effective governance. Such responsibilities contribute to the overall accountability and collective effort to maintain and enhance society's well-being. Thus, rights and regulation are not antithetical to each other. They are integral to the entire process of managing sociopolitical risks that presents a real danger of an incivility spiral where distrust, fear, and suspicion conspire toward societal breakdown.

Although Singapore is ostensibly a secular state, religion is co-opted instrumentally by the state (e.g., Thio 2006; Tan 2008). For much of its independence, even as the one-party dominant state sought to reap the utility of religion, it has also largely regarded religion with wariness. Mindful that a muscular, knuckle-duster response in faith matters can do more harm than good, the government has endeavored to have at its disposal as wide a range of regulatory and enforcement options as possible. With these powers, the government can respond sensitively to threats originating in the religious realm by utilizing the most appropriate legislation vis-à-vis the threat posed. This, of course, is fraught with significant challenges given that the realms of the secular and the sacred cannot always be demarcated with precision.

Singapore's overall approach to terrorism and religious extremism is premised on racial and religious harmony as the "fundamental basis for our social stability, cohesion and security" (Jayakumar 2007). The legislative and political intent is to manage, and regulate if necessary, the extent to which religion can exert its influence in the political realm. While law has a prominent role in counterterrorism efforts, Singapore's actions are driven by pragmatic considerations of what works rather than a rigid ideological commitment to the rule of law.

The rule of law hinges upon laws that work. But its continued relevance depends upon more than the law. The government must be able to enforce it; and must work with the citizenry to assiduously nurture the culture and values that support it. The courts must be able to uphold it. The citizenry must respect it. Ultimately it is undergirded by a society's perspective of its desired values, propagated by a preponderance of those values, and relevant only when its framework results in wellbeing for all. (Jayakumar 2007)

Given the overriding concern with security and the fear of religion as a potent source of conflict, there are several key legislations that provide a variety of options as part of the enforcement arsenal in dealing with individuals and groups in the religious realm that pose a public order threat. There is strong judicial support for the government's preemptive approach in national security matters:

[The] submission that it must be shown that there was a clear and immediate danger was misplaced for one simple reason. It cannot be said that beliefs, especially those propagated in the name of "religion", should not be put to a stop until such a scenario exists. If not, it would in all probability be too late as the damage sought to be prevented would have transpired. . . . [A]ny administration which perceives the possibility of trouble over religious beliefs and yet prefers to wait until trouble is just about to break out before taking action must be not only pathetically naïve but also grossly incompetent.⁶

Believing fervently that problems ought to be nipped in the bud, a preemptive approach is seen in the Societies Act (Cap. 311). Notwithstanding the constitutional protection of the freedom of association, a society that represents, promotes, or discusses religious matters is a "specified society" and has to be registered under the Societies Act. An unregistered society is deemed to be an unlawful society. This registration requirement provides a powerful mechanism by which the state can proscribe religious groups that are deemed to be "prejudicial to public peace, welfare or good order in Singapore" at any time.⁷ As the then chief justice noted, "the basis for the de-registration clearly flowed from the danger of allowing absolute freedom of religion which might create a complete denial of a government's authority and ability to govern individuals or groups asserting a religious affiliation."⁸

At the other end of the spectrum, when draconian measures are needed, the Internal Security Department can invoke the Internal Security Act (ISA) (Cap. 143; *Straits Times* 2007; Mendelsohn 2007).⁹ The ISA allows for preventive detention, renewable for unlimited two-year periods, of any person acting in a manner prejudicial to the Singapore's security and the maintenance of public order or essential services. Under the ISA, the courts can only review such detentions on procedural grounds only. Over the last four decades, the ISA has been applied to persons deemed to be communists or involved in espionage, to agitators of racial and religious discord. Since 9/11, the ISA has been primarily used to arrest and detain suspected terrorists, most of whom are members of the *Jemaah Islamiyah* (JI), an apparent al-Qaeda offshoot (Ministry of Home Affairs 2003).¹⁰

If less draconian measures are needed, the government can use the criminal justice system (Chan 2000). Chapter 15 of the Penal Code (Cap. 224), the main criminal code, deals with offenses such as injuring or defiling a place of worship, disturbing a religious assembly, uttering words or sounds to deliberately wound religious or racial feelings. The Penal Code was recently amended to provide for enhanced penalties for religiously aggravated offenses. It also created a new offense of promoting enmity between different groups on grounds of religion or race and doing acts prejudicial to maintenance of harmony. These amendments were in response to the changed environment since 9/11, where the threat of conflict and violence arising from religion and/or race is treated with even more seriousness.

Under the Sedition Act (Cap. 290), another relic from the communist insurgency era, “seditious tendency” is widely interpreted. It includes, *inter alia*, raising discontent or disaffection among the citizens and residents of Singapore and promoting feelings of ill-will and hostility between different races or classes in Singapore. In 2005, three bloggers were charged and convicted under the Sedition Act for posting Web-log comments that were vehemently anti-Muslim.¹¹ Although the use of the Sedition Act in these blogging cases strike some as unduly harsh, the deliberateness in the prosecutorial approach was likely to be motivated by the imperative to send a strong signal to the large blogging community in Singapore to steadfastly observe the basic ground rules when using the Internet. It also underlined the government’s determination not to allow the Malay-Muslim community to be made a scapegoat for the global security concerns.

Finally, the Maintenance of Religious Harmony Act (MRHA) (Cap. 167A), enacted in 1990, seeks to maintain religious moderation and tolerance and to keep religion and politics separate by legislating against conduct deemed harmful to the virtue of religious tolerance and harmony, and the remedial action in restraining the prohibited conduct. In addition, the MRHA establishes the Presidential Council for Religious Harmony, an advisory body of lay and religious leaders. The legislation was prompted primarily by concerns in the 1980s of overzealous evangelical Christian proselytization among Muslims and the mixing of religion with politics by some groups. The MRHA empowers the issuance of restraining orders (ROs) to rein in religious leaders who may use the pulpit and their authority to incite religious discord. The MRHA is a preemptive legislation, which is less draconian than the ISA or Sedition Act, and that seeks to circumspectly deal with concerns of public order, away from the glare of open court proceedings that can inflame religious passion further (*Straits Times* 2001). So far, no ROs have been issued since the enactment of the MRHA.¹²

B. LIMITATIONS OF HARD LAW

Hard laws, in particular the ISA, can profoundly affect the delicate equilibrium between regulation, rights, and responsibilities. By downplaying the

full consideration of rights in a clamp-down mode, draconian legislation can immobilize the social actors and forces that help play a critical role in generating and sustaining the lived social bonds to countervail the cleavages that pull society apart. Historians Bayly and Harper (2007: 551) note how the ISA's predecessor with its powers of detention without trial, not only obliterated communism but "a panoply of other alternatives" in the civil society arena. Despite the government's preparedness to use the various enforcement options afforded to it, the long-standing terrorism threat has given grounds for serious reconsideration of the effectiveness of such hard law measures. Legislation alone cannot deal with all aspects of religious radicalism, bigotry, and nihilism. This is particularly so when the battle is not about law enforcement but one that is fundamentally concerned with winning the hearts and minds of believers.

In the immediate aftermath of the initial rounds of JI arrests, the government had adopted a privatized approach to what is essentially a mutual existential threat. The collective security approach, which hitherto had laid the substratum for stable ethnic relations in Singapore, was sidelined. Instead, the Malay-Muslim community was expected to shoulder the brunt of the concern and responsibility. It was, to all intents and purposes, held solely responsible for the radicalization of a small minority of Muslims and for any terrorist act and its subsequent fallout. Although the government intended to rally the Muslim community into action, this privatized approach can have the unintended effect of isolating the mainstream Muslim community, thereby threatening mutual security and undermining ethnic relations.

However, the government soon realized that such a privatized, finger-pointing approach would neither help to isolate the terrorists nor ensure that the terrorist ideology did not acquire wider support. Given the nature of the terrorist threat and its dependence on a sympathetic constituency to draw support and recruits to the cause, the nondiscriminating, clamping down strategy more often than not marginalizes, if not alienates, the very bedrock of the Muslim community that is depended upon to form the bulwark against creeping radicalization. Furthermore, given that people rather than governments defeat terrorism, policymakers have to fortify and prepare society by having all communities work together in ensuring that society does not unravel in the aftermath of a terrorist strike through mutual suspicion and distrust. Hence, the privatized approach gave way to a community-wide or a "whole-of-society" approach.

Isolating the terrorists, both politically and on religious grounds, is the dominant approach now. Consequently, the overwhelming hard law emphasis has conceded space for a soft law approach, recognizing that the terrorism threat needs a collective and holistic response from governments and societies alike. The previous, narrow framing of terrorism as being a "Malay-Muslim problem" was abandoned. Terrorism is now being framed

as a “national problem,” requiring a solution in which all Singaporeans, regardless of their racial and religious allegiance, have a role to play (Lee 2006). The prime minister issued this timely corrective when he launched the Community Engagement Program (CEP), the centerpiece of Singapore’s social cohesion and counterterrorism endeavors:

[W]e must know that this is not a Malay-Muslim problem. This is a national problem and non-Muslims also have to play your part, for example, by preserving the space for minorities in the majority-Chinese society by upholding the ideals of meritocracy and equal opportunity and treatment, regardless of race, language and religion and by clearly distinguishing the small number of extremists who are a threat to us from the majority of moderate, rational, loyal Muslim Singaporeans with whom we work together to tackle a shared problem. And this way, we can build confidence and trust between the different communities and the best time to do that is now when we don’t have a crisis. This is because building trust takes time. (Lee 2006)

The CEP aims to mobilize Muslim and non-Muslim communities to work together in tackling the terrorist threat.¹³ In this regard, the tolerance mode, manifested in the oft-mentioned “live and let live” dictum, is inadequate. While draconian legislation may be apt in the event of a crisis, it does not assist in the building of interethnic ties during peaceful conditions. Nor does it help society to get back on its feet in the aftermath of a terrorist attack. Enforcing draconian legislation is reactionary with little didactic and normative value. To be sure, the Singapore government believes in the utility and necessity of coercive legislation. It also continues to insist that the Muslim community practices its faith in the context of a multiracial society with moderation as the defining attribute. But the government is also convinced that legislation alone is insufficient to keep the deleterious effects of radicalism and social consequences of a terrorist attack at bay. Singapore’s foreign minister put it aptly: “There is a limit to what laws can do. We can legislate against extremism but we can’t legislate harmony” (Yeo 2006). It is indeed highly questionable if governments can indeed outlaw extremism.

The trouble with the primacy of a hard law approach is that it abrogates to the state and policymakers the power to control and define the “problem.” It obfuscates the reality and the urgency of building ties between a devout Muslim minority and a non-Muslim majority within a political structure that sanctions secular political governance. Hard law also denies the sociopolitical and religious dimensions present in terrorism. Ironically, hard law can secure the state, but its overemphatic use ultimately impoverishes the very security of the state and society. With soft law, a collaborative mechanism of norms, institutions, and structures can buttress the framework to sustain religious harmony. The rest of the article discusses the Declaration on Religious Harmony, and the Singapore Muslim Identity project, as putative indicators of the soft law approach in which the need and value of bottom-up confidence building are emphasized.

IV. SOFT LAW AGAINST TERRORISM

A. NORMING RELIGIOUS HARMONY

Soft law approaches can accommodate the utility of public debate, bottom-up confidence-building, and intrinsic goodwill in countering the terrorist ideology. The first step taken was in the Declaration on Religious Harmony (DRH), a nonlegislative, nonenforceable document (Thio 2004). Unveiled in June 2003 and available in four official languages, this was a government-led initiative to educate and engage civil society on the acceptable norms in the practice of one's faith. It also outlines the perimeters of religious conduct that is deemed moderate and nonthreatening. By having the religious elites craft and endorse the DRH as a code of conduct for religious harmony, the government hopes that the boundaries of acceptable religious conduct would gain wider acceptance and buy-in. Rather than a diktat from an overbearing, security-conscious state, the DRH is an attempt to exert moral suasion on the religious leaders and their followers alike to practice their faith fully sensitive to the multi-religious realities and secular imperatives within the Singapore polity.

The DRH represents a fledgling attempt at concretizing the guiding principles from which consensus-building and norm-building can evolve (see Figure 2). On closer scrutiny, the DRH's prescription of some "dos" also lays out the ground rules that have sustained multireligiosity as a virtue rather than a vice. In the preamble, it reiterates religious harmony as a *sine qua non* for peace, progress, and prosperity. It underscores the need for "mutual tolerance, confidence, respect and understanding." The prescriptive part of the DRH emphasizes the long-standing secular state, the need to promote cohesion, the respect for freedom of religion (a fundamental liberty), and the importance of interreligious communication. The most substantive prescription is the call to grow the "common space," a term that only entered into Singapore's ethnic relations lexicon in 1999. The fear of home-grown terrorism unraveling Singapore society galvanized the government's commitment to enhance interactions between the different communities by enlarging the overlapping common area (common space) as a preemptive and absorptive measure.

The drafting process of the DRH is also insightful. Originally the "Code of Religious Harmony," the government provided the first draft of the DRH. Led by a junior minister and a committee of parliamentarians of various faiths, the various national bodies of all major religious groups in Singapore were consulted on the draft. The discussion was initially conducted with the religious bodies individually. Inputs from the public were received through letters, e-mails, and the media. Subsequently, a revised draft was prepared, and representatives of all the religious bodies reviewed the draft as a group. The draft was then submitted to the Inter-Racial Confidence Circle National Steering Committee, before final submission to the government in February 2003. Mindful of the sensitivities, the DRH working committee consulted all major religious groups in Singapore.¹⁴

CODE ON RELIGIOUS HARMONY (14 October 2002)	DECLARATION ON RELIGIOUS HARMONY (9 June 2003)
“We, the citizens of Singapore,	“WE, the people in Singapore, declare that religious harmony is vital for peace, progress and prosperity in our multi-racial and multi-religious Nation. We resolve to strengthen religious harmony through mutual tolerance, confidence, respect and understanding. We shall always
acknowledging that we are a secular society;	Recognize the secular nature of our State,
enjoying the freedom to practice our own religion; and recognizing that religious harmony is a cornerstone of our peace, progress and prosperity; hereby resolve to practice our religion in a manner that:	<i>[similar sentiment captured in DRH preamble]</i>
promotes the cohesion and integration of our society;	Promote cohesion within our society,
	Respect each other’s freedom of religion,
expands the common space of Singaporeans;	Grow our common space while respecting our diversity,
encourages mutual tolerance, understanding, respect, confidence and trust;	<i>[similar sentiment captured in preamble]</i>
fosters stronger bonds across religious communities; and	Foster inter-religious communications,
prevents religion from ever being a source of conflict.”	And thereby ensure that religion will not be abused to create conflict and disharmony in Singapore.”

Figure 2. Comparison of the Draft and Final Version of the DRH.

Prior to the DRH, the principles of responsible religious conduct were not made explicit. In the late 1980s, the government had decided against a similar guidelines approach as it felt that it would be ineffective against a minority who would disregard a list of “do’s” and “don’ts.” Instead, it preferred a hard law approach and proceeded to enact the MRHA. In contrast, the DRH lays out the principles in general terms without being unduly prescriptive. Indeed, one could argue that the DRH could do with more “do’s” and “don’ts.” However, bearing in mind the purpose of the soft law approach, the avoidance of formalistic rules in preference for overarching principles and guidelines is a more enlightened approach and more reassuring. In comparing the draft and final versions of the DRH, one can discern the different views and the nuanced contestation between the

government and the religious elites on the appropriate religious conduct. This implicit contestation should not, however, be overstated. Given that interracial and interreligious relations have been on an even keel since independence, there was a healthy measure of mutual trust and confidence between the government and the religious elites.

Three points are worth mentioning in the context of the divergent views on the draft. The first is the religious elites' reluctance to describe Singapore as a "secular society." The preference was to describe "the secular nature" of the Singapore state.¹⁵ This distinction is important in that it brokers and acknowledges a role for religion in Singapore society even as secularism is a core governance philosophy assiduously subscribed to by the government. Secondly, the final version removed "integration" from the draft. Integration is subjected to varying interpretations, including assimilation into the majority culture. The minority faiths were also articulating their concern with having to integrate into the majority faith (Buddhism and Taoism) or the faiths commonly embraced by the ethnic Chinese majority (especially Buddhism, Christianity, and Taoism). Finally, the draft spoke of practicing religion in a manner that "expands the common space of Singaporeans." This was amended to "grow our common space while respecting our diversity." The use of "expansion" was perceived to entail a concomitant reduction in the private spaces for the religious groups. The final version addressed this concern by replacing "expands" with "grow" in which the latter verb does not connote a zero-sum situation vis-à-vis the growth of the common space.

The drafting process had the salutary effect of assuring the various faith communities of their role and presence in Singapore society. To its credit, the government accommodated the amendments and ensured that the DRH was not a pseudo-executive fiat. Following the adoption of the DRH, the Interreligious Harmony Circle, consisting of representatives of all major faiths involved in the DRH consultation process, was formally established to build on the interfaith dialoguing established in the earlier consultations and discussions. The retention of this grouping of religious elites as a consultation forum to guide efforts to promote the spirit of the DRH underlines the belief that the DRH needs to be a living document in which the norms and values are practiced in form and substance. The government has also urged religious bodies and schools to recite the DRH annually on Racial Harmony Day (21 July).

B. FORGING A DISTINCTIVE MUSLIM-SINGAPOREAN IDENTITY

The slew of initiatives post-9/11 to protect the Singaporean homeland against terrorism demonstrates Singapore's resolve to confront the threat (NSCS 2004, 2006). The urgent and renewed push toward the forging of national resilience in the new security environment entails that the government engage civil society as a partner. In the battle of ideas and for the

hearts and minds of believers, it is civil society that can facilitate the overlapping consensus on the nature and content of the religious conduct in a secular, multiracial society. In particular, the centrality of civil society reiterates the fact that the state cannot unilaterally impose its view on a faith community's desired practices. Instead, it highlights the patent need for and commitment to dialogue, cooperation, and trust. The various efforts in engaging civil society, particularly the Muslim community, stem from the overarching themes of promoting moderation and a distinctive Muslim-Singaporean identity as a bulwark against religious-inspired terrorism. This concerted effort toward engaging the Muslim community, albeit through the Islamic Religious Council (MUIS) as the dominant interlocutor, privileges the promotion of an autochthonous practice of Islam.¹⁶ Emphasis is placed on religious moderation, a sensitive recognition of Singapore's multiracialism, and the need for the Muslim private space not to encroach onto or reduce the common space. The promotion of "Islamic moderation" and interreligious understanding is buttressed by the central concerns of social cohesion and religious tolerance.

Following the JI arrests, the initial characterization of the terrorist threat facing Muslim-Singaporeans was one of "radical versus moderate" Islam, and the imperative of the "moderate path."¹⁷ Moderation is understood to mean that Muslims ought not interpret and practice Islam narrowly and rigidly. It also requires Muslims to speak up against coreligionists who advocate intolerance and extremism to ensure that these views do not gain legitimacy and currency by default as a consequence of the silence of the moderate majority. Mindful that the fate of terrorist ideology lies with the Muslim community, the Singapore government, through MUIS, advocates the need for a "moderate, mainstream Muslim" community. The government's clarion call is for Muslim-Singaporeans to inoculate themselves and their community against radical ideologies while undermining the theological legitimacy of the terrorists' beliefs and actions.¹⁸ Although the public discourse retains the self-limiting and unenlightening trope of "moderate versus radical Islam," a parallel focus is on a broad-based, community approach in advancing interreligious tolerance, understanding, and confidence.

This unrelenting emphasis on moderation is intimately connected with the urgency to mold the Muslim-Singaporean identity as one that is not only congruent with the Islamic values but also in sync with progressive attributes of Singaporean society. In MUIS's 16 February 2007 sermon, moderation was explained in the following manner¹⁹:

We must understand and internalize these two principles [*Ath-Thawabit*, or those that are fixed and unchangeable forever, and *Al-Mutaghayyirat*, or those that can be changed and suited for different times and place]. Only by understanding it can we avoid from being extremists who interpret Islam from a very narrow viewpoint. And by understanding them, we can also avoid from (sic) slipping into the path of liberal interpretation of Islam. This is the moderation that Islam wants. Make this moderation our way of life. Make this moderation

as an identity for our community. Because only on this moderation will our community be an example to others, a community of just and be (sic) a witness to others. (MUIS—Islamic Religious Council of Singapore 2007)

To this end, the MUIS actively promotes the “Singapore Muslim Identity” (SMI). MUIS embarked on the SMI project in early 2005 to impress upon Muslim-Singaporeans of the need for an autochthonous Muslim-Singaporean identity and way of life. Such a “religiously profound” and “socially progressive” identity is contextualized to the prevailing sociopolitical and economic environment. This is now embodied in the “Ten Desired Attributes” of Singapore’s “Muslim Community of Excellence” (see Figure 3). These attributes ostensibly seek to help Muslim-Singaporeans understand and excel in their dual roles and identities as Muslims and citizens.

The SMI draws a distinction between a Muslim’s religious duties and sociopolitical obligations, and proposes that the ideal Muslim posture as one that does not require trade-offs or sacrifice of the core religious identity. The key SMI themes are: Adaptability (attribute #1, #3, #7), religiosity (#1, #2, #6), modernity (#2, #3, #7), knowledgeable and open-mindedness (#4, #5), compatibility of religious and national identities (#6, #8, #9), and exemplary and active citizenry (#7, #10). The SMI is as much an affirmation of the Muslim-Singaporean loyalty to Singapore even as the community seeks to assert its own sense of its values and ideals. The Muslim affairs minister elaborates that the SMI “does not mean that the state must accept everything that we believe nor it is expected that everything that happens in Singapore is accepted by us. . . . Where there is an apparent conflict of values and ideals, we seek to promote understanding and respect each other’s position. We share our values but do not impose our values on others” (Yaacob 2005). Mindful that the forging of unique Singaporean Muslim identity is not an academic exercise but an ongoing process that needs to gain traction with the Muslim ground, MUIS initiated a series of dialogues and discussions to explain and gather feedback. The consultation process included the production of a key document, *Risalah Membangun Masyarakat*, to articulate the ten desired attributes of the Singapore Muslim community of excellence. In addition, MUIS’s weekly Friday sermons (*khutbah*) also regularly discuss the SMI as part of the dissemination and education process.

Through the SMI, MUIS promotes the practice of Islam in Singapore as one that is cognizant of the religious pluralism within the context of a secular state. By concretizing the virtues and aspirational norms of a Muslim-Singaporean, the SMI is an endeavor to craft a desired Islamic-Singaporean identity that will not be overwhelmed by the appeals of competing and disparate Muslim ideas and identities imported from overseas, notwithstanding Islam’s Arabic roots and continuing influence. The nuanced message is that Muslims are not being forced into a false choice between being Muslims and Singaporeans. This conscious amplification of a unique Singaporean-Muslim identity urges the recognition that there is no fundamental compatibility of Singaporean and Muslim identities.

1. Holds strongly to Islamic principles while adapting itself to changing context
2. Morally and spiritually strong to be on top of the challenges of modern society
3. Progressive, practices Islam beyond forms/rituals and rides the modernization wave
4. Appreciates Islamic civilization and history, and has good understanding of contemporary issues
5. Appreciates other civilizations and is self-confident to interact and learn from other communities
6. Believes that good Muslims are also good citizens
7. Well-adjusted as contributing members of a multireligious society and secular state
8. Be a blessing to all and promotes universal principles and values
9. Inclusive and practices pluralism, without contradicting Islam
10. Be a model and inspiration to all

Figure 3. Ten Desired Attributes of Singapore's Muslim Community of Excellence (with Respect to Socio-Religious Life).

Even then, the promotion of the SMI has to be balanced against the government's effort to grow the common space, an initiative that predates 9/11. At that time, the government noted that growing Muslim religiosity could pose problems if it resulted in its segregation and exclusion from the larger society. The SMI seeks to preempt the inevitable contestation and doubts within the Muslim community over national identity and religious identity by asserting that both identities are complementary and not mutually exclusive. Such exhortatory efforts are to be welcomed although the messaging needs to be extended to the non-Muslim community. For the true demonstration that Muslim-Singaporeans can be confident of their place in Singaporean society is to ensure that discrimination on grounds of race or religion, however subtle, is not tolerated. So long as the vestiges of suspicion of the Malay-Muslim community persist, the pathways toward inclusion, cohesion, and resilience will be problematic and contested.

C. SCRUTINIZING THE DRH AND SMI: EMPOWERMENT, MARGINALIZATION, AND NORM-SETTING

There is now official recognition that maintaining social cohesion and resilience requires a two-way process at various levels: between state and civil

society, between political and religious elites, between religious elites and their followers, between elites and followers of the various faiths. The DRH and the SMI demonstrate the authorities' recognition for Muslims and non-Muslims to be collectively responsible and committed toward enhancing social cohesion. More specifically, the DRH and SMI seek to bolster intercommunal resilience and reduce the likelihood of unconsidered sectarian responses when society is in crisis mode. The SMI also serves to reinforce intracommunal resilience and consensus on their hyphenated citizenship. Acting in tandem, the DRH and SMI induct the actors within and without the religious sphere into a sociopolitical context and normative framework in which they are shaped by the dominant discourse of moderation, cooperation, and harmony.

1. *Devolving Regulation, Risk Management, and the Harmony Imperative*

The soft law approach pivots on the centrality of developing commitment to common values and ideals that all communities can identify with and use to guide their daily activities and interactions. The intent of the DRH and SMI is to crystallize the principles for the practice of religious harmony as sociopolitical norms and so strengthen the secular and multireligious character of Singapore. Taken together, they are helpful correctives to the hegemonic role of the government in confidence-building. Notwithstanding that the government continues to assert itself as an indispensable intermediary in facilitating better interracial and interreligious understanding, the top-down nature of the soft law approaches should not detract from the value that these codes provide as a useful starting point for the various faith communities to self-regulate and engage each other meaningfully. These soft law instruments devolve, in a limited way, risk management to the population at large (viz DRH) and the Muslim community (viz SMI). The government hopes that the message of tolerance, understanding, and respect would "permeate the grassroots so that it becomes part and parcel of the values of Singaporeans" (Wong 2007). Although the government does not provide direct funding for the activities by various groups under the auspices of the DRH and SMI, various government and quasi-government agencies do have regular budgetary allocations for activities that promote interracial and religious understanding. MUIS, *OnePeople.sg*, and the Community Development Councils are especially active in promoting such interaction. As such, the objectives of the DRH and SMI are further supported.

By inducting one key segment of civil society (viz the religious elites) in the drafting exercise, the process facilitated the vital generation of legitimacy, consensus and buy-in on the ground rules. Given the subtle competition among religions for believers, this cooperative effort is significant in that neither the religious elites nor the government was perceived to have suffered a loss of authority or legitimacy in participating in the drafting. Yet there were largely muted reservations to these initiatives. There were concerns that the government, through the DRH and the SMI, was prescribing how

Singaporeans should practice their faith, an intrusion into what is essentially a private (and sacred) sphere. Some saw the government securitizing religion, especially Islam, and imputing to religion negative undertones and stereotypes. Some Muslims felt that MUIS leaned too heavily on the government's side rather than being the Muslim community's representative.

In drafting both documents, a broad-based consultation was consciously undertaken with the policy intent of having both soft law instruments facilitate civic reasoning and consciousness. There was also the larger process of encouraging Singaporeans to take ownership in communal and societal risk management. The policy of informing and involvement is necessary given Singapore's emphasis on social cohesion and resilience as a bulwark against the terrorism threat. An-Na'im (2008: 7) describes civic reason as a process of reasoning in which the rationale and purpose of public policy or legislation are open, accessible, and which most citizens can accept or reject. Nevertheless, while it was sincere and ostensibly extensive, the consultation process can be faulted for being severely limited to elites or select groups. Mainstream religious groups represented on the Interreligious Organization were included while marginal groups were excluded. A salient theme was that the public consultation should not be characterized by contestation and that consensus should characterize the process and outcome. This raises the authenticity consideration: whether the consultation was superficial in scope and reach and whether it genuinely facilitated a robust exchange of ideas.

To be sure, questions can be raised about the reach of the consultation and whether the tendency of politically cautious Muslim-Singaporeans to avoid being critical affected the tenor of feedback gathered. The societal context is relevant here. The political climate has made the expression of dissent or even contrarian views somewhat frowned upon. On the other hand, there is also the overall satisfaction with the way the government manages religion (Chan 2003). The likelihood of the harmony discourse privileging the state in a relatively politically stifled society cannot be denied. Conversely, attitudes and beliefs within segregated communities (such as those who sympathize with the terrorist cause) being reinforced is high. Where there is little opportunity for overt dissent and protest, the possibility of such marginal communities drifting away from the wider community cannot be understated. Although there was an effort to seek consultation, the reality of little vigorous public debate surrounding the DRH and, especially the SMI, can undermine the prospects of inculcating an active commitment of individuals and communities to shared societal values, as well as the embracing of rights *and* responsibilities in a multireligious society. As the Muslim-Singaporean community is not homogenous, to seek complete agreement on values and priorities is an illusion. Thus, the SMI can be perceived as an interventionist attempt in implementing uniformity within the Muslim community according to the MUIS's and the government's objectives (see also Charlene Tan 2008). However, policymakers and bureaucrats alike have to be sensitive and calibrate policy responses that do

not undermine the delicate internal Islamic balances within the community by well-intended but inappropriate policy responses.

2. *Generating Norms and Catalyzing Social Learning*

While the DRH and SMI can be criticized as hegemonic, statist narratives and a formulistic compromise between security and religious freedom, they do have a potential transformative capacity that should not be too easily dismissed. This potential arises from their promoting the internalization of the values that are deemed critical to social cohesion and resilience. Because the DRH and SMI are concerned with interstices of everyday religious identity and practice, they can however be perceived as a manifestation of creeping authoritarianism wherein the abiding fear of vulnerability and societal implosion are scaled up instrumentally to justify uniformity and conformity as a hedge against disharmony. Indeed, the Singapore approach does not belie the active presence of the government in maintaining religious harmony. But it is also unique in seeking to harness both bottom-up initiative and resources, and top-down technocratic promotion of desired values, norms, and shared experiences.

Given the contested nature of managing the terrorist threat, the acid test is whether conflicting perspectives and responses can be treated as legitimate and useful, and that need not compromise rights, freedom, and liberty. The policy challenge is to engage the relevant stakeholders and the public without curbing the informal networks and local resilience that can be usefully mobilized in the event of a crisis. With the multiplicity of identities, practices, meanings, and devotion, total agreement of matters of religious dogma and doctrine even within one faith would be hard to obtain. On the other hand, the DRH and SMI can provide open channels of interaction and norms of engagement among the various faith groups in which differences can be discussed, commonalities appreciated, and tolerance of diversity promoted.

Even as Singapore adopts a calibrated admixture of hard and soft law, the key challenge is to ensure that the laws generate norms and behavior that become self-enforcing and provide the sociopolitical substratum for improving ethnic relations. Self-enforcing norms and behavior refer to the state of affairs in which the laws, when prudently applied, acquire legitimacy and increasingly become inviolable. As nonbinding legal instruments, the DRH and SMI allow a penumbra of flexible interpretation and room for negotiation. In a sense, the boundaries of this inherent flexibility are imposed by the norms and values embedded in both documents. This drive to entrench a shared commitment to religious harmony provides the foundation for the common rules of engagement. These soft law mechanisms help concretize the norms in the religious landscape. Accordingly, the discursive power of soft law facilitates the socialization of Singaporeans in imbibing the desired values and norms, and helps generate trust that can be more sustainable than a plethora of legislation.

It would be politically challenging, if not politically questionable, for the government to formally entrench the content of the DRH and SMI as hard

law even if they ostensibly regulate conduct and promote the strategic and normative goal of stable ethnic relations. Keeping them as soft law is a calibrated measure to combine reflexive self-regulation on the part of religious communities and light-touch regulation on the part of government. Such an approach would facilitate the transmission of enhanced knowledge and responsive awareness of the out-of-bounds markers. They also promote constitutive processes such as persuasion, learning, cooperation, and socialization, while also providing some assurance that the state is not attempting to strait-jacket religion, or worse, to regulate religious doctrine. The DRH and SMI are hedges against mistrust between and within communities, and between the faith communities and the government.

3. Soft Law's Credibility and Legitimacy: Of Trust and Surveillance

Law provides not only the procedure and structure for social order and cooperation but also the substratum for the emergence of trust (Knight 2001). In turn, this provides the foundation for successful norm diffusion, socialization, and learning. Uslaner's (2002) notion of "generalized trust"—wherein there is trust of people who are different and whom we do not know—incorporating a sense of shared fate is a useful trope to appreciate the value of shared norms and values. As Uslaner (2002) notes, generalized trust is about bridge-building to people who are different from us and provides a basis for tolerance and cooperation. In a generalized trust environment, the preference is for common ground over confrontation. What is not so well appreciated is that deliberation, the process of seeking common ground, also functions as a coping mechanism in dealing with uncertainty by advocating dialogue, compromise, and consensus.

Nevertheless, it is also pertinent to consider whether soft law instruments can also be tapped upon as quasi-surveillance mechanisms, by alerting the authorities when the behavior of an individual or a group does not conform to the norm or prescribed code of conduct, signaling a potential danger. Given that suicide terrorists are unlikely to be deterred by coercive hard law or by "persuasive" soft law viz DRH and SMI, the operational utility of soft law for law enforcement agencies lies in the likelihood that those who have imbibed the values and norms will be more likely than not to whistle-blow on or restrain such people who engage in activities that can undermine societal harmony.²⁰ Thus, the Malay-Muslim community is expected to take the lead in community policing to counter the ideological traction of extremism and the glorified use of violence, especially the "online DIY extremism" variant that is more insidious, which is difficult to survey and detect by the authorities.

While the soft law approach can be perceived by some as creeping securitization of religious identities and practices, especially Islam, that concern has to be balanced against the reality that the DRH and SMI are not specifically designed as covert or overt covers of surveillance and law enforcement. There

are no reporting requirements. Instead, they are didactic and hortatory in aspiration, and operate as a creed of shared meaning that arguably needs to be organically imbibed in response to the challenges of maintaining social cohesion. The legislative framework discussed earlier provides the government and its agencies with adequate means of surveillance and law enforcement. One should not mistake the penchant for top-down high coordination in Singapore as surveillance. The government appreciates the importance of DRH and SMI having resonance with and buy-in from the masses. Further, the government is also acutely concerned with its and the MUIS's standing and credibility with the Muslim community. Coupled with a relatively high level of trust in the government, the obsessive concern with these soft law mechanisms acquiring legitimacy, efficacy, and efficiency helps restrain the likelihood of their instrumental use by the government.

Further, by privileging moderation and cooperation as well as benchmarking and compliance, the DRH and SMI can co-opt civil society to be the trip wire against radicals and terrorists. As de facto standard-setting and norm-engendering mechanisms, soft law instruments can help the ordinary citizens internalize the virtues of moderation and coexistence while also maintaining a watchful eye on potential deviants. Thus, it becomes more important that the government continues to ensure that the DRH and SMI acquire deeper resonance among Singaporeans and to avoid cynicism creeping in that they aid the security agencies' surveillance of the religious sphere. It would be extremely foolish of the government to use soft law approaches as subterfuges for surveillance. The need to maintain the credibility and legitimacy of both documents necessitate that the doors be kept open to future consultations, debate, and negotiated understanding as and when circumstances change. This also helps maintain the ideological consent for harmony and consensus. In many respects, while the DRH and SMI have a potential securitizing effect, they also represent putative empowerment in which the various stakeholders can play an active part in forging resilience. The mass media continues to be utilized heavily to publicize and inform the DRH and SMI.²¹

Both hard and soft law approaches seek to weaken terrorism's appeal and currency. Hard law represents the coercive dimension while soft law's signaling function point to the relevance and appeal of sociopolitical values. The DRH and SMI speak of a normative, desired state of society undergirded by a principled motivation of establishing what is considered right, appropriate, and fitting (*recht* or *droit*) in a socially persuasive and politically legitimate way. In this way, social control and social order can be maintained and enhanced. There is now better appreciation of the soft law approach to engage Singaporeans on the merits of building interethnic bonds and understanding to counter mutual suspicion and doubt. The soft law approach is complementary and helps to make up for the inherent limitations of hard law. Hard law is prescriptive and puts in place minimum standards for compliance. The force of hard law lies in its deterrent power

for those motivated by a self-absorbed avoidance of punishment. However, radicals and terrorists are not deterred by such methods.

On the other hand, being preemptive in approach, soft law instruments such as codes of conduct and best practices, if properly internalized, encourage and facilitate compliance. While the aspiration is to go beyond compliance, soft law is seen as being more effective and efficient in peace-time conditions since it urges principle-based conduct. This norm is more likely to have greater traction and be sustainable through its calibrated response. This ensures that the policy response does not marginalize or radicalize target communities while also engendering the cooperative mindset that contributes to societal cohesion and resilience. True, soft law does not specifically deter terrorists from their objectives, but it does constrain the terrorists' ability to harm society indirectly. In many respects, the successful use of soft law is a conscious attempt to increase the "harmony quotient" of Singaporeans. The overall deterrent effect of soft law derives from its facilitating the development of the citizenry's affective, emotional, and cognitive abilities to deal with the myriad of complex issues and emotions that ethnic markers inflected by terrorism can arouse.²²

In an ever-advancing security state, the initial focus on the terrorism threat and its immutable links with the Muslim community blinded policy-makers and citizenry alike to the complexities of terrorism. It contributed to a ratcheting up of the ambient doubt and an atmosphere of fear. In such a climate, it is perhaps not surprising that any new policy or initiative was perceived as a covert instrument of surveillance or tacit support for the statist imperative of resilience, harmony, and security. The danger of taking terrorism, even home-grown varieties, from their contexts is that it induces tunnel vision, lazy analysis, and convenient policy responses that ignore the centrality of a collective and nuanced response to the threat. The existential threat to Singapore is not terrorism per se but the mindless knee-jerk reactions to it. Ultimately, confidence-building is needed to ensure that Singapore builds its stock of adequate social capital and resilience to withstand threats to its social fabric posed by terrorist acts.

V. CONCLUSION

In an age where religious extremism is a real national security concern, public policy and legislation in a multireligious society have to strive to reflect the value and belief systems of citizens, including religious ones. This embracing of religious values has to be inclusive, and no particular set of religious beliefs is discriminated or preferred. For the state to remain neutral and secular in a multireligious polity, the state must paradoxically regulate the religious realm as a mediator and adjudicator in the sociopolitical arena. As the end goal of terrorists is to inflict terror and division on a community, a society's resilience and cohesion is vital. Military warfare and coercive legislation

and enforcement are grossly inadequate in winning the hearts and minds of a community. Indeed, a muscular and militaristic approach to counter terrorism may well play into the terrorists' binary strategy of "us versus them."

As complements (but not substitutes) of hard law, the DRH and SMI do not consciously set out to prescribe rigid conformity through acceptable practices. Both soft law instruments reinforce the policy imperative that the growth of the common space need not be at the expense of one's religious identity and society's religious diversity. Crucial to the success of these efforts in winning the hearts and minds of Singaporeans is whether the practices and attitudes they encourage will inculcate a strong sense of the overarching common values and interests, which in time may evolve into accepted norms. These values and norms can be a sustainable pathway toward uniting Singaporeans around a common purpose as it seeks to protect itself against the threat of social implosion by ensuring that the terrorist threat is not distorted by a moral panic and societal fear. It is an endeavor toward ensuring that terrorism does not produce an asymmetrical reaction within the Singaporean heartland. It recognizes the need for the government to work with and through the communities. Ground-up initiatives are therefore central. The ultimate objective of Singapore's counterterrorism efforts is to create a safe, cohesive, and resilient society through imbuing Singaporeans with a sense of belonging, understanding, and appreciation of conditionals of other races, religions, and languages.

The DRH and SMI are efforts toward the engagement and metanarrative of the common values and agreed norms, a helpful corrective to the previous overindulgent focus on what divides Singaporeans. It is still too premature to pass a verdict on the effectiveness of the soft law approaches. If the soft law approach fails, resort can be made to hard law. Nevertheless, policy-makers would do well to note that the soft law approaches can have a protective function like hard law and aid in the objective of reducing a society's vulnerabilities. This can also result in less need to instill continual fear of terrorism, which inevitably strains the social fabric as well. Going forward, the mix of hard and soft law approaches in managing the terrorism threat provides a good combination of regulation, enforcement, and a basis for the inculcation of self-enforcing values and norms.

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NOTES

1. Singapore's resident 4.8 million population comprises Buddhists (42.5 percent), Muslims (14.9 percent), no religion (14.8 percent), Christians (14.6 percent), Taoists (8.5 percent), and Hindus (4.0 percent).

2. While the approach was ostensibly “hard law” emphasizing adherence to school regulations, the government also attempted to contextualize the policy rationale. The Education Ministry explained that school uniforms reduced exclusiveness and promoted integration by sidelining differentiation on the basis of race, religion, or class.
3. See “Singapore Muslim Organizations Decry Terrorism in Name of Islam: Oct. 9 Statement Urges Singaporeans to Unite Against Terrorism.” Available at <http://www.america.gov/st/washfile-english/2002/October/20021011151324larocque@pd.state.gov0.9141504.html>.
4. See Donohue (2008) for the costs of counterterrorism laws in the United Kingdom and the United States.
5. I am grateful to Lord Leonard Hoffman for urging me to clarify this distinction.
6. *Chan Hiang Leng Colin v Public Prosecutor* (1994 at 683).
7. Societies Act (Cap. 311). The Jehovah Witnesses and the Holy Spirit Association for the Unification of World Christianity (Unification Church) are religious organizations that have been deregistered.
8. *Chan Hiang Leng Colin v Public Prosecutor* (1994 at 688).
9. The current security concerns with terrorism have provided the ISA with a new lease of life. The ISA’s predecessor was originally enacted to deal with the communist insurgency in Malaya (1948–60) after the Second World War.
10. On concerns with the ISA, see Singapore Ministry of Law’s response of 9 April 2008 to the International Bar Association Human Rights Institute’s draft report, “Singapore: Rule of Law Issues of Concern.” Available at http://notesapp.internet.gov.sg/_48256DF20015A167.nsf/LookupContentDocsByKey/GOVI-7GDEGF?OpenDocument (accessed 12 August 2008).
11. *Public Prosecutor v Benjamin Koh Song Huat* (2005); *Public Prosecutor v Lim Yew Nicholas* (2005); and *Public Prosecutor v Gan Huai Shi* (2005).
12. Author’s e-mail correspondence with the Ministry of Home Affairs, 22 November 2005. The government came close to issuing ROs on several occasions. Two Christian and two Muslim religious leaders were summoned and warned by the authorities to stop “mixing religion with politics and putting down other faiths.”
13. See the CEP’s “Singapore United” portal, at <http://www.singaporeunited.sg>. For a description of the initiatives undertaken to protect Singapore against terrorism, see NSCS (2004, 2006). On the challenges of engaging Muslims in the United Kingdom and Australia, see Spalek and Imtoul (2007).
14. The representatives come from the following faiths: Baha’i, Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Sikhism, Taoism, and Zoroastrianism.
15. Secularism is understood here as the ideology of separating religion and state, and of the state being neutral vis-à-vis the various religious faiths and between religion and nonreligion.
16. The Islamic Religious Council (MUIS) is a statutory board tasked with regulating Muslim religious affairs and to advise the government in matters relating to Islam. See Article 153 of the Singapore Constitution read with the Administration of Muslim Law Act (Cap. 3).
17. But see the longitudinal national *Survey on Social Attitudes of Singaporeans*, which has indicated that Muslim-Singaporeans are “moderate” in their religious views and practice of their faith.
18. In discussing multiculturalism as a necessity and a constitutionally entrenched obligation, the chief justice also supports the moderation discourse: “The recommended solution is not to outcast it [fundamentalist Islam], but to moderate it” (Chan 2007).
19. This MUIS sermon was titled “Forging the Singapore Muslim Identity.”
20. Or as a reviewer put it starkly, “In other words, soft law approaches help the state persuade religious people who aren’t radical and terrorists to keep an eye

on those who are.” I thank the reviewer for so doggedly engaging me on this point. I also thank Tham Chee Ho for our discussion, which has helped me clarify my thinking.

21. But see George (2008) on the importance of alternative discourses to the dominant one of order.
22. A government media campaign in 2007 sought to reinforce the notion that Singapore’s security and unity is a “shared mission for all.” The tender notice (on file with author) stated that the advertising campaign should aim to “influence public perceptions at the broad ideological and psychological level, providing an emotive context to an understanding of Singapore’s security environment.”

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