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Eugene K. B. TAN

Singapore Management University, [eugene@smu.edu.sg](mailto:eugene@smu.edu.sg)

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### Citation

TAN, Eugene K. B.. Country report: Singapore. (2015). *Keeping the faith: A study of freedom of thought, conscience, and religion in ASEAN*. 416-480. Research Collection School Of Law.

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HUMAN RIGHTS  
RESOURCE CENTRE



## Keeping the Faith:

A Study of Freedom of Thought,  
Conscience, and Religion in ASEAN



NORWEGIAN EMBASSY

# **Keeping the Faith:**

**A Study of Freedom of Thought,  
Conscience, and Religion in  
ASEAN**

## **Keeping the Faith:**

### **A Study of Freedom of Thought, Conscience, and Religion in ASEAN**

**Published by Human Rights Resource Centre**

University of Indonesia, Depok Campus

Guest House Complex/Ex Rumah Dinas Rektor UI (next to VOKASI Building)

West Java 16424

Phone/fax: 6221-7866 720

E : [info@hrrca.org](mailto:info@hrrca.org)

W : [www.hrrca.org](http://www.hrrca.org)

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## Research Team

### Editors:

**David COHEN** (HRRRC Advisor, WSD Handa Center For Human Rights and International Justice, Stanford University)

**Kevin TAN** (HRRRC Governing Board member, National University of Singapore)

### Co-editors:

**Michelle Staggs KELSALL** (HRRRC, Deputy Director)

**Faith Suzzette Delos Reyes KONG** (HRRRC, Head of Research)

### Research Advisors:

**Tore LINDHOLM** (Norwegian Center for Human Rights)

**Brett SCHARFFS** (International Center for Law and Religion Studies, Brigham Young University)

**Cole DURHAM** (International Center for Law and Religion Studies, Brigham Young University)

**Sidney JONES** (Institute for Policy Analysis on Conflict)

### Team Leader:

**Dr. Jaclyn NEO** (National University of Singapore)

### Country Rapporteurs:

**Cambodia: KONG Phallack**  
(Pannasastra University of Cambodia)

**Indonesia: Zainal Abidin BAGIR**  
(Gadjah Mada University)

**Malaysia: LONG Seh Lih**  
(Malaysian Centre for Constitutionalism and Human Rights)

**Philippines: Raul C. PANGALANGAN**  
(University of the Philippines)

**Singapore: Eugene K B TAN**  
(Singapore Management University)

**Thailand: Khemthong TONSAKULRUNGRUANG**  
(Chulalongkorn University)

### Research Assistants:

**Sean YAP**  
(Team Leader, National University of Singapore)

**LENG Chorlida**  
(Pannasastra University of Cambodia)

**Budi ASYHARI**  
(Gadjah Mada University, Indonesia)

**Sayamon SRISOMPETCH**  
(Chulalongkorn University)

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**Marzuki DARUSMAN**, UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea

**Harkristuti HARKRISNOWO**, University of Indonesia

**Aviva NABABAN**, Asian International Justice Initiative

#### Team:

**Marzuki DARUSMAN**, Executive Director  
**Michelle Staggs KELSALL**, Deputy Director  
**Faith Suzzette Delos Reyes KONG**, Head of Research

**Rully SANDRA**, Programme Coordinator  
**Ati SURYADI**, Office Manager

**Ismail**, Finance officer  
**Bambang IRAWAN**, Office Assistant

## Gratitude and Acknowledgment

### HRRC appreciates:

Ahmad Suaedy, Aston Paiva, Aviva Nababan, Braema Mathi, Chongchith Chantharanonh, Denison Jayasooria, Eko Riyadi, Elizabeth Pangalangan, Emerlynne Gil, Febionesta, Heng Monychenda, Jimmy Usfunan, Johan Sabarudin, Leo Sudaryono, Melissa Crouch, Mohammad Hafiz, Nizam Bashir, Panatda Luanglath, Phan Nhat Thanh, Phil Robertson, Pradit Takerngrangsarit, Professor Thio Li-ann, Renata Arianingtyas, Roberta Clarke, Sidney Jones

ICJ

Human Rights Watch

Amnesty International

Civil Rights Defenders

Article 19

The International Gay and Lesbian Human Rights Commission

ASEAN Sogje Caucus

Jaclyn Neo: I would like to acknowledge the important contributions of Sean Yap.

Kong Phallack: I acknowledge Leng Chorlida, Ven. Rahul Seng, Chhean Langdy and Taing Ratana. They all provided assistance to my research.

Zainal Abidin Bagir: My thanks to Budi Asyhari and Heri Setyawan who helped with collecting the materials for this chapter.

Long Seh Lih: I would like to thank K. Shanmuga, Paula Tena, Zaharom Nain and Khairil Zhafri for their contribution to the research.

Raul C. Pangalangan: I acknowledge the able assistance of my research assistant, Ms. Erika Rosario, of the J.D. Class of 2017 of the University of the Philippines.

Eugene K B Tan: Much thanks go to Dr Jaclyn Neo for her advice, patience and understanding as the Singapore country report was being prepared. Professor Thio Li-ann generously offered her critique of the draft report. Professor Kevin YL Tan, my fellow rapporteurs, the experts, and the anonymous readers all gave invaluable inputs at various stages of writing. Sean Yap provided helpful editorial assistance. The HRRC team provided a supportive environment during the course of the research. All errors of fact, interpretation, and analysis remain mine.

Khemthong Tonsakulrungruang: My gratitude goes to Professor Vitit Muntarbhorn, the wonderful mentor and inspiration, also to Ms. Sayamon Srisompetch and Ms. Wisanee Koothanaroj for their research assistance. I am indebted to Ms. Shuyan Li for her comments on the first draft.

# Foreword

It is with great pleasure that I present to you the Human Rights Resource Centre's fourth ASEAN-wide study, "Keeping the Faith: A Study of Freedom of Thought, Conscience and Religion in ASEAN". Taking as its inspiration Article 22 of the ASEAN Human Rights Declaration, through which ASEAN governments have committed to eliminate "all forms of intolerance, discrimination and incitement of hatred based on religion and beliefs", the study seeks to capture the legal landscape pertaining to freedom of thought, conscience and religion in ASEAN. It also hopes to assist ASEAN Member States in working toward an agreed policy response in their implementation of this provision. By providing an overview of state practice on the freedom of thought, conscience, and religion across the region, and considering serious issues of religious persecution and conflict that pose a challenge to regional peace and stability, the Centre aims to contribute to an ongoing dialogue amongst civil society organizations, academia and government about how best to diffuse tensions amongst different religious groups as well as to foster greater understanding and acceptance of different religions and belief systems amongst ASEAN peoples. Religions and beliefs are both important identity markers within ASEAN, and ones which continue to provide a wealth of ideas and ways of seeing the world to flourish within the ASEAN community. It is our hope that through this study the Centre can further contribute toward that flourishing.



This study would not have been possible without the guidance and support from our team of expert advisors and editors, Professor David Cohen of the WSD HANDA Center for Human Rights and International Justice, Professor Kevin Tan from the National University of Singapore, Professor Tore Lindholm, Professor Emeritus of the Norwegian Centre for Human Rights, and Professors Cole Durham and Brett Scharffs from the International Center for Law and Religion Studies (ICLRS) at Brigham Young University. Our highest appreciation also goes to Dr. Jaclyn Neo, Lead Researcher on the study, and the outstanding country rapporteurs and research assistants. Once again, the study gathered both established and up and coming scholars from our research network.

Last but not least, we would like to express our gratitude to the Norwegian Embassy in Jakarta for their support in this endeavour.

Jakarta, January 2015

Marzuki Darusman  
Executive Director, Human Rights Resource Centre

## Limitations of the Study

This descriptive study on Freedom of Thought, Conscience and Religion in ASEAN is not an attempt at a comprehensive empirical survey of the situation in ASEAN states. Such a study would have been impossible given the limitations of time and resources available to the researchers and to the Centre. Rather, it provides a compilation, categorization and analysis of the published material relevant to the subject, as well as some empirical analysis of the trends identified in those sources.

It is important to note that researchers could only work with materials that are in fact published and made widely available. While they did endeavour, in so far as was possible, to seek feedback from Member State government officials on facts reported, confidential reports and undisclosed statistics held by various government departments are obviously not included unless they were unconditionally made available to the researchers.

The object of this study is to gather, analyse and assess the depth of information available, both the causes and the impact of state regulation of freedom of thought, conscience and religion in each ASEAN country with a view to providing a comprehensive, objective assessment of the situation as revealed through the published literature. Where reports have been made available by state and quasi-state agencies to the researchers, every effort has been made to incorporate them. However, researchers were not obliged to contact such agencies in pursuit of data that is not publicly available.



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**Singapore**

# Singapore

<b>Formal Name</b>	Republic of Singapore
<b>Capital City</b>	Singapore
<b>Declared Relationship between State and Religion</b>	No declared relationship although secularism is widely used
<b>Form of Government</b>	Unitary, Parliamentary Democracy
<b>Regulation of Religion</b>	Regulation by the Executive branch primarily
<b>Total Population</b>	5.47 million (as at June 2014)
<b>Religious Demography</b>	Buddhism (33.3%), Christianity (18.3%), No religion (17.0%), Islam (14.7%), Taoism (10.9%), Hinduism (5.1%), Other religions (0.7%).
<b>Changing Religious Demography</b>	See Table 1.

**Table 1: Changing Religious Demography:  
Percentage Distribution of Resident Population  
Aged 15 and over by Religion, 1980-2010<sup>1</sup>**

<i>Religion</i>	<i>1980</i>	<i>1990</i>	<i>2000</i>	<i>2010</i>
Buddhism	26.7	31.1	42.5	33.3
Taoism	30.0	22.4	8.5	10.9
Islam	16.2	15.4	14.9	14.7
Christianity	9.9	12.5	14.6	18.3
Hinduism	3.6	3.7	4.0	5.1
Other religions	0.5	0.6	0.6	0.7
No religion	13.1	14.3	14.8	17.0

<sup>1</sup> Saw Swee Hock, *The Population of Singapore*, Third Edition (Singapore: Institute of Southeast Asian Studies, 2012), 42. Saw, at p. 44, notes that “the close overlap of race and religion was cited in the 1947 Census Report as the reason for not collecting information on religion, and this was apparently the same reason for its exclusion in the 1957 and 1970 censuses”.

## INTRODUCTION

This Singapore country study seeks to paint in broad-brush strokes the salient themes in Singapore's management of religious freedom in an age where increased piety and faith-inspired violent extremism pose national security concerns and anxieties to the authorities.

Singapore's Constitution allows every person the right to profess, practise, and propagate his religion. While faith-inspired views are not excluded from the public domain, the Singapore government has sought to keep the public square and the religious realm separate even if the walls between them are not always watertight. Although secularism is a cardinal principle of political governance, the separation of religion and state is not found in Singapore's Constitution. In Singapore's context, secularism is broadly understood as the governance principle of separating religion and state, and of the state being neutral vis-à-vis the various religious faiths and between religion and non-religion. There is no official religion in Singapore. At the same time, there is also no anti-establishment constitutional provision either. So fundamental is freedom of religion that even Emergency ordinances promulgated under Article 150 of the Constitution shall not validate any provision inconsistent with "the provisions of this Constitution relating to religion, citizenship or language".

It would be evident that secularism in Singapore should be construed as a desired though contested normative framework for governance and public policy making in a multi-religious society. There has been, in recent years, the subtle shift in the legal regime regulating religion from a coercive, hard law approach to one that actively promotes the conjunctive use of soft law, reflecting the awareness of the severe limitation of a coercive approach. More pointedly, the promotion of a rational secularism is probably better understood in Singapore's context as the state's limited involvement in the religious

realm that seeks to mould the behaviour of the faith communities in the public square that is conducive to the larger objectives of the state with regard to national security, stability and peace, and social cohesion.

The state's attempt to influence the citizenry's behaviour is alive and anxious not to conduct itself in a manner that is antithetical to established religious beliefs and practices. Ultimately, religious peace and harmony is obtained through societal understanding and appreciating the diversity and complexity that religion presents. The challenge, as the Singapore case demonstrates, is how to make a virtue out of an accepted fault-line that religion is treated as such, and to align the ethos in the religious realm to the institutional life of the state.<sup>2</sup>

The Singapore government treats religion as a persistent fault line in Singapore society. As such, emphasis is placed on ensuring that the exuberant expression of religious freedom does not become a source of tension, conflict, and violence. There are several key laws 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.

In April 2014, Pew Research Centre ranked Singapore the world's most religiously diverse country or territory.<sup>3</sup> Public policy and legislation in a multi-religious society like Singapore have to reflect the value- and belief- systems of citizens, including religious and secular ones. This task is fraught with difficulties, not least in trying to determine what the

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2 For a wide-ranging study of religion in Singapore, see Lai Ah Eng (ed.), *Religious Diversity in Singapore* (Singapore: Institute of Southeast Asian Studies and the Institute of Policy Studies, National University of Singapore, 2008). See also my "Keeping God in Place: The Management of Religion in Singapore," in the same volume, 55-82.

3 Pew Research Centre, "Global Religious Diversity: Half of the Most Religiously Diverse Countries are in Asia-Pacific Region," April 2014, <<http://www.pewforum.org/files/2014/04/Religious-Diversity-full-report.pdf>> accessed 9 August 2014.

common base is. This embracing of religious values has to be inclusive, with no particular set of religious beliefs being discriminated or preferred. The pertinent policy question is no longer “why regulate” but “how to regulate” without overstepping the sometimes overlapping secular-sacred boundaries.

## PART ONE: LEGISLATIVE AND POLICY FRAMEWORK

### A. International Obligations

Singapore is a party to the following three major international human rights conventions tabulated below: Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD). It is, however, not a party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Although it prides itself with an enviable record of the management of ethnic relations, Singapore is one of the minority of United Nations member states that have not signed and ratified the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).<sup>4</sup> On 19 November 2012, Singapore, together with other ASEAN Member States, affirmed her commitment to advancing, promoting, and protecting human rights in the region by adopting the ASEAN Human Rights Declaration.

International Document	Year of Signature	Year of Ratification / Accession	Reservations / Declarations
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	NA	1995	Article 2, paragraphs (a) to (f), Article 16, paragraph 1(a), 1(c), 1(h) and paragraph 2, Article 11, paragraph 1, and Article 29, paragraph 1
Convention on the Rights of the Child (CRC)	NA	1995	Article 32 (subject to such employment legislation), and Article 28.1(a)
Convention on the Rights of Persons with Disabilities (CRPD)	2012	2013	Article 12 paragraph (4), Article 25, paragraph (e) and Article 29, subparagraph (a) (iii)

Singapore’s reservations to the CEDAW are primarily made on the basis of religious grounds, clearly spelling out that they are made “[i]n the context of Singapore’s multiracial and multi-religious society and the need to respect the freedom of minorities to practice their religious and personal laws”. For example, Singapore reserves the right not to apply the provisions of Articles 2 and 16 of CEDAW where compliance

<sup>4</sup> On the CERD, see the website of the United Nations Office of the High Commissioner for Human Rights at [http://www.unhcr.ch/html/menu3/b/d\\_icerd.htm](http://www.unhcr.ch/html/menu3/b/d_icerd.htm). See also “Conventional wisdom: Why has Singapore not signed UN’s anti-racial discrimination treaty, Cerd?” *Today* (Singapore), 20 April 2004.

with these provisions would be contrary to religious or personal laws. Articles 2 and 16 require States Parties to take all appropriate means including legislation to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women.

However, Article 12(3) and Article 152 of the Singapore Constitution provide for the respect of the freedom of minorities in the practice of their personal and religious laws. The Singapore government's position is that these constitutional provisions are necessary to maintain the delicate balance in a multi-racial and multi-religious society. There are provisions under the Administration of Muslim Law Act (AMLA) (Cap. 3, 2009 Rev Ed) that may be inconsistent with the CEDAW. For example, the right is given to a Muslim man to marry up to four wives, and not vice versa. The government regards it as necessary to maintain Singapore's reservations to Articles 2 and 16 of the CEDAW "in view of the need to respect the right of Muslim citizens to practise their personal and religious laws".

The common themes of Singapore's multi-racial and multi-religious society, and the need to respect the freedom of minorities to practise their religious and personal laws is carefully observed. Thus, in response to calls for the withdrawal of the CEDAW reservations,<sup>5</sup> the government's position as articulated is:

<sup>5</sup> In considering Singapore's fourth CEDAW periodic report in 2011, the CEDAW committee urged Singapore to withdraw her remaining reservations. The committee was of the view that these reservations were "impermissible since these articles are fundamental to the implementation of all the other provisions of the Convention". See "Concluding observations of the Committee on the Elimination of Discrimination against Women," CEDAW/C/SGP/CO/4/Rev.1 of 5 January 2012, para 13.

<<http://app.msf.gov.sg/Portals/0/Files/CEDAW-C-SGP-CO-4.pdf>> accessed 9 August 2014.

My Government considers it necessary to continue to maintain a reservation against specific elements of articles 2 and 16 of CEDAW. There is general acceptance in our country, including our civil society, on the need for the Muslim minority community to practice their family and personal laws. We also recognize that the delicate balance of our multi-cultural, multi-religious society is not a given. It has to be actively maintained, and this is also a continuing endeavour on the part of my Government. However, we assure the Committee that we will continue to review our CEDAW reservations taking into consideration the needs of our society and our obligations.<sup>6</sup>

The Singapore government has always insisted that it does not accede to an international convention for appearance's sake. Its constant refrain, recently reiterated in Parliament, is that Singapore "takes its treaty obligations seriously and prefers to become a party to Conventions when we are sure that we are able to comply fully with all of the obligations. Our focus is on the *full and effective implementation* of treaty obligations. We study international human rights instruments closely to understand the obligations that they impose on States party to them. If we accede to a treaty and yet make reservations that detract from the object and purpose of the treaty as a whole, it becomes an exercise in mere optics. That is not our approach".<sup>7</sup> The Law Minister also added that although Singapore is not a party to a particular treaty, "it does not mean that in practice, our policies are not already largely in compliance

<sup>6</sup> Statement by Mdm Halimah Yacob, Minister of State for Community Development, Youth and Sports and leader of the Singapore delegation to the 49<sup>th</sup> CEDAW session, 22 July 2011 <[http://www2.ohchr.org/english/bodies/cedaw/docs/statements/Singapore\\_CEDAW49.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/statements/Singapore_CEDAW49.pdf)> accessed 9 August 2014.

<sup>7</sup> Written answer by Minister for Law, Mr K Shanmugam, to parliamentary question on human rights treaties and conventions filed by the author: *Singapore Parliament Reports*, vol. 92, 7 July 2014 (original emphasis).

with the substance of its provisions”<sup>8</sup>

Thus, entering reservations in lieu of enacting legislation to bring domestic laws in line with international treaties may be necessary to protect domestic concerns. Although Singapore has largely complied with Articles 2 and 16 of CEDAW, the government’s position is that the reservations are necessary to protect the rights of minorities in the practice of their personal and religious law so as to maintain the delicate balance of Singapore’s multicultural society.

## B. Domestic Laws and Policies

In the above three Conventions, Singapore did not enact dedicated stand-alone legislation to incorporate the international obligations she had entered into. When acceding to these Conventions, Singapore’s approach is to ensure that her domestic laws are consistent with or even go beyond the treaty obligations requirements. To be more specific, Singapore has opted to embed the treaty obligations in various legislation. The three Conventions are implemented in Singapore by incorporating each Convention’s substance, rather than their specific wording, into existing Acts of Parliament. Thus, treaty obligations are given effect to by substantive provisions re-cast in separate legislative language.

This “indirect approach” approach has two advantages. First, the treaty will sit more harmoniously with domestic legislation. Language and construction in the treaty can be translated in drafting to achieve a sense of coherence between the law implementing the treaty and existing laws. Second, Parliament may enact provisions which expand the scope of the treaty obligations, as long as such provisions do not conflict with the obligations

imposed by treaty.<sup>9</sup>

## Constitutional provisions on freedom of thought, conscience and religion

Article 15 of the Singapore Constitution guarantees every person the freedom of religion, encompassing the right to profess one’s religion, to practise one’s religion, and to propagate one’s religion. However, Article 15, as the freedom of religion clause, does not recognise religious freedom as an absolute and unqualified right. Specifically, Article 15(4) provides for limits to religious freedom where any act is “contrary to any general law relating to public order, public health or morality”. This broadly couched restriction to religious freedom conditions other legislation with regard to restricting freedom of religion. This is not surprising since absolute freedom is regarded by the government as a sure and potent recipe for conflict in a multi-religious society. The Singapore courts have also been prepared to afford a broad understanding of “public order”.<sup>10</sup> The meanings of the terms *public health* and *morality* in

<sup>9</sup> The preference to embed the treaty obligations in various Acts is grounded in pragmatism as well as philosophy. Within the Singapore government, different ministries are responsible for different subject matters and the respective Acts of Parliament. A treaty may cut across several subject matters and hence, administration of the obligations, including monitoring, reporting and enforcement, may involve several public agencies. Incorporating the substance of the treaty across the respective Acts allows the relevant public agency to administer obligations in the treaty which are within its purview. This provides for a seamless and well-coordinated administration of the treaty. There is also less risk of overlapping legislation and duplication of administration efforts. There may be concerns that once the amendments are incorporated into the various pieces of legislation, it may not be so obvious that these disparate pieces of legislation were enacted to comply with an international treaty and its international significance may be lost with the passage of time. However, this risk can be mitigated by referring to the treaty in the amendment Bill to reflect the international origins of the Bill.

<sup>10</sup> See *Chan Hiang Leng Colin v PP* [1994] 3 SLR(R) 209, *Chan Hiang Leng Colin and others v Minister for Information and the Arts* [1995] 1 SLR(R) 388, and *Chan Hiang Leng Colin and others v Minister for Information and the Arts* [1996] 1 SLR(R) 294 at 302–306, [26]–[36].

<sup>8</sup> *Id.*



Art 15(4) have not yet been judicially considered in Singapore. It is worth noting that Article 150 of the Constitution provides that religious freedom rights cannot be abrogated even in times of emergency as part of the overarching constitutional protection afforded to religion, citizenship, and language.

Article 15(2) provides that “(n)o person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own”. In similar vein, Article 16(3) states that “(n)o person shall be required to receive instruction in or to take part in any ceremony or act of worship of a religion other than his own”. For the purposes of Article 16(3), his parent or guardian shall decide the religion of a person under the age of 18 years: Article 16(4).

Article 15(3) states that every religious group has the right to manage its own religious affairs, to establish and maintain institutions for religious or charitable purposes, and to acquire and own property and hold and administer it in accordance with law. This is reinforced by Article 16(2) which provides that “(e)very religious group has the right to establish and maintain institutions for the education of children and provide therein instruction in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law”.

Article 16(1) emphasizes the Singapore citizen’s constitutional right not to be discriminated against on the grounds only of religion, race, descent or place of birth in the administration of any educational institution maintained by a public authority, and, in particular, the admission of pupils or students or the payment of fees. It further provides that there be no discrimination on the grounds only of religion, race, descent or place of birth in providing out of the funds of a public authority financial aid for the maintenance or education of pupils or students in any educational institution (whether or not maintained by a public authority and whether

within or outside Singapore).

The Constitution does not define “religion”, and Articles 15, 16 and 12 as well as other constitutional provisions specifically refer to “religion”. “Belief”, “thought”, and “conscience” commonly found in major human rights documents, such as the Universal Declaration of Human Rights and the European Convention on Human Rights, are not found in the Singapore Constitution.<sup>11</sup> While, arguably, a definition of religion is neither feasible nor even possible, the Singapore Court of Appeal has described religion as “not about a system of belief in one’s own country but about a citizen’s faith in a personal God, sometimes described as a belief in a supernatural being”.<sup>12</sup>

What about the status of atheism and secular humanism, regardless of whether they are regarded as a type of “religious belief”? The issue of whether atheism and non-religion (such as secular humanism) is protected under Article 15 of the Constitution has not arisen in Singapore courts. There is no reason why such belief systems should fall outside the ambit of protection afforded by Article 15 of the Constitution which is concerned with freedom of religion. Freedom of religion ought to be expansive enough to include freedom *from* religion. Moreover, the governance principle of secularism in Singapore necessitates that the state must not prefer religion to non-religion. Put another way, freedom of religion must embrace freedom to believe in a faith as well as the freedom to not believe in any faith. This is significant in Singapore’s context as 17 per cent of the resident population claim not to believe in any religion in

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11 Cf. Article 9(1) of the European Convention on Human Rights states: “Everyone has the right to freedom of thought, conscience and religion”.

12 *Nappalli Peter Williams v Institute of Technical Education* [1999] 2 SLR(R) 529, Court of Appeal, at [26].

the 2010 national census.<sup>13</sup>

Singapore laws do not provide for the offences of blasphemy, deviant behaviour, or heresy. However, Chapter 15 of the Penal Code (Cap. 224, 2008 Rev Ed) provides for criminal offences relating to religion including injuring or defiling a place of worship, disturbing a religious assembly, uttering words or sounds to deliberately wound religious feelings. Section 139 of the Administration of Muslim Law Act provides that: “Whoever shall teach or publicly expound any doctrine or perform any ceremony or act relating to the Muslim religion in any manner contrary to the Muslim law shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both”.<sup>14</sup> This provision may well cover the offence of heresy for the Muslim faith.<sup>15</sup>

Singapore has also opted not to constitutionalise the ethos of accommodation of diversity, a hallmark of its multiracialism.<sup>16</sup>

<sup>13</sup> I appreciate that this argument is controversial. For Professor Thio Li-ann, this argument “ignores the rationale for having religious freedom clauses and Singapore courts have not defined secular humanism as a religion (and some think it should not). Atheism may be protected by the general value of free conscience but atheism is better parked under Art 14 than 15”. I thank Professor Thio for pointing this out.

<sup>14</sup> Section 139(2) of AMLA states that “In any prosecution for an offence under this section, where evidence is given by the President that any doctrine, ceremony or act is contrary to the Muslim law, the court shall presume that such doctrine, ceremony or act is contrary to the Muslim law”.

<sup>15</sup> Heresy is understood here as a belief or opinion that does not agree with the official belief or opinion of a particular religion.

<sup>16</sup> Canada has constitutionalized its commitment to multiculturalism. Article 27 of The Constitutional Act, 1982 reads: “This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians”. On the Canadian experience in accommodating diversity, see Will Kymlicka, “Being Canadian,” (2003) 38(3) *Government and Opposition* 357-385.

## Legal Pluralism

In recognition of the special position of the Malays as the indigenous people of Singapore, Article 152 of the Constitution provides that:

(1) It shall be the responsibility of the Government constantly to care for the interests of the racial and religious minorities in Singapore.

(2) The Government shall exercise its functions in such manner as to recognise the special position of the Malays, who are the indigenous people of Singapore, and accordingly it shall be the responsibility of the Government to protect, safeguard, support, foster and promote their political, educational, religious, economic, social and cultural interests and the Malay language.

As alluded to above, limited legal pluralism is facilitated by Article 152 and embedded in Singapore’s British-based common law legal system through some degree of community autonomy for the indigenous Malay-Muslim community. In areas of Muslim personal law such as marriage, divorce and inheritance, Article 153 of the Singapore Constitution provides that, “The Legislature shall by law make provision for regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion”.

In turn, the Administration of Muslim Law Act (AMLA) is the main legislation by which Muslim religious affairs are regulated, and by which the Islamic Religious Council of Singapore (MUIS), a statutory board, is constituted to advise the President and the government in matters relating to the Muslim religion. Article 153 is the only constitutional provision in which a religion is specifically mentioned.

Constitutionally recognized as the indigenous people of Singapore, 99.6 per cent 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 sub-group 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.

The (Malay-)Muslim community enjoys several privileges not accorded to the other races/religion. Besides being governed by *Sharia* law in personal matters,<sup>17</sup> the community enjoys free tertiary education (qualified through means-testing in 1989), state support for various aspects of its religious life including the mosque-building programme and the *haj* (pilgrimage to Mecca), and the appointment of a Minister-in-charge of Muslim Affairs in the Cabinet.

### 1. *Freedom to adopt, change or renounce a religion or belief; and freedom from coercion*

There is absolute freedom for an adult person in Singapore to adopt, change, or renounce a religion or belief: Article 15(1) of the Constitution. There is freedom from coercion to embrace or leave a particular religion. This includes persons converting out of Islam. There are no laws against apostasy although community norms within the Muslim community strongly frown upon such out-conversions. Anecdotal accounts suggest that there is community pressure and resistance to conversions out of Islam with such converts being ostracized or isolated.

17 Since August 1999, following amendments to the Supreme Court of Judicature Act and AMLA, the (civil and secular) Family Court has concurrent jurisdiction in selected areas.

There are various forms of secularism.<sup>18</sup> As highlighted earlier, the state is mindful that religious freedom encompasses freedom *of* religion and freedom *from* religion. As such, at one level, having a secular government would entail that government should not prefer religion to non-religion, as well as people of faith over people with no religion or who are atheistic in the making and implementation of public policies and laws.<sup>19</sup> However, there is no requirement that secularism mandates metaphysical scepticism, and the Singapore government does not demonstrate such scepticism.<sup>20</sup> In Singapore, given that 17 per cent of the population aged 15 years and over declare that they have no religion, the need to be scrupulously even-handed vis-à-vis religion, non-religion, and atheism cannot be over-stated.<sup>21</sup>

Nonetheless, given that a vast majority (83 per cent) of the Singaporean population subscribe to a religion, it would not be surprising if non-religionists or atheists perceive the government's policies and laws to be inclined towards religionists. However, where the government is concerned, the matter is not so much of preferring one over another but rather one that requires the government and the state to tread carefully and to be even-handed. In this regard, the state regards itself as an arbiter in disputes between religions or between religion and non-religion. Thus, even-handedness in arbitrating in such disputes is not only prudent but of utmost necessity as a *sine qua non* and virtue in governance.

18 Hence, it is more accurate to speak of "secularisms" rather than "secularism".

19 Like in other countries, people inclined towards secular humanism are present in Singapore.

20 I thank Professor Thio for reminding me of this, and for clarifying that the real issue is not, "They prefer religious values to ours' but 'they prefer value A to our value B'. It is a clash of public values as much as it may be seen by some to be a clash of 'religious' and 'secular' values which is an intellectually lazy distinction".

21 As Professor Thio points out, "neutrality is impossible and itself not neutral - so this is a misleading characterisation. The better term is 'even-handed' or the desire to be seen as such". I am happy to adopt Professor Thio's suggestion.

Under Part VIII of AMLA, the *Majlis*<sup>22</sup> shall maintain a register of the names of all persons converted to the Muslim religion within Singapore, together with such particulars in respect of their conversion as may be prescribed by rule (section 126, AMLA). Section 127 stipulates that “(n)o person shall be converted to the Muslim religion otherwise than in accordance with the Muslim law and the provisions of this Act”. Under section 128, “(a)ny Muslim who converts any person to the Muslim religion shall forthwith report such conversion to the Majlis with all the necessary particulars”. There is, however, no similar legal requirement for the registration, control, and reporting of conversions for the other faiths.

As for a person who has converted or resolved to convert out of Islam in Singapore, such a person is usually requested to attend an interview at MUIS, followed by the completion of necessary paperwork and the making of a formal statutory declaration. This is an administrative process to clarify a person’s religious conversion out of Islam. *Sharia* law would no longer apply to such a person once he has converted or resolved to convert out of Islam.

## 2. Right to manifest one’s religion or belief

### a) Freedom of worship

Article 15(1) of the Constitution provides for the triple constituent rights of freedom of religion:

- (a) the right to profess one’s religion;
- (b) the right to practise one’s religion; and
- (c) the right to propagate one’s religion.

With the exception of the absolute right to profess one’s faith, the right to practise one’s religion and the right to propagate one’s religion are not absolute rights, for which restrictions can be imposed under

<sup>22</sup> Under section 4 of AMLA, the *Majlis* is a body corporate under the name of *Majlis Ugama Islam, Singapura* having perpetual succession and a corporate seal.

Article 15(4).<sup>23</sup>

In the mid-1990s for example, there were several well-publicized cases involving Jehovah’s Witnesses, a proscribed religious group in Singapore, regarding the ambit of religious freedom provided for under Article 15 of the Singapore Constitution.<sup>24</sup> These cases largely dealt with whether male Singapore citizens conscripted into the Singapore Armed Forces under the mandatory national service scheme could cite their religious beliefs for exemption from military service. In this line of cases, the Court of Appeal emphasised the belief-action distinction:

It is therefore not illegal to profess the beliefs of Jehovah’s Witness per se, nor is it an offence to be a Jehovah’s Witness. A citizen’s right to profess, practice or propagate his religious beliefs, even as Jehovah’s Witness, has not been taken away. It is the manner of carrying out these activities that is circumscribed by the relevant orders.<sup>25</sup>

<sup>23</sup> Peter Krömer describes the internal and external dimensions of the freedom of religion in the following manner: “The right to freedom of religion (freedom of belief) covers first and foremost the so-called inner freedom of religion (forum internum), and sometimes also freedom of faith in the narrow sense of the term. It protects above all the freedom to hold an inner conviction in the face of any kind of ideological influence or investigation by the state, including notably the freedom to have a religion or philosophical conviction—or not to have one—or to change it. This inner freedom inevitably implies however the freedom to practice one’s religion (forum externum), sometimes called freedom to worship. This freedom to practise a religion includes the right to freedom of private and public practice of one’s religion or of a philosophical conviction and in that respect, to profess this faith (religion) or conviction in private or in public, on one’s own or in the company of others”: See Krömer’s essay, ‘The Fundamental Right to Freedom of Religion,’ Conference of European Churches - Church & Society Commission, (n.d.)

<[http://csc.ceceurope.org/fileadmin/filer/csc/Human\\_Rights/Human\\_Rights\\_Training\\_Manual/HRTM\\_Fundamental\\_Right\\_to\\_Freedom\\_of\\_Religion.pdf](http://csc.ceceurope.org/fileadmin/filer/csc/Human_Rights/Human_Rights_Training_Manual/HRTM_Fundamental_Right_to_Freedom_of_Religion.pdf)> accessed 17 November 2014.

<sup>24</sup> The proscription relates to their being not recognized as a legally constituted organisation under the Societies Act. It is, however, not against the law to be a Jehovah’s Witness.

<sup>25</sup> *Chan Hiang Leng Colin and others v Minister for Information and the Arts* [1996] 1 SLR(R) 294 at [18].

*Prima facie*, the religious beliefs of a proscribed group are not illegal. However, actions flowing from such religious beliefs are proscribed if they offend against the requirements of public order or public health or morality. Put simply, religious liberty in Singapore is subjected to the belief-action distinction: Religious beliefs are protected – every person in Singapore is entitled to believe in whatever religion or belief. However, actions motivated by such religion and/or beliefs that are contrary to Singapore’s laws are not protected under Article 15.

The Court of Appeal in *Chan Hiang Leng Colin* agreed that national service is “clearly a secular issue” and conscientious objection is not tolerated since “the whole system of universal National Service will become unstuck” (citing *Hansard*). It also agreed that “the sovereignty, integrity and unity of Singapore are undoubtedly the paramount mandate of the Constitution and anything, including religious beliefs and practices, which tend to run counter to these objectives must be restrained”.<sup>26</sup>

The jurisprudence demonstrates two key principles: First, the right to practise and propagate one’s religion has to be balanced against the interests of the larger community, in line with the communitarian ethos that the Singapore government seeks to promote; and, second, the state’s central role in restricting any unbridled expression of the right to practise and propagate one’s religion.

That community interests take precedence over those of the individual even in the exercise of fundamental liberties was affirmed in *Nappalli Peter Williams v Institute of Technical Education*.<sup>27</sup> In this case, an employee of a government educational institution refused to take the national pledge or sing the national anthem because of his religious objections. It was held that his actions did not entitle him to constitutional protection since they

<sup>26</sup> Chief Justice Yong Pung How in *Chan Hiang Leng Colin v PP* [1994] 3 SLR(R) 209 at [66].

<sup>27</sup> *Nappalli Peter Williams v Institute of Technical Education* [1999] 2 SLR(R) 529.

went against his employer’s policy of encouraging and instilling students’ allegiance to the nation. The Court of Appeal reiterated that in exercising one’s religious beliefs, a citizen’s constitutional right to freedom of religion can be circumscribed if, by the citizen’s actions, the exercise of the right becomes prejudicial to the common good. The Court stated that, “Article 15 taken as a whole demonstrates that the paramount concern of the Constitution is a statement of citizen’s rights framed in a wider social context of maintaining unity as one nation”.

#### Maintenance of Religious Harmony Act

The Maintenance of Religious Harmony Act (MRHA) has its genesis in 1986 when the Internal Security Department reported on over-zealous evangelical Christian proselytization and the impact that it had on religious communities competing for membership. This religious fervour was accompanied by the alleged mixing of religion with politics by some groups. Enacted in 1990, the MRHA seeks to legislate religious moderation and tolerance and to keep religion and politics separate.

The MRHA also established the Presidential Council for Religious Harmony, an advisory body comprising lay leaders and religious leaders to advise the President on matters affecting religious harmony.<sup>28</sup> Its main specific functions are to delineate conduct that are regarded as harmful to religious harmony, and to provide recommendations on the issuance of restraining orders by the government, with the President as a check against abuse, against any person inciting, instigating or encouraging any religious group or religious institution to feelings of enmity, hatred, ill-will or hostility between different religious groups. In recognising the power of the pulpit, the MRHA has its focus on religious leaders who “are viewed by the flock and their worshippers as having closer links to God and with an aura of holiness and divinity, make it all the more imperative that if religious leaders want to enter into politics,

<sup>28</sup> See Part II of the MRHA.

they come down from the pulpit and participate as citizens<sup>29</sup>.

The MRHA widens the options the government can exercise in religious matters that present concerns to public order. The MRHA is less draconian than the Internal Security Act (Cap. 143, 1985 Rev Ed), which provides for detention without trial, and seeks to circumspectly deal with the threat away from the glare of open court proceedings that can inflame religious passion further.

What is evident in the government's discourse on the regulation of religion is not so much the value of religious freedom (which the government is careful to remind the citizenry of its importance) but the need for religious harmony, especially how overt conflict premised on religion can undermine public order, and how the aggressive assertion of religious freedom can be detrimental to Singapore's national security. In short, harmony is integral to order, and disharmony a threat to national security. Hence, religious harmony is a popular trope in public discourse. It is also useful because of the potentially didactic effect of underlining that religious freedom requires religious harmony. This "harmony ideology" is premised on the belief that Singapore's cultural values can assist in the nation-building quest through the promotion of harmony, cohesion and stability in a multi-racial, multi-religious and multi-lingual society. The promotion of the ideology of harmony provides the ideational substratum for the state to reinforce the cherished ideals of social discipline, consensus and harmony.<sup>30</sup>

The extensive efforts at mandating harmony, preferring civility over contentiousness, and prioritising responsibilities over rights, translates into the public narrative of consensus, harmony,

29 *Singapore Parliament Reports*, vol. 56, col. 613, 9 November 1990 (Prof. S. Jayakumar, Minister for Home Affairs).

30 For further analysis on the harmony ideology within Singapore's governance ethos, see Eugene KB Tan, "Harmony as Ideology, Culture, and Control: Alternative Dispute Resolution in Singapore," (2007) 9(1) *Australian Journal of Asian Law* 120-151.

and order as desirable and necessary. Conversely, conflicts and contention are seen as social phenomenon against the common good which have to be avoided at all costs. As a political resource, the harmony ideology and culture can be utilised discursively to disarm any potential change movement favouring the over-indulgent pursuit of individual rights over community interests.

Public order is another key theme and priority in the management of religious freedom. Conflict is seen as anathema to public order. In the Singapore context, there is also the latent fear in the government that if public order is not robustly maintained, conflict would be part of the natural progression in a downward spiral from which Singapore would find it hard to recover from. This imperative towards public order is particularly pertinent since religion is seen as a potent source of conflict. For a small and young country, national security concerns loom large. Religious freedom cannot result in national security being undermined.

#### Internal Security Act

Where more draconian measures are needed, the government can resort to "pre-emptive" powers under the Internal Security Act (ISA) which was originally enacted by the British colonial government to deal with the communist insurgency in British Malaya after the Second World War. The ISA allows for preventive detention for renewable two-year periods where "it is necessary to do so" to prevent a person from acting in any manner prejudicial to the Singapore's security and the maintenance of public order or essential services. The ISA has been applied to persons deemed to be agitating racial and religious discord, including the arrests of *Jemaah Islamiyah* (JI) and self-radicalized suspected terrorists from 2001. The ISA was also used in 1987 against alleged Marxist anti-state conspirators, which involved mainly activists in several Catholic Church organisations.

### Penal Code and Sedition Act

Furthermore, the right of others can limit the right to freedom of worship. Chapter 15 of the Penal Code (Cap. 224, 2008 Rev Ed) provides for criminal offences relating to religion including injuring or defiling a place of worship, disturbing a religious assembly, uttering words or sounds to deliberately wound religious feelings.

Under the Sedition Act (Cap. 290, 2013 Rev Ed), it is an offence, *inter alia*, to “to promote feelings of ill-will and hostility between different races or classes of the population of Singapore”. In 2005, three bloggers were convicted under the Sedition Act for posting web-blog comments that were anti-Muslim.<sup>31</sup>

The coercive legislative framework equips the government with a variety of measures to counter so-called faith-inspired threats. The legislative arsenal enables calibrated measures depending on the nature of the threat.

#### *b) Places of worship*

There is the general enjoyment of the freedom to worship in Singapore. Freedom of worship is generally not an issue so long as the worship does not infringe upon any law relating to public order, public health or morality. In land-scarce Singapore, planning rules and guidelines determine where stand-alone places of worship can be located. Generally, such land parcels that are released for use as places of worship, except for mosques, have to be bid for on a competitive tender basis. Such locations that are specially designated for worship/religious use by religious groups are zoned “Place of Worship”.

As the demand for places of worship exceeds the supply of stand-alone parcels of land, religious

<sup>31</sup> *PP v Koh Song Huat Benjamin & Anor* [2005] SGDC 272; *PP v Gan Huai Shi* (2005, District Court, unreported).

groups, especially Protestant Christian churches, have resorted to the use of alternative premises for their weekly prayer services. This includes converting, with permission from the relevant authorities, former cinemas to churches. The use of hotel function rooms for prayer services is also common for small church communities. Commercial and industrial spaces have been resorted to as well to meet the demand for places of worship. Given the proliferation of such use, the government has laid down guidelines limiting the use of commercial and industrial spaces for religious purposes. This is to ensure that “the predominant use and character of commercial developments are not eroded, and that such places remain as secular spaces that can be enjoyed by people from all segments of society”.<sup>32</sup>

Although religious activities are generally not allowed in commercial buildings, the government has exercised flexibility in allowing commercial premises to be used in a limited, non-exclusive way by religious groups that need venues for large gatherings, as long as it does not cause disturbances such as noise, traffic or parking problems. The concern is to ensure the character and secular nature of commercial premises are not eroded or displaced by religious activities. Some of the guidelines that religious organisations and property owners have to observe are:

<sup>32</sup> “Guidelines on the non-exclusive use of commercial spaces for religious activities,” jointly issued by the Urban Redevelopment Authority (URA) and the Ministry of Community Development, Youth and Sports (MCYS), 20 July 2010,

<<http://app.msf.gov.sg/MSFNews/CommercialSpacesReligiousActivities.aspx>> accessed 9 August 2014. See also “Guidelines on the non-exclusive and limited religious use in industrial premises,” jointly issued by the Urban Redevelopment Authority and the Ministry of Community Development, Youth and Sports, 12 June 2012, <<http://www.ura.gov.sg/circulars/text/dc12-07.pdf>> accessed 9 August 2014.

(i) Only existing approved auditoriums, function halls, convention halls and cinemas located within commercial and hotel developments can be considered for non-exclusive and limited religious use, so long as such uses are not likely to cause disamenities and traffic problems;

(ii) The maximum space within a commercial development that can be considered for non-exclusive and limited religious use shall not exceed a total Gross Floor Area (GFA) of 20,000 sqm or 20 per cent of total GFA of the development, whichever is lower. Each religious organisation is limited to use up to 10,000 sqm in any commercial space at any one time. This is to ensure that a single religious organisation does not dominate a particular commercial development by taking up a very large amount of space. The exact quantum of these caps have been determined with reference to existing usage patterns, but taking into consideration the need to ensure that the predominant use of these premises remain “Commercial”, and that different religious organisation have the opportunity to access these large venues for their activities;

(iii) The premises cannot be owned by or exclusively leased to religious organisations. The premises should be available to be rented out for other commercial events such as seminars, conferences and performances, etc.;

(iv) The use of the commercial space for religious activities shall not exceed two days a week including Saturday and Sunday;

(v) There shall be no display of signages, advertisements or posters of the religious use at the premises or on the exterior of the building. The premises should not be

furnished to resemble a worship hall and there shall be no display of religious symbols, icons or any religious paraphernalia at or within the venue when it is not in use by the religious organisation; and

(vi) The building owner and the religious organisation shall take appropriate measures to ensure that the activities do not cause disturbances to the public.

In addition, owners of convention centres must ensure that the religious use of such premises does not compromise the staging of events during weekends.

The Singapore government is committed to keeping secular public space as “common space” in which such spaces are kept, to the fullest extent possible, race- and religion- free so that Singaporeans are not unnecessarily concerned with such sub-national identities. This, the government argues, enables Singaporeans, regardless of their race, language or religion, to live together harmoniously. In turn, this provides Singaporeans with extensive freedom to practise their own religion. For this arrangement to work, the commitment to accommodating the common space requires compromise, give and take, and pragmatism. In addition, section 295 of the Penal Code provides for criminal offences relating to religion including injuring or defiling a place of worship.<sup>33</sup>

In December 2014, the Ministry of National Development (MND) launched a Request For Information (RFI) inviting interested churches and Chinese temples to provide their views and suggestions on the development and management

<sup>33</sup> The provision reads: “Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment for a term which may extend to 5 years, or with fine, or with both.”



of a multi-user place of worship facility. This was in response to religious groups providing feedback that they require spaces much smaller than the typical place of worship sites, which are released on the Government Land Sales programme. The plans envisage smaller related groups (either churches or Chinese temples) being co-located in single facility with shared facilities such as car parks and restrooms.<sup>34</sup>

### c) Religious symbols

The use of religious symbols is generally not problematic within places of worship, religious schools such as the *madrasahs* and mission schools, and other facilities such as nursing homes run by religious organisations. The state's approach to the use of religious symbols is that they should primarily be used in the private domains. Here, the state endeavours to draw a distinction between public and private spaces. It advocates and urges the enlargement of "common spaces" as a means of ensuring that Singaporeans continue to interact in the public sphere without the identity markers of religion, language and race becoming hindrances.

Thus, national schools are common spaces and regarded as a key arena for value formation and national integration. As such, the government has insisted on a common school uniform policy. In the *tudung* controversy in 2002, the issue was whether the wearing of the *tudung* by Muslim girls in national

schools should be permitted.<sup>35</sup> The government's steadfast stand was explained thus: The government seeks to expand the common space Singaporeans share. Thus, national schools, as a common space, require pupils to wear uniforms, regardless of race, religion or social status. Allowing exceptions would fragment the common space and invite competing demands from different communities.<sup>36</sup>

In essence, the government regards the wearing of the *tudung* in national schools primarily as a symbol of exclusiveness that prevents students from interacting and, consequently, is a threat to racial integration. Furthermore, allowing the *tudung* would risk competing demands from other religious groups. Nevertheless, in deference to sensitivities within the Muslim community, national schools continue to allow Muslim girls to don track pants (instead of shorts) for physical education classes and have long permitted Muslim pupils time-off to attend Friday mid-day prayers. There is no ban on the wearing of *tudung* at institutions of higher learning. However, the *tudung* is not permitted as part of women nurses' uniform in public sector hospitals, ostensibly for hygiene reasons. Except for frontline customs and immigration officers and the uniformed services, government employees (including teachers) are not prevented from wearing the *tudung*. It should be noted there is no evidence that *tudung*-clad government employees are isolating themselves in national schools and the workplaces.

34 The government is keen to develop the concept further given its potential to meet the needs of religious groups and to optimise Singapore's limited land. See MND's press release, "Request for Information (RFI) for Development and Management of Multi-user Place of Worship Facility for Church or Chinese Temple," 11 December 2014

<<http://app.mnd.gov.sg/Newsroom/NewsPage.aspx?ID=5764&category=Press%20Release&year=2014&RA1=&RA2=&RA3=>>. See also RFI documentation at:

<[http://www.hdb.gov.sg/fi10/fi10297p.nsf/ImageView/Request%20for%20Info%20-%20Eng/\\$file/RFI+Eng+Final\(final\)9.12.14.pdf>](http://www.hdb.gov.sg/fi10/fi10297p.nsf/ImageView/Request%20for%20Info%20-%20Eng/$file/RFI+Eng+Final(final)9.12.14.pdf>).

35 The *tudung* (*hijab* in Arabic) is a veil or headscarf that covers the head and chest as a manifestation of modesty. It is worn by a Muslim woman beyond the age of puberty in public and in the domestic settings in the presence of adult males outside of the immediate family.

36 See Lim Chee Hwee, Press Secretary, Singapore's Ministry of Education, in his reply captioned, "Malays in Singapore", *The New York Times*, March 16, 2002, to the article "By barring religious garb, Singapore school dress code alienates Muslims", *The New York Times*, 27 February 2002. Note, however, that Sikh boys in national schools are allowed to wear their turbans and Sikh males in the uniformed services can don their turbans as part of the uniform.

The issue had simmered since the controversy ended abruptly in 2002 when the parents of the *tudung*-clad girls decided to withdraw them from the schools. In January 2014, in a closed-door dialogue with the Malay-Muslim community on the *tudung* issue, the Prime Minister stated the following<sup>37</sup>:

... the issue fundamentally is not the *tudung* per se, and certainly not nurses' *tudung* as a narrow question, because it's a much broader question and that is, what sort of society do we want to build in Singapore. It's a question which we faced right from Independence. In fact it's a reason why we became independent, and that is, we are in Singapore to build a multi-racial society, where everybody has full and equal opportunities, where the minority community can live its own life, its own way of life, practice its faith to the maximum extent possible, and not be oppressed or to be marginalised by the majority community. Multi-racial, regardless of race, language and religion – that's why we became Singapore, and that's what the Government wants to achieve. In fact, wherever possible, we lean in favour of the minority communities in order to give them an extra help, in order that they can participate in the success of the nation and to be integrated. So whether it is education with Mendaki, whether it is mosque building programme, whether it is through other social programmes which we have, where many of the beneficiaries are Malay Muslims, this is what the Government has done.

But if we are going to do this, we have to do this in a broad and informal way. We

cannot take it issue by issue; we cannot take it in terms of rights and entitlements. We cannot go on basis of what is either the rules or the instruction manuals, or the laws or the Constitution, and try to find a legal interpretation on that issue and press that regardless, and to the possibility of detriment to the overall progress of the communities; of our harmony and of the overall space we have been able to carve out for the minority communities in Singapore, and create for the minority communities in Singapore. It's an approach which has worked for us. We are much more integrated than we were. ...

According to the Prime Minister, the *tudung* is not an issue that concerns the Muslims only; it would trigger demands from other religious communities:

You do not want to make precipitated changes, moves which can lead to either a push back from the other communities, which can lead to further demands from the other communities, which can lead to a weakening of our multi-racial ties which will mean really, a much unhappier society and I think the minorities will be considerably the losers. Because in a society like ours, it is most critical that we are comfortable with one another, then we can interact, we can work together – same work places, live together – same HDB estates, same school, serve together. And that's the way we have the maximum space for the minorities, so we must not take actions precipitously which can lead to unintended and unhappy consequences.

So I explained that the *tudung* in itself, from the Malay/Muslim point of view, is completely understandable and I fully appreciate the desire – good Muslims want to do this, although there are a range of views on what are the exact requirements. But we also have

37 Transcript of Prime Minister Lee Hsien Loong's remarks to the media after the closed-door dialogue with the Malay/Muslim community on 25 January 2014

<[http://www.pmo.gov.sg/content/pmosite/mediacentre/speechesinterviews/primeminister/2014/January/transcript-of-prime-minister-lee-hsien-loong-s-remarks-to-the-me0.html#.U\\_2PCqMWHFw](http://www.pmo.gov.sg/content/pmosite/mediacentre/speechesinterviews/primeminister/2014/January/transcript-of-prime-minister-lee-hsien-loong-s-remarks-to-the-me0.html#.U_2PCqMWHFw)> accessed 9 August 2014.

to take into account the overall context and how this can interact and lead to different outcomes. ...

It shows how sensitive things can be. So when you put it the other side, and supposing you have a sudden change in the rules and you find all of the sudden many Malay nurses are wearing the *tudung*, well, from the Muslim point of point, it is completely reasonable. From the overall society point of view, I am not sure how people will react.

So therefore, if you look back over the last 10 years, the position has not been static. We have had more statutory boards, for example, have now quite commonly got the officers in uniform and the uniform has incorporated some form of the *tudung*. ...

Our society will change, attitudes will change, expectations, people get used to different norms. Over time, I think we will gradually move to a new balance. That's the most wise; that's the wisest thing to do; that's the way I think we can consolidate our multi-racial harmony and make sure that Singapore has another 50 years of stable, cohesive and harmonious society.

#### d) *Observance of holidays and days of rest*

Many of the gazetted public holidays in Singapore are associated with religious occasions or cultural events for the major racial groups. Of the 11 gazetted public holidays, six are for religious occasions:

- Islam: Hari Raya Puasa; Hari Raya Haji
- Christianity: Good Friday; Christmas
- Buddhism: Vesak Day
- Hinduism: Deepavali

For other religions such as Judaism, employers in the public and private sectors have the discretion to grant their employees unrecorded leave for their key religious events. Public sector employers also facilitate their Muslim employees to fulfil their Friday prayer obligations.

#### e) *Appointing clergy*

Article 15(3) of the Constitution provides for the right of every religious group “to manage its own religious affairs”. Thus, the selection, training, and appointment of clergy is left to each religious group.

Where the appointment of the *Mufti* is concerned, section 30(1) of AMLA provides that the “President of Singapore may, after consultation with the Majlis, appoint a fit and proper person to be the Mufti of Singapore”. Such an appointment shall be published in the government *Gazette*.

#### f) *Teaching and disseminating materials (including missionary activity)*

A key aspect of religious freedom is the right to propagate one's religion, which is provided for in Article 15 of the Constitution. As such, the law does not prohibit the dissemination of religious literature, as part of proselytization efforts, and other forms of proselytization. The relevant consideration is how proselytization is carried out. Article 15(4) is relevant as it circumscribes the manner in which Article 15 rights are practiced. Any proselytization effort can be restricted if it is “contrary to any general law relating to public order, public health or morality”.<sup>38</sup>

Although it is not illegal for non-Muslims to proselytize to Muslims, there is the tacit understanding among the religious groups that there should not be specific efforts by non-Muslims to proselytize to Muslim adherents. This could

38 *PP v Ong Kian Cheong* [2009] SGDC 163.

reflect the concern that the Muslims constitute a significant minority faith in Singapore and in which Islamic affiliation is almost coterminous with Malay identity. Unlike in Malaysia, however, there is no constitutional or statutory definition of “Malay” in Singapore. Article 160(2) of the Malaysian Constitution defines a “Malay” as “...a person who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay custom”.<sup>39</sup>

Missionary activity locally and foreign missionary activity carried out of Singapore are also not proscribed. Taking advantage of Singapore’s connectivity, many Christian missionary groups use Singapore as base for missionary work in Southeast Asia. Indeed, it is not uncommon to hear Singapore being described as the “Antioch of the East”, a strategic base for both missionary outreach and funding.<sup>40</sup> Within Singapore, over the last three decades, there is the perceptible shift towards increased religious consciousness. Thus, we see most, if not all, faiths enhancing their efforts to propagate their faith. This includes Muslims’ *dakwah* (proselytization) efforts directed at the substantial non-Singaporean population in Singapore.

g) *The right of parents to ensure the religious and moral education of their children*

Parents have the right to decide the appropriate religious and moral instruction of their children below 21 years of age. At the level of religious communities, Article 16(2) of the Constitution

39 On “Malays” and “Malayness”, see generally Anthony Milner, *The Malays* (Malden, MA: Wiley-Blackwell, 2008). See also Syed Muhd Khairudin Aljunied, ‘British Discourses and Malay Identity in Colonial Singapore,’ (2009) 37 (107) *Indonesia and the Malay World* 1-21.

40 Ancient Antioch was an important centre for the early Christians, playing a major role in the story of early Christianity. In its heyday, Antioch attracted Christian proselytizers. The Gospel of Matthew was written in Antioch, and Peter and Paul converted gentiles there. It was also in Antioch that followers of Christ were first called “Christians”. Antioch then was a big, cosmopolitan, wealthy city and was a major trade link.

protects the right of a religious group “to establish and maintain institutions for the education of children and provide therein instruction in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law”.

h) *Registration*

Article 15(3) of the Constitution stipulates that every religious group has the right to manage its own religious affairs; establish and maintain institutions for religious or charitable purposes; and to acquire and own property and hold and administer it in accordance with law. However, registration of religious groups is not mandatory under Singapore’s laws. For most religious groups seeking a legal personality, registration is necessary for the many acts in connection with the legal right to manage religious affairs.

There are two main modes for the registration of religious groups: either as a corporate entity through the Companies Act (Cap. 50, 2006 Rev Ed), or – more commonly – as a society under the framework of the Societies Act (Cap. 311, 2014 Rev Ed). The former route might be deemed suitable by some religious groups as it can obviate some of the issues that might arise under the latter route, which is elaborated below.

In addition, there are also various private Acts and Ordinances giving various religious and ethnic charitable organisations legal identity: see *Statutes of the Republic of Singapore*, Part III (Caps. 355–383). This is uncommon today as new religious groups seeking to establish legal identity are advised to incorporate or register as a society. There are benefits to registration such the legal right to acquire and own property, and hold and administer it in accordance with law: Article 15(3). In this regard, “registered” religious groups can opt to establish and maintain charitable and humanitarian

institutions, which would, *inter alia*, enable them to solicit and receive funding.

Under the Societies Act, a society that represents, promotes, or discusses religious matters is a “specified society” and has to be registered by law. This means that the registration of such societies is not automatic and not of right, and may be subjected to inquiry by the Registrar of Societies. 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 which are deemed to be “prejudicial to public peace, welfare or good order in Singapore”.<sup>41</sup> As then Chief Justice Yong Pung How 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.”<sup>42</sup>

Further, for the Jehovah’s Witnesses (JWs), a proscribed entity, publications by the Watchtower Bible and Tract Society (the organisation that publish religious materials for the JWs) are designated as objectionable publications under the Undesirable Publications Act (Cap. 338, 1998 Rev Ed). As such, their publications may not be legally brought into Singapore.<sup>43</sup> For offences involving such objectionable publications, a person shall be liable on conviction to a fine not exceeding SGD

41 The Christian Conference of Asia (CCA) was dissolved under s. 24(1) of Societies Act in 1987 for its alleged involvement in political activity and allowing its funds to be used for political purposes. The Jehovah Witnesses and the Holy Spirit Association for the Unification of World Christianity (Unification Church) are two well-known entities that have been deregistered.

42 *Chan Hiang Leng Colin and others v PP* [1994] 3 SLR(R) 209 at [78].

43 Informal queries suggest that while the JWs’ bibles are confiscated as a matter of course at the customs checkpoints, the Controller of Undesirable Publications may subsequently release them, with the bibles being stamped, “We have no objections with this shipment”. All other publications by the Watchtower Bible and Tract Society are banned in Singapore.

5,000 or to imprisonment for a term not exceeding 12 months or to both.

For religious groups that have de-registered, such as the JWs, they are unable to secure any legal places of worship. Any premises, whether residential, commercial or otherwise, that is used as a place of worship by a de-registered or un-registered religious group may be subjected to police raids. It should be noted that the police do not specifically seek out such premises.

i) *Communicate with individuals and communities on religious matters at the national and international level*

There are no laws that specifically regulate a religious group’s communications with individuals and communities on religious matters at the national and international level. Religious groups are at liberty to communicate with other parties without reference to the secular authorities. Generally speaking, however, such communication, even if connected with a religious nature, cannot run foul of Article 15(4) of the Constitution. This entails that such communication cannot be “contrary to any general law relating to public order, public health or morality” or any other laws. In this regard, religious speech is neither conferred specifically privileged nor protected status.

j) *Establish and maintain charitable and humanitarian institutions/solicit and receive funding*

Article 15(3) of the Constitution states that every religious group has the right to manage its own religious affairs, to establish and maintain institutions for religious or charitable purposes, and to acquire and own property and hold and administer it in accordance with law. This is reinforced by Article 16(2) which provides that “(e)very religious group has the right to establish and maintain institutions

for the education of children and provide therein instruction in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law". Such institutions may also be charities and institutions of public character – the latter are empowered by law to issue tax-exempt receipts for qualifying donations made by donors.

In Singapore, the public face of religion is evident and is regarded as part of associational life in the city-state. The government recognizes that the public and private spheres are increasingly fluid, porous and less definitive in an age of globalization, coupled with rapid scientific and technological advancements that result in moral, ethical, and religious issues acquiring a higher profile.

In tandem with the growing religious consciousness and piety, religion and religious groups continue to have a substantive presence in Singapore's associational life and demonstrate the extent to which religion can help develop social capital. Two examples suffice. The social welfare framework has an intimate public-private collaboration in which community organisations, such as religious groups, provide help to the needy and vulnerable, with the government providing the financial support and infrastructure. In receiving financial support from the government, these organisations are legally bound and commit to providing their services to the community regardless of the beneficiaries' religion, race, or language.

Secondly, Singapore's approach in managing the socio-economic and educational under-performance among the various races has a significant ethnic (racial) dimension through the formalization of the ethnic self-help groups. Additionally, for Malays/Muslims, the religious dimension is also significant in two other ethnic self-help vehicles that mainly cater to the Malays/Muslims: (i) MENDAKI (Council on Education for

Muslim Children),<sup>44</sup> the first ethnic self-help group, created in 1982, and (ii) Association of Muslim Professionals (AMP) set up in 1991. In contrast, the identities of the other three self-help groups for the Chinese (Chinese Development Assistance Council or CDAC), Indians (Singapore Indian Development Association or SINDA), and Eurasians (Eurasian Association) are premised on race and are avowedly secular in outlook and disposition. Again, this fusion of race and religion elements in many Malay-Muslim organisations reflects the centrality of and recognition accorded to the Islamic identity as part of the Malay identity.

#### *k) Conscientious objection*

Under the Enlistment Act, all Singapore citizens and Permanent Residents, are liable to perform full-time National Service (NS) for two years with reservist (operationally ready) duties up to the age of 40 and 50 for non-commissioned and commissioned officers respectively. Since 1967 when NS was first established, however, only males have been enlisted. Enlistees serve in the Singapore Armed Forces, or the Singapore Police Force, or the Singapore Civil Defence Force. A person liable for NS may be exempted for medical reasons based on professional assessment by an independent medical review panel.

The various legislation relating to national service, such as the Enlistment Act and the Singapore Armed Forces Act, do not explicitly provide for the right to refuse to perform national service on religious grounds. This has caused considerable problems for religious groups such as the Jehovah's Witnesses (see below). In the past 10 years, about a dozen national servicemen each year were court martialled and sentenced to detention for refusing to serve NS on religious grounds. Such servicemen

<sup>44</sup> MENDAKI's logo incorporates a stylistic rendition of the Quranic term "Iqra" which means "Read": see <<http://www.mendaki.org.sg/about-mendaki/logo.aspx>> accessed 9 August 2014.

are typically detained for at least three years in military detention barracks.<sup>45</sup> Typically, such JW detainees are not subjected to the physical regime that other soldiers under sentence undergo.

The Singapore government's position in not recognising conscientious objectors in Singapore's NS framework is that "Allowing individuals to opt out or choose alternative forms of NS because of moral or religious reasons will weaken support for NS itself".<sup>46</sup>

Although they remain technically liable for national service, servicemen who had been court martialled and sentenced to detention for refusing to serve NS on religious grounds typically are not called up for reservist duties. However, such persons do not have any form of legal documentation that officially discharges them from reservist duties. For those who had completed their full-time NS, and subsequently become conscientious objectors, they could be court martialled and sentenced to up to 40 days' detention each time for refusing to serve reservist NS.

In the education realm, as JWs do not take the National Pledge or sing the National Anthem, school-going children abstaining from these activities may be suspended from school. Similarly, jobs in the government sector or uniformed services remain out-of-bounds for JWs.

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45 Under section 118(1)(f) of the Singapore Armed Forces Act (Cap. 295, 2000 Rev Ed), a court martial can sentence a soldier to a maximum detention period not exceeding 2 years. Conscientious objectors are typically charged and sentenced initially for 15 months' detention by a court martial. After the first sentence is served, this is followed by a second charge and a sentence of 24 months' detention.

46 Written answer by Minister for Defence, Dr Ng Eng Hen, to a parliamentary question on conscientious objectors filed by the author: *Singapore Parliament Reports*, vol. 92, 9 July 2014.

### 3. *Freedom from intolerance and discrimination*

The Singapore government is particularly sensitive to charges that state policy and laws practise discrimination, especially against the minorities. Thus, it is no surprise if the government is very scrupulous with regard to how the different religious communities are treated. It is also not a surprise if Islam is given special attention. One area that remains a contested source of unhappiness is the role of Malays/Muslims within Singapore's national security apparatus given that there is compulsory national service.

The Singapore Armed Forces (SAF) is a largely conscript defence force and is rigorously portrayed as one of the pillars of Singapore's multiracial ethos. The military is seen as an institution of nation-building through its efforts in racial integration.<sup>47</sup> Military service is seen as being central to full Singaporean citizenship.

Born of and sustained out of "a chronic sense of its [Singapore's] own vulnerability",<sup>48</sup> the SAF is promoted and celebrated by the government as an institution that is non-racial and one that bonds the servicemen regardless of their class, race, language or religion, in the defence of Singapore's sovereignty. Introduced in March 1967, all medically fit males of age 18 years are enlisted to serve national service for up to two years (previously, two and a half years). This is followed by reserve service until 40 years of age for non-commissioned officers and 50 years of age for commissioned officers.<sup>49</sup>

In the official discourse, national service is portrayed as being integral to full, as opposed to formal, citizenship for Singaporean males. In the

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47 See *Singapore: The First Ten Years of Independence* (Singapore: National Library Board and National Archives of Singapore, 2007), 79-81.

48 Tan Tai Yong, "Singapore: Civil-Military Fusion," in Muthiah Alagappa (ed.), *Coercion and Governance: The Declining Political Role of the Military in Asia* (Stanford, CA: Stanford University Press, 2001), 276-293 at 276.

49 See Enlistment Act (Cap. 93, 2001 Revised Edition).

publication, *Defending Singapore in the 21st Century*, the Ministry of Defence declares that “National Service remains the only viable option for building up a defence force capable and formidable enough to deter an external attack”.<sup>50</sup> National service is an important rite of citizenship for a “nation-in-arms... a garrison state with a garrison mentality to match”.<sup>51</sup> Mandatory military service therefore provides a shared experience of Singaporean society. It has also become a traditional training ground for Singapore’s future leaders, especially in politics.<sup>52</sup> For a society where the concerns of survivalism and vulnerability are ever present, compulsory national service is a key institution in the nation-building process. National service is undoubtedly a socio-political process in social and cultural homogenization in the civic sense.

From a largely ethnic Malay police force and defence force during the colonial period, the government upon independence in 1965 sought to recruit more Chinese and Indians into the police and newly created armed forces. In his memoirs, former Prime Minister Lee Kuan Yew wrote that “Independent Singapore could not continue the old British practice of having a city of three-quarters Chinese policed and guarded by Malay policemen and soldiers”.<sup>53</sup> The government’s quest for a more “mixed-race” SAF consequently led to the dual effort in ramping up the recruitment of more non-Malays and concomitantly reducing the Malay proportion in the SAF. By 2000, Huxley notes the predominance and over-representation of ethnic Chinese in the officer ranks today in contrast to the

1980s when there were more non-Chinese officers and in the 1960s when the Malays constituted the backbone of SAF’s predecessor.<sup>54</sup>

The state’s and government’s sense of vulnerability is overriding and is attributed to the tumultuous political union of Singapore in Malaysia where racial concerns were central in the July and August 1964 riots and culminated dramatically in the failed merger with Malaysia and Singapore’s subsequent independence.<sup>55</sup> Furthermore, the security perspective of Singapore as a small, predominantly ethnically Chinese state in a Malay-Muslim world heightens the country’s entrenched sense of vulnerability. It was in this context that the SAF came into being, and whose influence on society and half of Singapore’s population is substantive. This state of perpetual vulnerability continues and sustains Singapore’s defence posture and policies.

The key hindrance to closer Malay integration in the defence force stems from the Singaporean political elites’ belief that primordial loyalties of ethnicity and religion will trump the civic and secular loyalties of the Singaporean nation. The tacit institutional ambiguity of their National Service role and their place within the larger national security apparatus are major issues that continue to gnaw at the Malay-Muslims, resulting in much angst, distrust, and misunderstanding between the Malay-Muslims and the government. The alleged loyalty dilemma is the “focal point of Malay dissatisfaction with if not

50 *Defending Singapore in the 21st century* (Singapore: Ministry of Defence, 2000), 41.

51 Tan Tai Yong, “Singapore: Civil-Military Fusion,” p. 277.

52 As of August 2014, seven of the 15 Cabinet Ministers, including the Prime Minister and one Deputy Prime Minister, are retired professional military officers. Of the seven, three were 2-star generals (including two Chiefs of Navy and one Chief of Army) and two were 1-star generals.

53 Lee Kuan Yew, *From Third World to First – The Singapore Story: 1965-2000, Memoirs of Lee Kuan Yew* (Singapore: Singapore Press Holdings and Times Editions, 2000), 31.

54 Tim Huxley, *Defending the Lion City: The Armed Forces of Singapore* (St Leonards, NSW: Allen & Unwin, 2000), 114-15. No precise figures were given by Huxley or are the figures available in the public domain.

55 Other areas of vulnerability often cited by the Singapore leadership: Singapore’s small size (and the resultant lack of strategic depth for defence), the lack of an economic hinterland, and the lack of natural resources. On the failed merger, see Albert Lau, *A Moment of Anguish: Singapore in Malaysia and the Politics of Disengagement* (Singapore: Times Academic Press, 1998). On the seeds of failure in the formation of the Federation of Malaysia in 1963, see Tan Tai Yong, *Creating ‘Greater Malaysia’: Decolonization and the Politics of Merger* (Singapore: Institute of Southeast Asian Studies, 2008).



alienation from the Singapore political system”<sup>56</sup>

When national service was introduced in 1967, politicians and citizens alike shared the explicit understanding that the new national service laws require every young Singaporean male citizen would be conscripted, irrespective of racial background. As it turned out, this was not the case. Between 1969 and 1973, universal conscription of Malays was not practiced in the quest to “racially balance” Singapore’s defence force from a predominantly Malay fighting force to a mixed-race one. Since 1985, however, all eligible Malays have been enlisted for national service.

Such a policy was perhaps not all that surprising. The Singapore government was motivated by a deep concern and abiding fear that in a crisis, Malay soldiers could not caught in a loyalty dilemma. It took a leaf from the racial disturbances in Singapore in 1964 and the 13 May 1969 riots in Malaysia where the Malaysian military and police personnel (who were overwhelmingly Malay in both situations) were partial in the conflict resulting in significant Chinese casualties. As Bedlington remarks, “The government cannot be expected to tolerate the domination of its military and police by an ethnic group which forms only 15 per cent of the population as a whole and whose loyalties can reasonably questioned”<sup>57</sup>

56 Stanley S. Bedlington, “Ethnicity and the Armed Forces in Singapore,” in DeWitt C. Ellinwood and Cynthia H. Enloe (eds.), *Ethnicity and the Military in Asia* (New Brunswick, NJ: Transaction Books, 1981), 259. Ismail Kassim notes in his *A Reporter’s Memoir: No Hard Feelings* (Singapore: Ismail Kassim, 2008), 59 that: “As part of the separation agreement, the Tunku [Abdul Rahman, Malaysia’s Prime Minister between 1957 and 1970] offered Singapore Malays land in Johore and the option of becoming Malaysian. Only a handful accepted; the vast majority preferred to take their chances with Lee [Kuan Yew] and the PAP”.

57 Bedlington, “Ethnicity and the Armed Forces in Singapore,” 260. See, generally, the insightful study of Cynthia H. Enloe, *Ethnic Soldiers: State Security in Divided Societies* (Athens, GA: University of Georgia Press, 1980). On security dilemmas involving ethnic issues that confront many post-colonial states in Southeast Asia, see Alan Collins, *The Security Dilemmas of Southeast Asia* (New York: St Martin’s Press, 2000).

Progress has indeed been made. In the 1990s and early 2000s, there were well-publicized exceptions of Malay deployment in the SAF in the mass media to highlight the integration of the Malay-Muslims in the defence force. For instance, Singapore’s first Malay air force pilot (commissioned in the early 1990s) was a poster boy of this integration. In 2002, Singapore had its first Malay combat fighter pilot.<sup>58</sup> In 2009, the military appointed its first Malay (one-star) general.<sup>59</sup>

The Defence Minister in 2014 stated that:

National Servicemen are deployed to various vocations based on the SAF’s operational needs and the individual’s factors such as educational qualifications, skills, physical attributes and aptitude to adequately perform the requisite tasks and responsibilities. All vocations within the SAF contribute to and collectively strengthen the defence and security of Singapore.

The ethnic composition of servicemen in the SAF corresponds broadly to the ethnic profile of our population, with major ethnic groups represented in each Service. In the Army, where the bulk of full-time national servicemen are deployed, the ethnic compositions of the combat vocations (which include Infantry, Guards and Armour) and the support vocations (which include Signals, Engineers and Logistics) are again similar to that in the general population. Due to operational security considerations, MINDEF does not release detailed data within each specific vocation.

58 See “Childhood dream to fly comes true,” *The Straits Times*, September 7, 2003. See also Saat A. Rahman (ed.), *Goh Chok Tong, Portrait of a Leader: A Tribute from the Malay/Muslim Community of Singapore* (Singapore: Tribute to Mr Goh Chok Tong Organizing Committee, 2005), 60-61.

59 “A Malay general in the SAF? Why not, says DPM,” *The Straits Times*, November 24, 2003.

The selection of commanders (which include Officers, Warrant Officers, Specialists, and Military Experts) is based on similar criteria for deployment into vocations and merit. The ethnic composition of commanders is similar to that in the general population.”<sup>60</sup>

Earlier in the year, the Defence Minister said in Parliament:

... Over the years, Malays have made significant strides in skills and educational attainment. So we now have Malays in all Services, whether as pilots in the Air Force, as Commandos, Combat Engineers, Artillery Men in the Army, and in the Navy ... The SAF has been doing it this quietly and progressively without fanfare, applying the principles of merit and aptitude. Which means that every Malay soldier who is posted to any vocation or unit got there on his own merit. ...

Many of these senior Malay commanders have been asked to profile themselves by the Malay community. The Malay community is proud of them. They want to erase some misconceptions, and they say, “We want to profile you.” But the Malay commanders tell me, they replied, “Why should I do so? Why should I push myself out? In the SAF, I have been promoted because of what I have accomplished and am capable of, not because I am Malay. As a commander, I lead my men, not Malay, Chinese, or Indian men, but all my men. And I am not their Malay, Chinese, or Indian commander but just their commander. No one purposely draws attention to my race within the SAF.” These Malay senior commanders want to keep it that way. I think these words from Malay

60 Written answer by Minister for Defence, Dr Ng Eng Hen, to parliamentary questions filed by Mr Pritam Singh and Mr Muhamad Faisal Bin Abdul Manap: *Singapore Parliament Reports*, vol. 92, 7 July 2014.

senior commanders, spoken in private, are the most eloquent public statement of how far we have come, and how we must continue to progress.

We will continue to expand the opportunities for all Singaporeans regardless of race and religion.<sup>61</sup>

The official position of irrelevance of a serviceman’s race and religion to his deployment sits uncomfortably with the earlier predominant view among the political elites that race and religion may trump civic, patriotic pulls. This position was never publicly enunciated until 1987, twenty years after the introduction of NS, when BG (NS) Lee Hsien Loong, then junior Defence Minister, stated first in a constituency tour and, later, in Parliament the government’s long-standing concern with the purported dual-loyalty conflict faced by the ethnic Malays resulting in the need for an exclusionary ethnic manpower policy in the national security apparatus:

If there is a conflict, we don’t want to put any of our soldiers in a difficult position where his emotions for the nation may be in conflict with his emotions for his religion... We don’t want to put anybody in that position where he feels he is not fighting a just cause, and perhaps worse, maybe his side is not the right side. ... The SAF is not only an institution for nation building; it also has an operational role. Its operational role is to defend Singapore against armed attack in case of war. We cannot post a soldier, a national serviceman, to the SAF, or for that matter post him to any particular post in the SAF, simply for purposes of nation building alone. He is there not just for his education but to fulfill a role, an operational role. We have to take this into account. We still have to remember that in a

61 Speech by Minister for Defence, Dr Ng Eng Hen, for the debate on the President’s Address, *Singapore Parliament Reports*, vol. 92, 29 May 2014.

multi-racial society, as was pointed out by Dr Goh [Keng Swee] 10 years ago but it is still true, “the ethnic distribution of soldiers is obviously an important yet delicate subject”.<sup>62</sup>

Earlier on, in November 1986, Israel’s President Chiam Herzog’s state visit to Singapore incurred the displeasure of Malaysia. In the ensuing bilateral spat, the government questioned the loyalty of Singaporean Muslim organisations when they reacted to the visit in the same manner as the Malaysians. Then Prime Minister Lee Kuan Yew remarked that, “It is a reminder that in certain circumstances the Malay Singaporean reacts with the emphasis on Malay/Muslim rather than Singaporean.”<sup>63</sup> More than a decade later in 2001, Lee reaffirmed the government’s concern:

We must never put the person in a situation where he may face a conflict of loyalties. I said in answer to a question some nearly two years ago that it is a difficult matter to put a Malay Muslim of deeply religious family background in charge of a machine-gun. We should never have to ask this of anyone. Some of you were disturbed by my frankness. But when I faced crises in the 1960s I could not afford to be wrong. Was this discrimination or was it common sense - a policy of prudence? ... We uphold meritocracy, which means the most qualified and suitable person for the job. For nearly every job, a person’s race and religion are irrelevant. But in the security services, because of our context, we cannot ignore race and religion in deciding suitability. ...

Our concerns about conflicting loyalties are real. We know of at least one case where foreign intelligence agencies approached one of our senior officers because he was Malay.

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62 *Singapore Parliament Reports*, vol. 49, col. 375, 17 March 1987.

63 As quoted in Michael Leifer, “Israel’s President in Singapore: Political Catalysis and Transnational Politics,” (1988) 1(4) *The Pacific Review* 341-352 at 349.

Fortunately, he reported the approach to his superiors. We had judged his loyalty correctly. So we are not just dealing with hypothetical situations. Potential adversaries see this as a fault line in our society, and they will exploit it whenever they can.<sup>64</sup>

This is a tightrope situation for the Malay-Muslims and the government to tread. The rites and rituals of citizenship require that they perform compulsory national service yet their loyalty remains in some doubt. For the government, the security concerns are real. Lee Kuan Yew enunciated the government’s approach to and assessment of loyalty:

Loyalty is not something that can be measured quantitatively like height or weight. It is in the mind, in the heart. It is a question of our gut feelings. It depends on whether you and I feel we can trust each other. Arguments alone are unproductive. The loyalty of an individual is simpler to ascertain. But while we look at individuals, we cannot separate this from how groups of people may react, and different considerations apply. Under severe stress loyalty can change in unpredictable ways. How an individual reacts can be heavily influenced by how the group or community to which he belongs reacts.<sup>65</sup>

Thus, the integration of the Malays into Singapore society is the pre-requisite for greater Malay participation in the SAF. Lee Kuan Yew had said:

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64 Lee Kuan Yew, “Loyalty and the SAF,” speech at the dialogue session with the Association of Muslim Professionals and the *Majlis Pusat*, 2 March 2001 < <http://www.nas.gov.sg/archivesonline/speeches/view-html?filename=2001030503.htm> > accessed 9 August 2014. For a summary of the main points of the position paper prepared by Majlis Pusat and the AMP for the dialogue, see Ismail Kassim in his *A Reporter’s Memoir: No Hard Feelings* (Singapore: Ismail Kassim, 2008), 200-202.

65 Lee Kuan Yew, “Loyalty and the SAF”.

The Ministers in MINDEF have to be guided by the assessment of the commanders and the commanders in turn have to assess feelings between Chinese, Indian and Malay/Muslim NS men. If there is closer integration across the board between the communities, NS men will be comfortable with each other, and trust each other. It is not just winning over the leaders; it is more the question of whether inter-communal relations are such that we have trust and confidence between communities in the whole society.<sup>66</sup>

However, the military, given its operational requirements and the *esprit de corps*, can catalyse the integration of Malays with non-Malay servicemen. It is well placed to set the pace for society in removing the stereotypes and prejudice against the Malays. At a minimum level, it can certainly set out and successfully integrate servicemen faster than what might be the pace of integration in the Singaporean society. Integrating the Malay-Muslims would certainly enhance the defence of Singapore. This is particularly so in a post 9/11 world. Conversely, discrimination, whether real or perceived, against the Malay-Muslims on security matters can only imperil Singapore's defence and social cohesion. As the government revealed in *The Jemaah Islamiyah Arrests and the Threat of Terrorism* White Paper, the Jemaah Islamiyah's principal terrorist plans entailed provoking "distrust and animosity between a 'Muslim Malaysia' and a 'Chinese Singapore' and cause ethnic strife in both countries".<sup>67</sup>

66 *Ibid.*

67 *The Jemaah Islamiyah Arrests and the Threat of Terrorism*, Cmd. 2 of 2003 (Singapore: Ministry of Home Affairs, Singapore, 2003), 11.

#### 4. *Right of vulnerable groups to freedom of religion and belief*

##### a) *Women*

As indicated earlier, Singapore's legal system officially provides for limited legal pluralism in personal law as they pertain to the indigenous Malay-Muslim community. In areas such as marriage, divorce and inheritance, Article 153 of the Singapore Constitution provides for legislation (viz Administration of Muslim Law Act or AMLA) in "regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion". It is in this context that Singapore has made reservations, on the basis of religious grounds, to Articles 2 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Specifically, Singapore reserves the right not to apply the provisions of CEDAW where compliance with these provisions would be contrary to religious or personal laws. For example, the right is given to a Muslim man in Singapore to marry up to four wives, but not vice versa. The government regards the reservations to Articles 2 and 16 of the CEDAW as necessary in view of the need to respect the right of Muslim citizens to practise their personal and religious laws".

However, in the areas of Islamic family law such as those governing marriage, divorce and inheritance, *Sharia* law has been said and perceived to operate partially in favour of Muslim men over women. Such laws, which have a religious basis, appear to discriminate against women. For example, in terms of inheritance rights and the division of matrimonial assets in a divorce, Muslim women are placed in a subordinate position vis-à-vis their Muslim male counterparts.

While Muslim family law has been regarded by many outside the community as being unequal and discriminatory towards Muslim women, the

government is of the view that there is general acceptance “on the need for the Muslim minority community to practice their family and personal laws”. It is clear that Islamic personal law poses challenges where international human rights standards are concerned. However, this is one area where the government is unlikely to be an agent of change. The pace of change, if any, will very much be influenced by the Muslim community itself.

*b) Children*

There is no known litigation on major issues where children and religion are concerned. The age of majority in Singapore is 21 years. Parents have the right to decide on the religion for their children who are minors: Article 16(4) of the Constitution.

There are no known cases of litigation over the unilateral conversion by one parent of their child(ren) without the consent of the other parent. Like in all matters concerning the child, the courts are guided by what is in the best interest of the child. Article 16(2) of the Constitution states that every religious group has the right to establish and maintain institutions for the education of children and provide therein instruction in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law. Article 16(3) reinforces the importance of no compulsion in matters of religion: “No person shall be required to receive instruction in or to take part in any ceremony or act of worship of a religion other than his own”.

*c) Migrant workers*

The right of freedom of religion under Article 15 of the Constitution applies to all persons in Singapore. Thus, migrant workers can enjoy such rights and are also subject to the same laws as Singapore citizens and permanent residents.

There are more than 200,000 foreign women domestic workers (FDWs) in Singapore. They come from several Asian countries such as the Philippines, Indonesia, Sri Lanka. There have been no official complaints from the sending countries about their nationals not being able to practise their faith while working in Singapore. However, there are anecdotal accounts suggesting there may be a lack of sensitivity on the part of some employers on the religious requirements of their domestic workers such as domestic workers, who are Muslims, having to prepare pork dishes and asked to attend church services.

Since January 2013, employers are required to provide their FDWs with a mutually agreed weekly rest day, with the option for compensation in lieu. Compensation is fixed at at least one day’s wage for each rest day forgone. FDWs may use their rest days to attend to their religious needs and obligations. Arrangements for FDWs to fulfil their religious obligations on their work-days are subject to the employers’ agreement.

*d) Persons deprived of their liberty*

Prisoners are not denied their religious freedom rights while in custody. The various faiths’ prison ministries are given access to prisoners. Under the Prisons Regulations (Cap. 247, Rg 2, 2002 Rev Ed), reg 114 requires that “Every facility consistent with security and discipline shall be afforded for the holding of religious services and for visits by ministers of religion”. Under reg 140(a), prisoners sentenced to confinement in cells for breaches of prison discipline shall see no one, “save the officers of the prison in the execution of their duty, a minister of religion and the medical officer”. Religion is accepted as having the potential to contribute to a prisoner’s rehabilitation. The prisoner will, of course, have to consent to receiving such visits and participating in such activities.

Reg 103(2) stipulates that Jewish prisoners “shall not be compelled to work on Saturdays if they claim exemption and they may also keep such festival days as may be allowed by the Government”. Similarly, reg 103(3) provides that “All Muslim prisoners shall be allowed to observe the fast of Ramadan and during the fast may be required to labour at such reduced task as the medical officer considers proper”.

Reg 110 states that prisoners shall receive diet according to the scales set out in the schedule. Although the schedule provides for various types of diets, broadly along ethnic origins, there appears to be some recognition for diets on religious grounds. For example, the “A” diet is for “Asian Prisoners other than Northern Indians, Sikhs and Brahmins”, the “B” diet for “Northern Indian, Pathan and Sikh Prisoners”, and the “D” diet for Brahmin vegetarian prisoners. What is not listed is that *halal* diet is available as well.

#### e) Refugees

Singapore is not a signatory to the 1951 Convention relating to the Status of Refugees, which is the key international law treaty defining who is a refugee, their rights and the legal obligations of states. Although there are no specific laws governing the rights of refugees, should they be legally allowed to land in Singapore, Article 15 of the Constitution and other relevant laws regarding religion will presumably apply to them equally.

#### f) Minorities

Religious minorities are not discriminated against on the basis of their religious affiliation or lack thereof. In the official narrative, Singapore’s steadfast commitment to the multiracial ethos contributed to its failed political merger with Malaysia between September 1963 and August 1965. Singapore’s rigorous objections to the federal government’s goal of an ethnic-based Malay-Malaysia translated into a merger marked by mutual suspicion, political

manoeuvring and confrontation culminating in Singapore’s independence in 1965. In the fledgling nation-building efforts in the aftermath of separation, the government consciously sought to develop a “Singaporean Singapore” identity, while symbolically recognizing the special position of the indigenous Malays.<sup>68</sup> This was necessary “[b]ecause we, the Chinese majority in Singapore, suffered communal bullying and discrimination during the two years we were a part of Malaysia, the first-generation leaders vowed that we would never bully or discriminate our bullies”.<sup>69</sup>

The centrepiece of the Singapore state’s attempt at inclusive citizenship for the minorities, and especially the Malays, can be found in Article 152 of the Singapore Constitution. Article 152(1) states that: “It shall be the responsibility of the Government constantly to care for the interests of the racial and religious minorities in Singapore”. In particular, Article 152 recognises the “special position of the Malays” by virtue of their being the indigenous people of Singapore.<sup>70</sup> The Singapore Constitution does not define who a Malay is. Article 152(2) states that:

The Government shall exercise its functions in such manner as to recognize the special position of the Malays, who are the indigenous people of Singapore, and accordingly it shall be the responsibility of the Government to protect, safeguard, support, foster and promote their political, educational, religious, economic, social and cultural interests and the Malay language.

68 Lee Kuan Yew, *The Singapore Story: The Memoirs of Lee Kuan Yew* (Singapore: Times Editions and The Straits Times Press, 1998), 540-663; Albert Lau, *A Moment of Anguish: Singapore in Malaysia and the Politics of Disengagement* (Singapore: Times Academic Press, 1998).

69 Speech by Lee Kuan Yew at the People’s Action Party 50<sup>th</sup> anniversary celebrations, 21 November 2004.

70 In contrast, Article 160(2) of the Malaysian Constitution defines a “Malay” as “...a person who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay custom.”

Article 152 of the Singapore Constitution enables and legitimises minority claims to cultural diversity and autonomy in Singapore. This is in sync with the Singapore government's approach to the management of ethnic relations. The commitment to equality was manifested in the principle and requirement of the government of the day having a responsibility to care for the interests of racial and religious minorities. Article 152 predates Singapore's independence. This commitment to minority protection was agreed to between the British colonial government and the All-Party delegation from Singapore, and was incorporated into the preamble of the constitution of the colony of Singapore that granted internal self-government to Singapore. In 2009, Singapore's founding and former Prime Minister Lee Kuan Yew rebutted the notion of racial equality in the Singapore Constitution and stated robustly:

We explicitly state in our Constitution a duty on behalf of the Government not to treat everybody as equal. It [racial equality] is not reality, it is not practical, it will lead to grave and irreparable damage if we work on that principle. So this was an aspiration. ... You suggest to the Malays that we should abolish these provisions in the Constitution and you will have grave disquiet. ... The American Constitution does not say that it will treat blacks differently but our Constitution spells out the duty of the Government to treat Malays and other minorities with extra care. ... It is completely untrue. It has got no basis whatsoever. And I thought to myself, perhaps I should bring this House back to earth and remind everybody what is our starting point, what is our base, and if we do not recognise where we started from, and that these are our foundations, we will fail. ... Today, 44 years later, we have a Malay community, I believe, at peace, convinced that we are not discriminating against them, convinced that

we are including them in our society.<sup>71</sup>

Scholars and politicians alike have interpreted Article 152 as being directory and non-justiciable, rather than mandatory and rights bearing.<sup>72</sup> Jaclyn Neo describes Article 152 as being "paradigmatic" for its precluding rights-based protection. In turn, this deliberate approach entails a "judicious balancing approach" and non-adversarial methods of engagement to resolve differences and diffuse hostilities between the different ethnic groups.<sup>73</sup> Although it has yet to be judicially interpreted, then Chief Justice Chan Sek Keong likens Article 152 to the Indian Constitution's Directive Principles of State Policy.<sup>74</sup> The legal effect of such a provision is that it elevates the principle of minority protection into one of salutary constitutional importance but not amounting to a constitutional guarantee with the force of law. More importantly, as an enabling provision, it facilitates the government to safeguard the interests of the minorities. Article 152 can be likened to being a shield, rather than a sword, that the minorities can assert collectively against the government of the day if it fails to care adequately for the minorities.

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71 Lee Kuan Yew, speech for the parliamentary debate on "Nation-Building Tenets" motion, *Singapore Parliament Reports*, vol. 86, 19 August 2009.

72 See Kevin YL Tan, "The Legal and Institutional Framework and Issues of Multiculturalism in Singapore," in Lai Ah Eng (ed.), *Beyond Rituals and Riots: Ethnic Pluralism and Social Cohesion in Singapore* (Singapore: Institute of Policy Studies and Eastern Universities Press, 2004), 98-113 at 102-104.

73 Jaclyn Ling-Chien Neo, "The Protection of Minorities and the Constitution: A Judicious Balance?" in Li-ann Thio and Kevin YL Tan (eds.), *Evolution of a Revolution: Forty Years of the Singapore Constitution* (London: Routledge, 2008), 234-259.

74 "Culture and Legal Practice," keynote speech by Chief Justice Chan Sek Keong, at the International Bar Association conference, Singapore, 15 October 2007. Although the Directive Principles of State Policy are not enforceable by any Indian court, the Indian state is duty-bound to apply the principles in making laws: see Article 37 and Part IV, generally, of the Indian Constitution.

Notwithstanding the official commitment to multiracialism, Singapore eschews a rights-based approach when it comes to matters pertaining to ethnicity (such as race, language, and religion). While there are fundamental liberties provided for under the Constitution, these liberties proceed on the premise that the individual, rather than a community, is the bearer of such rights.<sup>75</sup>

As the Prime Minister articulated recently on the development of a multi-racial society, “where everybody has full and equal opportunities, where the minority community can live its own life, its own way of life, practice its faith to the maximum extent possible, and not be oppressed or to be marginalised by the majority community”<sup>76</sup>:

But if we are going to do this [a multiracial society], we have to do this in a broad and informal way. We cannot take it issue by issue; *we cannot take it in terms of rights and entitlements*. We cannot go on basis of what is either the rules or the instruction manuals, or the laws or the Constitution, and try to find a legal interpretation on that issue and press that regardless, and to the possibility of detriment to the overall progress of the communities; of our harmony and of the overall space we have been able to carve out for the minority communities in Singapore, and create for the minority communities in Singapore. It’s an approach which has worked for us. We are much more integrated than we were. I think compared to many other societies, we are doing much better. But it

75 Cf. discussion on Singapore in Joshua Castellino and Elvira Dominguez Redondo, *Minority Rights in Asia: A Comparative Legal Analysis* (Oxford: Oxford University Press, 2006), 193-236.

76 Prime Minister Lee Hsien Loong’s remarks to the media after the closed-door dialogue with the Malay/Muslim community on 25 January 2014

<[http://www.pmo.gov.sg/content/pmosite/mediacentre/speechesinterviews/primeminister/2014/January/transcript-of-prime-minister-lee-hsien-loong-s-remarks-to-the-me0.html#.U\\_2PCqMWHFw](http://www.pmo.gov.sg/content/pmosite/mediacentre/speechesinterviews/primeminister/2014/January/transcript-of-prime-minister-lee-hsien-loong-s-remarks-to-the-me0.html#.U_2PCqMWHFw)> accessed 9 August 2014 (emphasis mine).

is an approach which we have to continue to work at maintaining. And if we are going to have anything happen which can change the status quo, we want to make sure that the change takes place gradually and for the better. ... So it’s best that we evolve as we go forward, take it gradually, step by step.

Indeed, Article 152 does not use “right(s)”. Instead, the key word adopted is “interest(s)”. While found in a legal document, the Constitution no less, Article 152 ought to be construed as being political, rather than legal, in substance. The special position of the Malays does not amount to special rights for them, as is the case in Malaysia. Likewise, the constitutional exhortation to the government to care for racial and religious minorities does not adopt the language of or call to affirmative action. As such, Article 152 has not been a source of significant contestation or disaffection. In part, this may reflect the even-handed approach in the management of ethnic relations in Singapore. It also suggests that the government’s consistent approach towards Article 152 from the throes of independence has not only managed the expectations of the various communities but have also set the tone for ethnic relations in Singapore.

Furthermore, given the centrality of “interests” in Article 152, the management of ethnic relations in Singapore has cohered around the careful policy of balancing interests without resorting to a language of rights entitlement. The interests of the minorities have to be balanced against the interests of the majority ethnic Chinese community, and vice-versa. In turn, this entails responsibility on the part of all key stakeholders in not pushing excessively for their community’s interests, and for the government to always remain impartial.

While Singapore adopts an ostensible civic conception of citizenship, it also urges a conscious formation and sustenance of distinctive ethnic identities of the majority and minority



communities. This is amplified by Article 12(3)(a) of the Constitution which states that Article 12 (the equal protection provision) does not invalidate or prohibit any provision regulating personal law. There are a number of primary and subsidiary legislative provisions relating to personal law. While most of them relate to Islamic law, there is also recognition of the religious sensitivities and requirements of other minority communities.

Indeed, the government cannot legislate against the interests of the racial and religious minorities without being subjected to scrutiny under either Article 12 or Part VII of the Constitution. Put simply, multiracialism is a *de facto* constitutionally entrenched obligation. The various groups' ethnic identities, cultures and religions are neither explicitly encouraged nor are they suppressed. There is also a semblance of preferential treatment extended to the Malay-Muslim community although these tend not to have any distorting effect on national policy.

As mentioned earlier, Article 153 also reinforces the special position of the Malays by providing that the legislature "shall by law make provision for regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion". Consequently, the Administration of Muslim Law Act was enacted in 1966 to regulate Muslim religious affairs and to constitute a council to advise the government on matters relating to the Muslim religion in Singapore, and provides for the establishment of the Sharia Court. This Act provides for a limited degree of legal pluralism for the Muslim community. Muslims in Singapore are governed by Islamic law in matters of personal law such as marriage, divorce, and succession. There is no similar provision for the other religions.

Although the linkage with Article 152 of the Singapore Constitution was never asserted by the government, the Malay-Muslim community enjoy several privileges not accorded to the other races such as free tertiary education (qualified

in 1989), state support for the mosque-building programme, and the appointment of a Minister in-charge of Muslim Affairs to assist in the governance of a significant and important minority.<sup>77</sup> The Presidential Council of Minority Rights (PCMR), a constitutional organ, was also established as a commitment to the multiracial ethos.<sup>78</sup>

## C. Redress Mechanisms and Interpretation of Policies

### 1. Judiciary

On matters concerning the infringement of the fundamental liberty of religious freedom, the courts—as the guardian of the Constitution and the counter-majoritarian check—are vital in enabling aggrieved parties to seek redress against the state. This is done via judicial review either under constitutional law and/or under administrative law.

Criticisms of the jurisprudence relating to religious freedom cohere around the argument that the judiciary is unduly deferential to executive determinations and perspectives of the extent of religious freedom and the appropriate restrictions. This arguably could have the effect of stifling the jurisprudential development vis-à-vis the substantive content of the Article 15 rights and constitutional freedoms generally. Or as Thio Li-ann puts it, where secular concerns compete or conflict with the sacred ones, the former is often given greater weight than the latter.<sup>79</sup> In short, a better balance is needed between the concerns of public order, public health, or morality and the religious freedom rights.

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77 On the mosque-building programme, see Anthony Green, *Continuing the Legacy: 30 Years of the Mosque Building Fund in Singapore* (Singapore: Majlis Ugama Islam Singapura (MUIS), 2007).

78 See, generally, Part VII of the Constitution of the Republic of Singapore (1999 Reprint Edition).

79 Thio Li-ann, *A Treatise on Singapore Constitutional Law* (Singapore: Academy Publishing, 2012), para 15.032 at p 888.

Another set of criticisms revolves around the lack of a rigorous balancing exercise undertaken by the courts. So while it is accepted that religious freedom rights are not unfettered as is recognised in Article 15 itself, the legal test used by the courts thus far presents a low hurdle for the executive to surmount. Curtailment to Article 15 rights are generally accepted by the courts so long as they fall within the ambit of the restrictions spelt out in Article 15(4) – that is, one’s religious freedom rights do not justify any act contrary to any general law relating to public order, public health or morality.

The jurisprudence suggests that Article 15(4) is satisfied once the court is satisfied that a validly passed law that curtails religious freedom falls within one of the enumerated restrictions in the provision. The courts seem, thus far, reluctant to introduce proportionality analysis in some form or other.<sup>80</sup> While the wording of Article 15 does not envisage any proportionality analysis, the key question is whether the courts should, however, read in the requirement that the restrictions must be reasonably required in that they can be demonstrably justified in a free and democratic society.<sup>81</sup>

In both arguments, the fact that the fundamental liberty of religious freedom, while clearly not an absolute right, is affected and negated by an ordinary law is an important consideration that must be accorded due weight in the balancing exercise that must necessarily take place between competing, if not conflicting, interests. Thus, the Singapore

courts’ approach in balancing the enjoyment of a fundamental liberty against permitted restrictions to its enjoyment can be described as one where the focus is to directly balance the right against the reason for interfering with it. The courts do not seek to balance the nature and extent of the interference against the reasons for interfering.

## 2. *Administrative Bodies*

Thus far, no administrative body has been established to deal with complaints of violation of freedom of religion rights. There is, however, the Presidential Council of Minority Rights (PCMR), a constitutional organ, which was established in 1969 as a constitutional safeguard.<sup>82</sup> The PCMR has the general function of considering and reporting on “matters affecting persons of any racial or religious community in Singapore” as may be referred to the Council by Parliament or the government. Its particular function is to draw attention to any Bill or to any subsidiary legislation if the Council deems them to be a differentiating measure.

“Differentiating measure”, as defined in Article 68 of the Constitution, is “any measure which is, or is likely in its practical application to be, disadvantageous to persons of any racial or religious community and not equally disadvantageous to persons of other such communities, either directly by prejudicing persons of that community or indirectly by giving advantage

<sup>80</sup> Proportionality analysis refers to a particular legal technique of resolving conflicts between human/constitutional rights and public interests through a process of balancing the competing rights and interests. The aim of the analysis is to enable a judge to determine whether an executive/legislative measure has gone beyond what is required to attain a legitimate goal, and whether its claimed benefits exceed the costs.

<sup>81</sup> This tracks closely to section 1 of the Canadian Charter of Rights and Freedoms which reads: “The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”.

<sup>82</sup> The President, on the advice of the Cabinet, appoints the Chairman and Members of the Presidential Council for Minority Rights. Apart from permanent Members who are appointed for life, the Chairman and other Members are appointed for a period of 3 years. Under the Constitution, the Council shall consist of a Chairman, not more than 10 permanent Members and not more than 10 other Members. In November 2014, the Singapore Parliament passed the Constitution of the Republic of Singapore (Amendment) Bill (No 35 of 2014) to amend the composition of the PCMR by: (1) removing the limit on the number of non-permanent members; and (2) retaining the cap of 10 permanent members and the aggregate cap of 20 members apart from the Chairman.

to persons of another community”<sup>83</sup> Under Article 78(6)(c) of the Constitution, notwithstanding the PCMR’s opinion that some specified provision of a Bill would, if enacted, be a differentiating measure, Parliament may proceed to present the Bill to the President for his assent if such a motion has been passed by the affirmative vote of not less than two-thirds of the total membership of Parliament.

Besides ensuring that the minorities are not discriminated against, the PCMR also plays a key role in the appointment of members of the Presidential Council for Religious Harmony (PCRH). The PCRH is established under the Maintenance of Religious Harmony Act (MRHA). The President of the Republic of Singapore appoints the PCRH chairman and members. The PCRH advises the Minister for Home Affairs on matters affecting the maintenance of religious harmony in Singapore which are referred to it by the Minister or by Parliament. It also considers and makes recommendations to the President on restraining orders issued under the MRHA.

### 3. *Independent Bodies*

There are no independent bodies that have a mandate to deal with complaints of violation of freedom of religion rights. There is no national human rights commission or its equivalent in Singapore.

However, Inter-Racial and Religious Confidence Circles, better known as IRCCs, were created as government-affiliated grassroots organisations which function as local-level inter-faith platforms in every constituency to promote racial and religious harmony. The IRCCs were created post-9/11 and are an integral part of the enhanced mechanism of community engagement. The primary concern was

that Islam and Muslims could be targeted should there be a terrorist attack ostensibly inspired by faith considerations.

As “networks of trust”, the para-political IRCCs “serve as important bridges between religious, ethnic and community groups at the local level. Leaders from various religious, ethnic and other community organisations have come together to join the IRCC networks to build friendships and trust. The IRCCs also aim to deepen people’s understanding of the various faiths, beliefs and practices through inter-faith and inter-ethnic themed activities such as inter-faith heritage trails, inter-faith talks and dialogues and various ethnic and religious celebrations. The IRCCs are also primed to respond quickly to incidents with racial and religious tensions and to project solidarity on the ground during crises.”<sup>84</sup> In this regard, IRCCs function as informal redress mechanisms to ensure that relational disputes do not flare up to increase tensions.

The work of the IRCCs is instrumental to strengthening social cohesion and it supports the Community Engagement Programme (CEP). The CEP seeks to strengthen the understanding and ties between people of different races and religions, and aims to develop Singaporeans’ skills and knowledge in coping with emergencies, in particular, terrorist attacks.<sup>85</sup> Although presented as a matter of social cohesion, the abiding concern is of religion being a source of tension and conflict in Singapore. As the CEP website observes:

The 11 September 2001 attack in the United States and other attacks after that have shown that terrorism is now largely linked to religious extremism. The terrorists use religion as a reason to commit violence against

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83 See, generally, Part VII of the Constitution of the Republic of Singapore (1999 Reprint). Since the establishment of the PCMR in 1969, the PCMR has not issued a single adverse report of a provision of a Bill would, if enacted, be a differentiating measure.

84 See, generally, <<http://www.ircc.sg/about.php>>.

85 On the CEP, see Asad-ul Iqbal Latif, *Hearts of Resilience: Singapore’s Community Engagement Programme* (Singapore: Institute of Southeast Asian Studies, 2011). See also the CEP’s “Singapore United” portal, at <[www.singaporeunited.sg](http://www.singaporeunited.sg)>.

others. The arrests of Jemaah Islamiyah (JI) members for plotting bombings in Singapore in 2001 showed that Singapore can be a target of these terrorists as well. It also showed us that there were Singaporeans who have been misled by these terrorists.... Terrorism is a long term threat to Singapore, so we have to prepare ourselves to prevent attacks and to manage the consequences should there be an attack.... If terrorists successfully launch an attack in Singapore, they will not just want to kill people and destroy property. Their true intention is to create suspicion, tension and strife between the different racial and religious groups in Singapore.<sup>86</sup>

## **PART TWO: TRENDS IN RELIGIOUS FREEDOM**

### **A. Significant Changes in the Law**

The last significant legislation enacted in Singapore relating to religion was the Maintenance of Religious Harmony Act in 1990. In 2007, section 298A of the Penal Code was added to provide for an offence where there is the promotion of enmity between different groups on grounds of religion or race and doing acts prejudicial to maintenance of harmony. Acts could include words, either spoken or written, or by signs or by visible representations or otherwise that could result in feelings of enmity, hatred or ill will between different religious or racial groups. The punishment provided is imprisonment for a term of up to three years, or fine, or both.

### **B. Significant Changes in State Enforcement**

The state acknowledges Singaporeans' religious faith as a major part of Singapore's cultural ballast and Singaporeans' individual identities and value system. It appears that the secularization theory—understood here as a social phenomenon in which modernization results in the decline in religious belief and the downgrading of importance of religious institutions—is not borne out in Singapore. Given the global phenomenon of religious resurgence amidst globalization and rapid social change, Singapore is affected by the rise of the triumvirate of religious fundamentalism, powerful transnational associational pulls of renewed religiosity, and new forms of post-traditional/new age spirituality.

The government operates from the cautious and realist premise that racial and religious harmony cannot be taken for granted and that efforts have to be continually exerted to ensure that moderation and social responsibility prevails in the practice of one's faith. It is acutely aware that religion (with Islam and Christianity holding comprehensive

<sup>86</sup> See <[<http://www.singaporeunited.sg/cep/index.php/web/About-CEP/Why-the-need-for-CEP/\(language\)>](http://www.singaporeunited.sg/cep/index.php/web/About-CEP/Why-the-need-for-CEP/(language))>.

world-views) is a powerful instrument to rally faith communities as well as a potential tool of protest and rebellion against socio-economic and political injustices, perceived or real. The underlying premise asserted is that religious radicalism is a fundamental threat to Singapore's multiracialism ethos.

In response, the Singapore government maintains a watchful eye on external influences and is prepared to move pre-emptively against any threat to social cohesion and harmony.<sup>87</sup> In the 1980s, liberation theology was closely watched. From the 1990s onwards, radical and militant Islam—alongside aggressive evangelization by any faith—is closely monitored. Post 9/11, the overriding concern is with terrorism and its impact on inter-ethnic relations.

The Singapore state has always recognized the power of the pulpit, and has taken various measures to ensure that religious harmony is maintained. It is worth noting, however, that, in recent years the state has increasingly had to adapt the regulatory framework in the interest of preserving the common space. This has been primarily in response to the resurgence of Christianity, both in terms of numbers as well as the expansion of Christian places of worship and the establishment of “mega-churches”. These mega-churches have thousands of followers, and often use commercial premises, including commercial premises in shopping malls, hotel function rooms and convention centres, to conduct their services.

### **Regulation of use of commercial space for religious purposes**

As discussed earlier, in 2010, the government provided guidelines on the use of commercial spaces by religious organisations for their activities and services. The government's guidelines outlined

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87 Michael Hill, “The Rehabilitation and Regulation of Religion in Singapore,” in James Richardson (ed.), *Regulating Religion: Case Studies from Around the Globe* (New York: Kluwer Academic/Plenum Publishers, 2004), 343-358.

that religious groups can use commercial spaces for their activities in a “limited and nonexclusive” way. A religious group is allowed to use up to 10,000 sq m in a commercial space for their activities, whereas a commercial development can only allocate up to 20,000 sq m or 20 per cent of its gross floor area, whichever is lower, for religious activities. Such activities may only be held up to two days a week, and religious symbols should also not be displayed at the venues.<sup>88</sup>

### **Engagement of civil society in combating religious extremism**

Increasingly, there is appreciation of the need for greater interaction, grassroots support and participation to develop inter-religious understanding and appreciation especially at the mass level in order to counter religious entrepreneurs. While Singaporeans' increased religiosity per se purportedly is not a concern, the fact that Singaporeans, specifically Muslims, are interacting less with Singaporeans of other faiths is of concern to the government. The overarching fear and vulnerability, made more pronounced since the post-September 11<sup>th</sup> “war on terror”, ensure that close scrutiny, interventionist surveillance, and ultra-sensitivity to internal security concerns are hallmarks of the government's policy towards religion.

The hitherto conspicuous absence of an engaged civil society in Singapore's model of secularism pre-9/11 was apparent. Against the backdrop of security and terrorism as signature concerns in the post-9/11 era, new initiatives were introduced that consciously seek to induct elements of civil society in the quest to maintain religious harmony in Singapore. This includes various initiatives specifically targeted at the Muslim community (a putative “Muslim civil society” if you will) in combating religious extremism.

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88 See “Guidelines on use of mall space for religion,” *The Straits Times*, 21 July 2010.

More recently, the government has become more conscious and responsive to civil society's role in strengthening inter-faith 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". This is a tacit acknowledgement that the security of the state, government, and society are all inter-linked. The terrorism threat requires not just a security response but a holistic one, one which seeks to align the hearts and minds of the faith communities to the societal objective of harmony and peace.

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. 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 religions practices became a shorthand for hovering at the edge of terrorism".

Muslim civil society efforts to counter radical and violent Islamist ideology are also more evident

in the last few years. Of note is the Religious Rehabilitation Group (RRG) formed in April 2003 and comprising 30-odd *ustaz* (Islamic scholars) and *asatizahs* (religious teachers) who have provided voluntary religious and rehabilitation counselling, as part of the overall rehabilitation process, to the JI detainees (detained under the Internal Security Act) and their families to correct their misinterpretation of Islam. For the JI detainees, this rehabilitation by a non-state entity is crucial as the process seeks to correct the offender's misinterpretation of religious concepts and way of thinking by those with the requisite authority, knowledge, and legitimacy.<sup>89</sup> As the RRG articulates, "In other words, the rehabilitated detainee is expected, not only to refrain from committing criminal acts, but also to recognize and accept that their understanding of Islam has been misled. In addition, since the JI's ideology have affected their family members, their family need (sic) to be guided, so as to avoid and disrupt such a violent cycle."<sup>90</sup>

Alongside MUIS and other Muslim organisations, the RRG also reaches out to the public to explain the misuse and abuse of Islamic teachings and concepts by terrorists. To counter the extremist exploitation of religion, governmental efforts are grossly inadequate. The Muslim religious elites with their authority, scholarship, and standing are assiduously inducted in the effort not to cede the middle ground to the radicals. Such outreach seeks to convey anti-extremist messages, to provide and articulate counter-narratives to explain why certain interpretations, which could lead people towards violent extremism, are not the correct teachings, and to guide the wider community along the right path. Such efforts aim to marginalise militant and/

89 As of 9 July 2014, more than four-fifths of those detained under the Internal Security Act for their involvement in terrorism-related activities since January 2002 have since been released after they were assessed to have been rehabilitated. Information provided by the Ministry of Home Affairs, Singapore, on 24 September 2014 (correspondence on file with author).

90 See the RRG's website at <<http://rrg.sg/>>.

or extremist ideas and prevent them from gaining a foothold among the wider community. In this regard, the salience of “moderation” in the practice of Islam is subtly impressed upon.

The Singapore Muslim Identity (SMI) project is a key plank in the effort to engage the Muslim-Singaporean population in the aftermath of 9/11 and the arrest of home-grown terrorist suspects. MUIS embarked on the SMI project in early 2005 to impress upon Muslim-Singaporeans on the need for an autochthonous Muslim-Singaporean identity and way of life. A core part of the SMI is the “Ten Desired Attributes” of Singapore’s “Muslim Community of Excellence” (see Figure 1). These attributes seek to help Muslim-Singaporeans understand their dual roles and identities as Muslims and citizens.

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 multi-religious 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 1: Ten Desired Attributes of Singapore’s Muslim Community of Excellence (with respect to socio-religious life)**

The SMI draws a distinction between a Muslim’s religious duties and socio-political obligations, and proposes that the ideal Muslim posture as one that does not require trade-offs or sacrifice of the core religious identity. The SMI stipulates that it is possible to traverse two distinct realms of purpose and justification. The SMI project 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. Through the SMI, MUIS promotes the practice of Islam in Singapore as one that is cognizant of the place of Islam, and religious pluralism within the context of a secular state.

By concretizing the virtues and aspirational norms of a Muslim-Singaporean, the SMI is an endeavour to craft a desired Islamic-Singaporean identity that will not be easily overwhelmed by the appeals of competing and disparate Muslim ideas and identities imported from overseas, notwithstanding Islam’s Arabic roots and its continuing Arabization of beliefs, practices and 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 asserts that there is no fundamental incompatibility of the civic Singaporean- and the religious Muslim- identity.

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 pre-empt 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.

## Terrorism as a “national problem”

Before the launch of the Community Engagement Programme 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 towards terrorism. These developments demonstrated that sole reliance on coercive legislation to deal with the terrorism threat was woefully inadequate.<sup>91</sup>

Although the government intended to rally the Muslim community into action, this privatised approach had the unintended effect of isolating the mainstream community, thereby threatening mutual security and undermining ethnic relations. The government quickly realized that such a privatised, 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 non-discriminating, 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, policy-makers 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 privatised 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,

91 Eugene K.B. Tan, “From Clampdown to Limited Empowerment: Hard and Soft Law in the Calibration and Regulation of Religious Conduct in Singapore,” (2009) 31(3) *Law and Policy* 351-379.

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. The Prime Minister issued this timely corrective when he launched the Community Engagement Program (CEP), the centrepiece of Singapore’s social cohesion and counter-terrorism endeavours:

... [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....<sup>92</sup>

The CEP aims to mobilize Muslim and non-Muslim communities to work together in tackling the terrorist threat. 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, they do not assist in the building of inter-ethnic ties during peaceful conditions. Nor do they 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.

92 Speech by Prime Minister Lee Hsien Loong at the Community Engagement Programme Dialogue, Singapore, 9 February 2006.



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 then Foreign Minister George Yeo put it aptly: "There is a limit to what laws can do. We can legislate against extremism but we can't legislate harmony". It is indeed highly questionable if governments can ever out-law extremism.

The trouble with the primacy of a hard law approach is that it abrogates to the state and policy-makers 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 socio-political and religious dimensions present in religious extremism and terrorism. Ironically, hard law can secure the state but its over-emphatic use ultimately impoverishes the very security of the state and society. With soft law, a putative mechanism of norms, institutions, and structures can buttress the framework to sustain religious harmony.

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 broad-based endeavour pivots on "religious moderation". While coercive draconian legislation remain the mainstay against extremists and radicals, the mobilisation of soft law, aspirational norms and values are consciously woven into the state's endeavours to enhance society's resilience and cohesion.

### C. SIGNIFICANT CHANGES IN RELIGIOUS CLAIMS (BY NON-STATE ACTORS)

The government has consistently sought to maintain a division between the public realm and the religious realm to ensure and maintain religious peace and harmony. In recent years, with growing piety and greater political openness, there appears to have been a slight increase in religious claims by certain religious groups.

In general, where some Christian churches and Muslims are concerned, they relate to concerns that public morality, especially sexual mores, is on the decline. While these concerns should not be seen as resulting in religious claims, they certainly give rise to expectations that the government does more in rising to the challenges of a society that is seen as being increasingly liberal in social mores and lax in moral tone. For these Singaporeans, this nihilistic or godless social context is epitomized in the perceived social acceptability of gay and lesbian chic, the apparent official nonchalance of homosexuality in the face of quest for the "pink dollars" and Singapore's aspiration to a global "happening" city, as well as the perceived increasing popularity of homosexuality resulting in its normalisation, especially among the younger people, in Singapore. For some, there has to be a moral backlash or blowback as a result of the moral laxity in society. For them, the declining morality in the public domain necessitated a resurgence of public morality.

These contestations on sexuality norms can be viewed from different perspectives. One perspective is that of the "LGBT minority" and the "defence of family values majority". Another perspective is that of religious conservatives and the liberals. Yet another is that of "religion versus secularism". The contention and contestation of competing and perhaps, conflicting, worldviews have resulted in such values discussions taking more prominence in the public space in the last few years.

It needs to be recognised that the labels used above are woefully inadequate. For example, there are non-religious social conservatives who see the promotion of the LGBT rights and interests as undesirable on account of public morality. Religious groups and individuals have also steadfastly objected to the characterisation of the issue as one of “religion versus secular” regarding it as a blatant attempt by an anti-religious brand of secularism to silence faith-inspired voices by invoking the argument that such views have no place in the secular, public domain. Regardless of the contending perspectives, the dispute is in essence over public values. This clash of values will likely persist and grow more strident in the years ahead.

### Muslims and the *tudung* issue

For the Muslim community, in addition to the above general concern about the moral tone of society, the *tudung* issue remains an important one. As discussed earlier, the 2002 *tudung* controversy arose over whether female Muslim students should be allowed to wear the headscarf to school. At the time, the government did not allow it on the grounds that the headscarf could be viewed as a symbol of exclusiveness that could pose an obstacle to racial integration and harmony.

However, the debate over the *tudung* was re-opened once more in 2013, highlighting the persistent, abiding concern of Muslims over the right to manifest their religious beliefs. The debate was initially prompted by the question whether Muslim women in front-line occupations, such as nurses, should be allowed to wear the *tudung*. An online petition championing the cause garnered over 12,000 signatures. The Singapore Islamic Scholars and Religious Teachers Association (Pergas) also called on the government to review their position on the issue and allow the *tudung* to be worn in uniformed public sector jobs.<sup>93</sup> The Prime Minister

93 “Pergas urges govt to review stand on tudung,” *The Straits Times*, 11 November 2013.

and several of his Cabinet colleagues had a closed-door dialogue on this issue with the Malay-Muslim community in January 2014.

### Constitutional ambit of a religious group’s management of its own affairs

The extent to which a religious organisation can manage its own affairs in opposition to civil law is now the subject matter of a judicial review case brought by the Faith Community Baptist Church (FCBC) against the Minister of Manpower. FCBC had terminated the employment of a pregnant female employee in 2013 on the grounds that she had breached the church’s code of conduct by entering into an adulterous relationship with a divorced male colleague. She complained to the Ministry of Manpower (MOM) in September 2013. The Manpower Minister determined that the employee in question was dismissed without sufficient cause. Under powers granted to him under the Employment Act, the Manpower Minister ordered FCBC to compensate the pregnant employee SGD7,000 for loss of salary and maternity benefits. FCBC paid the compensation ordered but subsequently sought a quashing order of the Manpower Minister’s decision, declaring the administrative decision unconstitutional for interfering with how the church manages its own affairs in the religious domain.<sup>94</sup>

When FCBC disclosed publicly that it would seek judicial review of the Minister’s decision, the Manpower Ministry was reported remarking that the church was “embarking on a confrontational approach”. Expressing disappointment, the MOM spokesman said: “We live in a secular society where laws have been put in place to protect individuals while not depriving religious organisations and

94 “FCBC’s bid for judicial review: AG gets permission to appeal,” *The Straits Times Online*, 27 October 2014.

individuals of the space to carry out their practices”<sup>95</sup>

The National Council of Christian Churches (NCCS), a grouping of Protestant churches and organisations, stated that, “We wish to make clear that from our perspective, this course of action is not to be framed as a Church versus State matter. Rather, we see the case as one of employer’s employee’s obligations and duties under the [E]mployment Act and the common law in this area. Since the application for judicial review has already been filed, we have confidence that the courts will shed light on the matter and decide what is right in the interpretation and application of the law of the land in such instances”<sup>96</sup>

### Homosexuality and family values

In recent years, there has been more assertive activism by LGBT advocacy groups and religious groups to contentious issues such as homosexuality. Some religious groups see the promotion of the LGBT causes as an affront to morality and family values. The Pink Dot event, organized annually since 2009, has attracted increasing number of participants over the years. The 2014 edition attracted a record crowd estimated at 26,000 participants as well as corporate sponsors in multinational companies such as Goldman Sachs, Google, BP, Barclays, and JP Morgan.<sup>97</sup>

In response, a Muslim religious teacher started the “WearWhite” initiative in 2014 urging Muslims not to take part in the Pink Dot event, and to wear white garments to prayers on that night as they usher in the holy month of Ramadan. This was the

95 Quotes taken from “Church wants review of order to compensate axed employee,” *Singapolitics*, 2 October 2013 <<http://www.singapolitics.sg/news/church-wants-review-order-compensate-axed-employee>> accessed 9 August 2014.

96 See 10 October 2013 letter by Bishop Terry Kee, NCCS President, <<http://info.nccs.org.sg/joom837/index.php/m-statements/78-fcbc>> accessed 9 August 2014.

97 On the Pink Dot event, see its website at <<http://pinkdot.sg/>>.

first organized and explicit form of protest against the Pink Dot event: “The [Pink Dot] movement’s genesis was from our observations of the growing normalization of LGBT (lesbian, gay, bisexual and transgender) in Singapore”<sup>98</sup> Some Christians, as part of the LoveSingapore network of churches, encouraged co-religionists to wear white to church the same weekend as the Pink Dot event.<sup>99</sup>

Earlier in January 2014, controversy erupted over the FAQs on sexuality and sexual health posted online in November 2013 by the Health Promotion Board (HPB), a statutory board under the Health Ministry. Concerns were raised that the FAQs answers effectively condoned same-sex relationships and promoted homosexuality as something normal. In Parliament, the Health Minister affirmed the family as “the basic building block of our society. This means encouraging heterosexual married couples to have healthy relationships and to build stable nuclear and extended family units. There has been no shift in the government’s position on this. HPB takes reference from this consistent position in its health promotion activities”<sup>100</sup>

On a FAQ that was identified as encouraging same-sex relationships, the Health Minister explained that “The FAQs also provide specific information to young people at risk of engaging in sexual behaviours which expose them to STI and HIV. The statement that ‘A same-sex relationship is not too different from a heterosexual relationship’ and the statement that follows: ‘Both require the commitment of two people’ should be taken together. They highlight that relationships require commitment, and it is possible to remain faithful to one’s partner, regardless of one’s sexual orientation. This drives

98 Press statement of 20 June 2014 by Ustaz Noor Deros, available at <<http://www.wearwhite.sg/>>.

99 See also the strongly worded Facebook post of 20 June 2014 by Pastor Lawrence Khong of FCBC at <<https://www.facebook.com/lawrence.khong.fcbc/posts/769499513094165>> accessed 9 August 2014.

100 Minister for Health Mr Gan Kim Yong, *Singapore Parliament Reports*, vol. 91, 17 February 2014.

home a key STI and HIV prevention message to ‘Be faithful’ to one’s partner, rather than to have multiple partners. This helps to protect individuals from STIs and HIV, minimize transmission risks, and thereby safeguarding public health.”<sup>101</sup>

In 2009, in what has been dubbed the “AWARE saga”, a dispute started quite innocuously with initial indications being that of an internal spat that occurs once in a while in the nascent civil society space.<sup>102</sup> The Association of Women for Action and Research (AWARE) is a leading non-government organisation in Singapore with a focus on feminism and gender equality work in Singapore. The dispute was precipitated when a group of relatively new and unknown members (the “new guard”) assumed control of AWARE at the annual general meeting. The installation of the new leadership in AWARE set in motion a series of events, culminating in the hot-tempered May 2009 extraordinary general meeting (EGM) called by the old guard. The dispute had by then quickly transmogrified into an apparent existential contest by the protagonist camps to get as many supporters signed up as members and to attend the EGM.

At one level, the AWARE saga was fundamentally about the soul of the organisation. In seeking control of AWARE, the new leadership was deeply concerned that AWARE was effectively advocating the normalization of homosexuality in Singapore society and promoting a less than wholesome attitude towards sexuality through its sexuality education programme it conducted in some schools. It insisted that the dispute had everything to do with wholesome family values, feminism, and

101 See *Singapore Parliament Reports*, vol. 91, 17 February 2014.

102 In essence, civil society is the voluntary associational life that lies between the family and institutions of the state. The metaphorical space that civil society occupies is one that is voluntary and plural in nature. It represents the citizens’ associational freedom vis-à-vis the state. Conventionally, civil society is conceptualized in relation to the state—it is apart from the state but not necessarily on antagonistic terms with the state.

the vibrancy and health of AWARE as the leading women’s organisation in Singapore.<sup>103</sup> The new guard insisted that it had nothing to do with religion entering the secular sphere, and saw the invocation of the religion card by the old guard leadership as an attempt to silence debate. For the old guard leadership, who regained control of AWARE after the EGM, one characterization of the ousted new guard leadership was that their actions were grounded in fundamentalist Christian religious values and they sought to influence and mould Singapore society through those Christian values and teachings.<sup>104</sup>

This contested characterisation of the key issues and motivations of the protagonists in the AWARE saga points to the on-going contestation within civil society over the role of religion in the public square. More specifically, what is the role of faith-inspired views in public discourse? It could be argued that the protagonists largely agreed that the dispute was about public values although both differed on the legitimacy of religious versus secular origins of ideas in the public square. Thus, “where there is a contest over public values, often two, not one fundamentalisms are at play”.<sup>105</sup> Shorn of the labels, which often generate more heat than light, the AWARE saga was very much an ideological struggle at heart. This divide continues to plague civil society with each side accusing the other of militancy. It remains to determine the impact of the bitter, bruising dispute on Singapore’s secularism.<sup>106</sup>

103 It should be noted that there were also social conservatives, not motivated by religious concerns, who saw the so-called homosexual agenda as undesirable and a decline of public morality.

104 See further Terence Chong (ed.), *The AWARE Saga: Civil Society and Public Morality in Singapore* (Singapore: NUS Press, 2011). See also my chapter “Who Dragged Christianity into the AWARE Saga? Perceptions, Observations and Responses,” in the same volume (pp. 51-73).

105 I gratefully adopt Professor Thio Li-ann’s evocative description of the tension.

106 I thank Professor Thio Li-ann for encouraging me to give further thought to the contested claims and characterisations of secularism in Singapore.

## Section 377A of the Penal Code

Another issue that has engendered religious claims by non-state actors is the debate over whether section 377A of the Penal Code should be repealed. In 2007, the government completed a major review of the Penal Code and introduced Penal Code (Amendment) Bill, which proposed significant changes to the law. The Bill proposed the repealing of the former section 377, which prohibited oral and anal sex between consenting adults.<sup>107</sup> However, the Bill retained section 377A which prohibited similar acts between consenting adult men.<sup>108</sup> This decision was a hotly contested one inside and outside of Parliament. Those who supported decriminalization of male homosexual sex asserted that the provision was discriminatory against male homosexuals. Those who supported the retention of section 377A were convinced that societal norms and the values of the majority required the criminalization of consensual sex between male adults.

Parliament decided to retain section 377A. The Senior Minister of State for Home Affairs Associate Professor Ho Peng Kee stated that Singapore was still a conservative society and the majority of the people regarded homosexual behaviour unacceptable. Hence, the government had opted to maintain the status quo vis-a-vis section 377A. Prime Minister Lee Hsien Loong also spoke on the issue.<sup>109</sup> He recognized that “section 377A has become a symbolic issue, a point for both

opponents and proponents to tussle around”.<sup>110</sup> He gave the assurance that section 377A would not be proactively enforced.<sup>111</sup> He noted the strong views on the matter on both sides and said that discussions would not bring the views of the two groups any closer, and hence it was better to maintain the legal status quo and “to accommodate homosexuals in our society, but not to allow or encourage activists to champion gay rights as they do in the West”. The Prime Minister urged a “we live and let live” attitude, that “it is better to accept the legal untidiness and the ambiguity”:

If you try and force the issue and settle the matter definitively, one way or the other, we are never going to reach an agreement within Singapore society. People on both sides hold strong views. People who are presently willing to live and let live will get polarised and no views will change, because many of the people who oppose it do so on very deeply held religious convictions, particularly the Christians and the Muslims and those who propose it on the other side, they also want this as a matter of deeply felt fundamental principles. So, discussion and debate is not going to bring them closer together.<sup>112</sup>

The Prime Minister also indicated his government’s approach to such matters of potential divide on the basis of values, whether religiously motivated or not:

[A]s a matter of reality, the more the gay activists push this agenda, the stronger will be the push back from conservative forces in our society, as we are beginning to see already in this debate and over the last few weeks and months. And the result will be counter-productive because it is going to

107 The repealed s 377 read as follows: “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animals, shall be punished with imprisonment for life, or with imprisonment for a term which may extend to 10 years, and shall also be liable to fine.”

108 Section 377A reads: “Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years.”

109 The Prime Minister’s speech can be found at *Singapore Parliament Reports*, vol. 83, cols. 2396-2407, 23 October 2007.

110 *Ibid.*, col. 2402.

111 *Ibid.*, col. 2402.

112 *Ibid.*, col. 2405.

lead to less space for the gay community in Singapore. So it is better to let the situation evolve gradually. We are a completely open society. Members have talked about it - the Internet, travel, full exposure. We cannot be impervious to what is happening elsewhere. As attitudes around the world change, this will influence the attitude of Singaporeans. As developments around the world happen, we must watch carefully and decide what we do about it. When it comes to issues like the economy, technology, education, we better stay ahead of the game, watch where people are moving and adapt faster than others, ahead of the curve, leading the pack. And when necessary on such issues, we will move even if the issue is unpopular or controversial. ...

On issues of moral values with consequences to the wider society, first we should also decide what is right for ourselves, but secondly, before we are carried away by what other societies do, I think it is wiser for us to observe the impact of radical departures from the traditional norms on early movers. These are changes which have very long lead times before the impact works through, before you see whether it is wise or unwise. Is this positive? Does it help you to adapt better? Does it lead to a more successful, happier, more harmonious society? So, we will let others take the lead, we will stay one step behind the frontline of change; watch how things work out elsewhere before we make any irrevocable moves.<sup>113</sup>

#### D. SIGNIFICANT EVENTS OF STATE PERSECUTION OF RELIGIOUS GROUPS

There is no overt or outright violent or non-violent persecution of particular religious groups by the Singapore state. However as mentioned in the earlier section, there are pockets of dissatisfaction amongst the Malay-Muslim community over their discrimination and under-representation in the officer ranks of the Singapore Armed Forces. Despite the official stance of no discrimination, the inequitable representation and treatment of Malay-Muslim servicemen is not accidental and cannot be attributed solely to the operation of meritocracy. Instead, it is the real fear, on the part of the government, that the “primordial loyalties” of race and religion will triumph that of the overarching, secular national identity.

Another instance that may be perceived as persecution by the state of particular religious groups is with regard to the refusal to allow conscientious objection from military service for Jehovah’s Witnesses. On the centrality of national service to Singapore, the judiciary and the executive are *ad idem*. The courts’ position can be put forth as follows:

- That national service is a key institution for the conscript army;
- National service is “clearly a secular issue”;
- Conscientious objection is not tolerated since it would severely undermine national service;
- Conscientious objection can impact upon national security; and
- That “the sovereignty, integrity and unity of Singapore are undoubtedly the paramount mandate of the Constitution and anything, including religious beliefs and practices, which tend to run counter to these

113 *Ibid.*, cols. 2405-2407.

objectives must be restrained”.<sup>114</sup>

Putting aside the religious dimension, the JW cases also point out to the abiding belief that community interests take precedence over those of the individual even in the exercise of fundamental liberties.

### **E. SIGNIFICANT EVENTS OF NON-STATE PERSECUTION OF RELIGIOUS GROUPS**

There are no known events of overt non-state persecution of religious groups. This includes schisms or alleged deviant groups within the established faiths such as Society of St Pius X (Catholicism) and the Ahmadiyyas (Islam).<sup>115</sup>

### **F. SIGNIFICANT EVENTS OF INTER-RELIGIOUS CONFLICT**

There have been no significant events of inter-religious conflict in the reporting period. However, it is worth noting the constant refrain of ethno-violence in Singapore’s history, with the reiteration of race and religion as fault-lines in Singapore society. Racial Harmony Day (21 July), which is commemorated in national schools, often sees the re-enactment of the few violent episodes (such as the Maria Hertogh riots in 1950 and the race riots of 1964) in Singapore’s otherwise peaceful past. Both these riots involved race but religion was also implicated. There is also constant referencing to violent conflicts in other societies, emphasizing the need for draconian measures in managing a multiracial society. Ironically, this constant rendition of and recollection of ethno-violence in Singapore after more than 40 years of ethnic peace

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114 Chief Justice Yong Pung How in *Chan Hiang Leng Colin and others v PP* [1994] 3 SLR(R) 209 at [64].

115 MUIS had ruled in 1997 that the Ahmadiyya were not Muslim.

tends to position violence as a consequence of ethnic diversity, and ethnic conflict as an inevitability of a multiracial society.

### **G. INCIDENCES OF TERRORISM AND/OR TERRORIST THREATS**

Although there is no violent religious conflict connected with terrorist activity in Singapore, the Singapore government has indicated that threat posed by faith-inspired terrorist groups remain a real one. Since the September 11<sup>th</sup> 2001 attacks in the United States, 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.

The government has found it useful to employ “pre-emptive” powers under the Internal Security Act (ISA) (Cap. 143, 1985 Rev Ed) to address the terrorist threats. The ISA was originally enacted to deal with the communist insurgency in British Malaya after the Second World War. The ISA allows for preventive detention for renewable two-year periods where “it is necessary to do so” to prevent a person from acting in any manner prejudicial to Singapore’s security and the maintenance of public order or essential services. The ISA has been applied to persons deemed to be agitating racial and religious discord, including the arrests in 2001 and 2002 of the *Jemaah Islamiyah* (JI) suspected terrorists. The ISA was also used in 1987 against alleged Marxist

anti-state conspirators, which involved mainly Catholic Church activists.

Writing extra-judicially, Singapore Chief Justice Sundaresh Menon notes that the ISA, when used against suspected terrorists, is “philosophically entirely different from the conventional criminal law – it is first preventive and prophylactic, next rehabilitative and redemptive”.<sup>116</sup> He added that the “counter-terrorism efficacy of the ISA has rarely been questioned” and urged for the ISA to be “assessed for the balance it has sought to achieve between the right to security and the right to liberty”.<sup>117</sup> The consistent use of the ISA since 9/11 against suspected Islamist terrorists has obviated the need for public trials. In “the context of a history of delicate racial and religious relations” between Singapore’s non-Muslim majority and its Muslim’s minority, Michael Hor argues that:

[T]he spectacle of a public trial against alleged Malay Muslims accused of extremism and terrorism might polarize the different communities in Singapore to an unacceptable degree. People are bound to take sides and the side that they take is likely to follow the racial and religious divide. It would also be an uphill task to try to persuade the Malay Muslim minority that the majority are not oppressing them out of racial or religious prejudice. Also, it would not be fanciful to predict that a public trial might feed existing racial or religious prejudice on the part of the majority, or even create prejudice where it did not exist before.<sup>118</sup>

116 Sundaresh Menon, “International Terrorism and Human Rights,” (2014) 4 *Asian Journal of International Law* 1-33 at 28.

117 Sundaresh Menon, “International Terrorism and Human Rights,” (2014) 4 *Asian Journal of International Law* 1-33 at 25-26.

118 Michael Hor, “Terrorism and the Criminal Law: Singapore’s Solution,” [2002] *Singapore Journal of Legal Studies* 30-55 at 49.

Hence, the imperative is for the government to use the ISA judiciously. It is also important to note that the use of the ISA to detain suspected Islamist terrorists since 9/11 could also give rise to fears that the ISA can be a tool for religious repression.

Cognisant of Singapore as a staunch US partner in the “war against terror”<sup>119</sup> and the Muslim ambivalence and resentment in Southeast Asia and globally towards America, Singapore has urged the United States to appreciate and respond to the deeply felt feelings of the *ummah* on America’s Middle East policies which are perceived to be pro-Israel. Singapore believes that a balanced approach by the US towards the Israeli-Palestinian conflict, a perennial bugbear in relations between the US and the Islamic/Arab world, can dampen the ability of that conflict to be a rallying cause of Islamist terrorism.<sup>120</sup> Singapore Prime Minister Lee Hsien Loong’s congratulatory message of 12 January 2005 to the Palestinian National Authority President Mahmoud Abbas acknowledged that, “The Middle East conflict is no longer a regional problem, but has global implications. Even in Southeast Asia, it looms large in the consciousness of significant segments of the population”.<sup>121</sup>

Although Singapore is under no illusion that the resolution of the Israel-Palestinian problem will make Islamist extremist ideology redundant, it is alive to the reality that transnational developments within the *ummah* can impact upon the anxieties of the local Muslim community vis-à-vis the perceived

119 “Singapore reaffirms its firm support for US-led war on terror,” *The Straits Times*, 22 April 2004 where the then Deputy Prime Minister and Coordinating Minister for Defense and Security said, “Singapore supports wholeheartedly the war on terror led by the US.”

120 “Beyond Madrid: Winning Against Terrorism,” Prime Minister Goh Chok Tong’s address to the Council of Foreign Relations, Washington, D.C., 6 May 2004, available at <<http://www.cfr.org/asia-and-pacific/beyond-madrid-winning-against-terrorism/p7004>> accessed 9 August 2014.

121 A copy of the letter can be found at <<http://www.nas.gov.sg/archivesonline/data/pdfdoc/20050113-PM.pdf>>, accessed 9 August 2014.



injustice and fear suffered by their co-religionists elsewhere. Singapore is alive to the reality that militant Islamists draw connections between local issues and global politics involving the Muslim world, and that threats perceived by the *ummah* can create potential support for terrorism.

In declaring itself “an iconic target”, Singapore is gearing itself for the inevitability of a terrorist attack on its soil. In the aftermath of a terrorist attack, especially by home-grown perpetrators, the policy-makers’ primary concern is the potential backlash against the minority Muslim community and the unravelling of Singapore’s social fabric.

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.

## H. SIGNIFICANT CROSS-BORDER INCIDENCES

There have been no significant cross-border incidences in the reporting period.

## I. GOVERNMENTAL RESPONSE

The Singapore government has always sought to respond to and manage religious issues in a careful manner. While cautious against appearing to be anti-religion (which it is not), the state has nevertheless also consistently underscored that the assertion of freedom of religion should not override more fundamental goals, including national defence and

racial and religious harmony. Where ground issues may involve religion, the government’s approach has always been to “nip the problem in the bud”.<sup>122</sup> The taking of pre-emptive measures, if necessary, is enabled by the legislative framework which affords the authorities to calibrate their response accordingly.

At the same time, the government is also mindful of perceptions by mainstream religious groups of unnecessary restrictions to religious freedom. The state’s perspective is apparent in its response to the *tudung* petition in 2013. After a dialogue with Muslim religious leaders, Prime Minister Lee Hsien Loong, in a Facebook post, said that:

I told the group that I fully appreciate their desire to allow Muslim women in uniform to wear the tudung. But a larger issue is at stake: the sort of society we aspire to be. Singapore is a multi-racial, multi-religious and harmonious society. Minorities are fully integrated into the mainstream, but have full opportunities to maintain their identities and practise their faiths. So I am also mindful how crucial it is for us to strengthen our cohesion, and maintain the relaxed confidence and trust that benefits us all, especially the minorities.<sup>123</sup>

However, the Prime Minister also affirmed that the government’s position on the issue was not static, and could change in the future.

In June 2003, the government unveiled the Declaration on Religious Harmony (DRH), a non-

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122 See, for example, S. Jayakumar, “Order and Law? Lee Kuan Yew and the Rule of Law,” in Shashi Jayakumar and Rahul Sagar (eds.), *The Big Ideas of Lee Kuan Yew* (Singapore: Straits Times Press, 2014), 70-85.

123 Robin Chan, “Govt position on tudung not static,” *Sunday Times* (Singapore), 26 January 2014.

legislative, non-enforceable document.<sup>124</sup> 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 non-threatening. By having the religious leaders come together to 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 is an example of how the Singapore government is increasingly moving from a hard law approach towards a greater emphasis on soft law. Particularly with regard to dealing with the threat of terrorism, 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 framed as a "national problem," requiring a solution in which all Singaporeans, regardless of their racial and religious allegiance, have a role to play.

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;	<i>[similar sentiment captured in DRH preamble]</i>
hereby resolve to practice our religion in a manner that:	
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."

"Relational Constitutionalism and the Management of Inter-Religious Disputes: The Singapore 'Secularism with a Soul' Model," (2012) 2 *Oxford Journal of Law and Religion* 1-24.

### Figure 2. Comparison of the draft and final version of the DRH

124 For further analysis, see works by Thio Li-ann, especially her "Constitutional 'Soft' Law and the Management of Religious Liberty and Order: The 2003 Declaration on Religious Harmony," (2004) *Singapore Journal of Legal Studies* 414-443, and "Relational Constitutionalism and the Management of Inter-Religious Disputes: The Singapore 'Secularism with a Soul' Model," (2012) 2 *Oxford Journal of Law and Religion* 1-24.

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 multi-religiosity 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 inter-religious communication. The most substantive prescription is the call to grow the "common space", a term which only entered into Singapore's ethnic relations lexicon in 1999. The fear of home-grown terrorism unravelling Singapore society galvanized the government's commitment to enhance interactions between the different communities by enlarging the overlapping common area (common space) as a pre-emptive and absorptive measure.

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 over-stated. Given that inter-racial and inter-religious 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. 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.<sup>125</sup>

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125 See further Eugene K.B. Tan, "Norming Moderation in an 'Iconic Target': Public Policy and the Regulation of Religious Anxieties in Singapore," (2007) 19(4) *Terrorism and Political Violence* 443-462.

## J. DEVELOPMENTS IN ADVANCING RELIGIOUS FREEDOM, DIALOGUE, AND CONFLICT MEDIATION

Following 9/11 and the discovery of a home-grown terrorist cell in Singapore, the government rolled out the Community Engagement Programme and initiated the move to develop the Declaration on Religious Harmony. While these initiatives do not directly advance religious freedom, they do contribute to promoting dialogue. The government has been paying more attention to promoting inter-faith dialogue as a mode of conflict mediation. How does this work? The belief is that inter-faith dialogue and understanding promotes the building of trust and confidence among stakeholders. When an issue involving religion arises, the trust and confidence enables the various religious leaders to communicate with each other directly. This dialogue and the keeping of open communication lines are also practised between the government and the individual major religious communities. As the Deputy Prime Minister and Home Affairs Minister reported in Parliament recently:

Government and religious leaders meet regularly on public occasions such as community functions, religious events and activities under our Community Engagement Programme. Government and religious leaders also regularly meet privately, individually or in groups. Both Government and religious leaders know that when sensitive issues arise that they wish to discuss in confidence, they can do so candidly behind closed doors. This approach has worked well. These interactions help to build mutual understanding and trust, and have enabled our religious leaders to become valued and vital partners of the Government in maintaining religious harmony in Singapore.<sup>126</sup>

<sup>126</sup> *Singapore Parliament Reports*, vol. 89, 15 October 2012.

Following the adoption of the DRH, the Inter-Religious Harmony Circle, consisting of representatives of all major faiths involved in the DRH consultation process, was formally established to build on the inter-faith 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).

The government is convicted that the advancement of religious freedom in a multi-religious society like Singapore requires the need to balance competing, if not conflicting, concerns among religious groups. The need for give-and-take, live and let live, mutual understanding and tolerance is taken seriously. In a recent articulation in response to a parliamentary question on keeping politics and religion separate, the Deputy Prime Minister and Home Affairs Minister Teo Chee Hean said:

[T]he separation of religion and politics is a long established principle in Singapore. Every citizen, regardless of his religious beliefs, has the same rights to express his views on public issues. In doing so, a citizen who belongs to a particular religion will often be guided by his own religious beliefs and personal conscience. However, like other citizens, he should always be mindful of the sensitivities of living in a multi-religious society and the bounds of the law.

Singapore is a multi-religious society. The different religious groups have their own deeply-held beliefs and precepts. While we accept and respect this diversity of religious teachings, we have seen many examples of other countries where religious differences have caused deep social divides and conflict.

If one religion pushes hard to have its tenets and views adopted by society at large beyond its own adherents, others will push back, sometimes even harder.

This dynamic is accentuated if a religious group engages in politics, or if a political group uses religion to further its cause. Other religious groups will feel compelled to also enter the political arena to further their own causes or rival claims. Tensions will arise and social harmony can break down.

Hence, we need to maintain a clear line between politics and religion in Singapore. Our politics and policies must serve all Singaporeans, regardless of race, language or religion. The Government must not take sides with any religious group when making policies. If politicians use the religion card for their own political purpose and agenda, and seek to sway voters through religious appeals, it will sow the seeds of division in our society, and undermine the inter-religious and social harmony we have painstakingly built.<sup>127</sup>

In the AWARE saga of 2009, while the government apparently adopted a generally hands-off approach, it was nonetheless keenly interested in the larger ramifications of the AWARE dispute and ensuring the maintenance of a state of equilibrium vis-à-vis religion in the public square. It certainly saw religion as a key player in the dispute. In the lead-up to the EGM, the government treated the AWARE saga as an internal dispute, and consciously refrained from making any substantive comments to avoid giving rise to perceptions that it was partial. However, Deputy Prime Minister (DPM) and Home Affairs Minister Wong Kan Seng made the government's first substantive observations on the AWARE

dispute on 15 May 2009.<sup>128</sup> Wong's remarks were carefully calibrated and addressed to the different stakeholders in the AWARE dispute. They were widely reported in the local media, and highlighted the complexities of faith-inspired activism, and their place in civil society.

DPM Wong first reiterated the government's position on homosexuality which, in essence, was a pragmatic live-and-let-live attitude given that the issue was inherently polarising and that consensus would not be reached "for a very long time to come". Wong painted the context of Singapore society as "basically a conservative society and the conventional family, a heterosexual stable family, is the norm and the building block of our society". But DPM Wong also added, "homosexuals are part of our society. They have a place in our society and are entitled to their private lives".

DPM Wong stressed that the government's position on homosexuality was not going to change regardless of which group helmed AWARE. He also reminded the homosexual community that to maintain their space in Singapore, homosexuals should "accept the informal limits which reflect the point of balance that our society can accept, and not to assert themselves stridently as gay groups do in the West". DPM Wong also warned against importing the "culture wars between the extreme liberals and conservatives that are going on in the US".

The government was of the view that the new guard protagonists were motivated by their faith, and the way the so-called battle lines were drawn pointed to an ostensible cultural war involving homosexuals

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128 Comments by DPM and Minister for Home Affairs Wong Kan Seng in response to media queries related to AWARE", 15 May 2009, available at <[http://www.mha.gov.sg/news\\_details.aspx?nid=MTQ0MA%3d%3d-H1a1kdI4Ksw%3d](http://www.mha.gov.sg/news_details.aspx?nid=MTQ0MA%3d%3d-H1a1kdI4Ksw%3d)>. All quotes in this section attributed to DPM Wong are taken from his comments to the media. See, further, Eugene K.B. Tan, "Keeping Politics and Religion Separate in the Public Square: The Regulatory State 'Managing' Religion in Singapore," in Ishtiaq Ahmed (ed.), *The Politics of Religion in South and South East Asia* (London & New York: Routledge), 195-224.

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127 *Singapore Parliament Reports*, vol. 89, 15 October 2012.

and a group of Christians. According to DPM Wong, the government:

was worried about the disquieting public perception that a group of conservative Christians, all attending the same church, which held strong views on homosexuality, had moved in and taken over AWARE because they disapproved of what AWARE had been doing. This raised many qualms among non-Christians, and also among Christians who believed that this was an unwise move in a multi-racial, multi-religious society. It was much more dangerous because now religion was also getting involved, and it was no longer just the issue of homosexuality.

DPM Wong also took the opportunity to spell out three key “rules of engagement”. The first is that “[r]eligious individuals have the same rights as any citizen to express their views on issues in the public space, as guided by their teachings and personal conscience. However, like every citizen, they should always be mindful of the sensitivities of living in a multi-religious society. ... This calls for tolerance, accommodation, and give and take on all sides”.

Secondly, DPM Wong reiterated the need to keep religion and politics separate. “If religious groups start to campaign to change certain government policies, or use the pulpit to mobilise their followers to pressure the government, or push aggressively to gain ground at the expense of other groups, this must lead to trouble”.

Thirdly, the political arena must always be secular. DPM Wong noted that even as religious groups and individuals “set the moral tone of our society, and are a source of strength in times of adversity”, “our laws and policies do not derive from religious authority, but reflect the judgments and decisions of the secular Government and Parliament to serve the national interest and collective good”. He rationalized that in applying the laws and public

policies equally, the system generates confidence if it provides “equal treatment and protection for all, regardless of which group one happens to belong to”.

These rules of engagement are soft law in nature. It would be hard to couch them as workable legislation (hard law) but it is precisely their being guidelines and rules that enable the state and religious groups to engage and develop the boundaries of permissible action.

Subsequently, Prime Minister Lee Hsien Loong used the platform of the annual National Day Rally (NDR) in August 2009 to make his first remarks on the AWARE dispute. PM Lee made racial and religious harmony the focal point of his speech to the nation. He viewed the actions of the new guard as “an attempt by a religiously motivated group who shared a strong religious fervour to enter civil space, take over an NGO it disapproved of and impose its agenda. And it was bound to provoke a push back from groups who held the opposite view which happened vociferously and stridently as a fierce battle”.<sup>129</sup>

The Prime Minister identified three potential risks of religious fervour: Aggressive proselytisation, intolerance and disrespect of the religious beliefs of others, and exclusiveness through not interacting with people of other faiths. He pointed out that intolerance could be a source of deep division – not just in society but also within families. PM Lee went on to reiterate the four basic rules for religious harmony: (1) All groups to exercise tolerance and restraint; (2) Keep religion and politics separate; (3) The government must remain secular; and (4) Preserve the common space that all Singaporeans share regardless of affiliations.

<sup>129</sup> Transcript of part three of the Prime Minister’s National Day Rally 2009 speech, which dealt with religious harmony, can be found at <[http://www.news.gov.sg/public/sgpc/en/media\\_releases/agencies/pmo/transcript/T-20090816-2.html](http://www.news.gov.sg/public/sgpc/en/media_releases/agencies/pmo/transcript/T-20090816-2.html)>, accessed 9 August 2014.

These ground rules are not new – they are found, for instance, in the Declaration on Religious Harmony. The challenge is to enable these rules to embed the norms and values so that they entrench the shared commitment to religious harmony while also providing for common rules of engagement and conduct. Indeed, laws by themselves do not foster inter-faith understanding and engagement and may provide a false sense of security.

The sense of the political leadership's heightened concern and worry over the AWARE saga was revealing for it suggests that religion remains an active fault-line in Singapore society. Both the Prime Minister's and Home Affairs Minister's remarks on the AWARE saga alluded to the urgent imperative and need for the management of race and religion to evolve from a "whole-of-government" to a "whole-of-society" approach. Governments alone cannot maintain sustainable peace and harmony. This collective action challenge is compelling in that as Singapore is multi-religious, how does it ensure religion does not become a source of friction, discord, and violence? How can such societies fortify themselves against the forces that seek to divide and destroy in the name of God?

Maintaining a strict separation of the secular and religious realms is not only hard to achieve but also privileges rationality and public reason. Such a discourse and policy orientation does not hold for people of faith, in particular Christians and Muslims, with millenarian aspirations. After all, religious groups are an integral part of civil society too. A normative function of civil society is the discretionary shaping of the home/host society. For religious groups, this normative function makes it unlikely that such groups will diverge too greatly from their faith-driven vision of and aspirations for what the target society should be like. In particular, the pursuit of one's private conscience will manifest itself in the public domain through informing a person's perspective on issues that impact upon one's sense of moral self-worth and purpose.

In short, one cannot expel religion from the public space. To be sure, shaping the future of a society, whether by religious or secular groups, is an enterprise that is heavily value-laden. The turmoil exposed by the AWARE saga reflects the evolving complexity in Singapore society. The divisive and ugly divide exposed by the saga reflects the putative battle ground that Singapore potentially would encounter in the years ahead. The chasm, at its core, is about a keen—almost existential—contestation over values pertaining to morality.

In the AWARE dispute, both sides accused each other of bigotry, closed minds, and intolerance. Accusations of marginalization and suppression of views, identities and rights were hurled fast and furious. This raises the important question of whether, in a diverse society like Singapore, it is possible to talk, define and assert one's rights without taking a stand on the moral, and often religious, convictions that citizens bring to the public square. The religious groups would argue that liberalism, because of its non-judgmental tendencies with regard to competing moral and religious conceptions, is flawed. Such a neutral stance, the religious groups argue, smacks of moral cowardice and intolerance. We probably will see, in the aftermath of the AWARE saga, a conscious articulation for public reason that is friendly to religious perspectives. In making heterosexuality the non-negotiable norm of family life and society in Singapore, the state and its agents cannot not avoid debating the morality of sexual identities and rights, even if the preference is to avoid a rights discourse in such matters.<sup>130</sup>

The more assertive emergence of religion, sexuality issues, and rights in the public domain means that the management and regulation of differences, competing and often conflicting interests and values, will have to be managed adroitly. Closed minds and exclusive communities will be threats in

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130 See, for example, Phil C.W. Chan, "Shared Values of Singapore: Sexual Minority Rights as Singaporean Value," (2009) 13(2-3) *The International Journal of Human Rights* 279-305.

these sensitive and inherently divisive issues. Even as faith-inspired morality arguments and perspectives have an ambivalent role in governance and policy-making, the reality is that they increasingly have traction within Singaporean society. With the vast majority of Singaporeans professing to belong to a faith, religious-inspired views cannot be consigned to the public policy outfield. It remains to be seen if the evolving rules of engagement will provide an adequate and principled process to accommodate the diversity and complexity in society. For religion to be a viable means of engendering social cohesion, the imperative is on Singaporean society and its leaders to mobilise faith and cohesion to good ends.

Another trope closely linked with unbridled heightened religiosity is public security. In April 2010, Deputy Prime Minister and Home Affairs Minister Wong Kan Seng raised the “public security concern” of religiosity manifesting itself “in a highly public and assertive manner in a multireligious setting like Singapore, with all our attendant sensitivities”. Three observations of the “rise in religious assertiveness” were cited.<sup>131</sup>

The first was self-righteous, aggressive and insensitive proselytisation that disregarded the feelings of believers from other faiths. It noted that, “devotees of the different faiths today appear to be less tolerant over perceived slights to their religion, and are more ready to retaliate”. The second example was of religious groups that, in publicly articulating their views on public policies and issues, go “too far in advocating their cause and make unfounded allegations, whip up the emotions of their followers, or mobilise them”. The concern here was that “they could heighten tensions between the religious community and the State”. The third example cited was that religious groups were becoming “more visible in the public sphere” as “religious worship was no longer confined to traditional places of

worship”. The specific concern here was with inter-faith competition as “The success charismatic churches have had in organizing mega-sermons outside purpose-built church buildings have inspired other religious groups to organize similar large-scale worship events at commercial venues such as shopping centres and exhibition halls. Recently, there has also been discussion about the involvement of religions in business”. All these trends “are of concern to Singaporeans as they are seen to be a further encroachment of religion into the common space”.<sup>132</sup>

131 Speech at the ISD Intelligence Service Promotion Ceremony, 14 April 2010, available at <[http://www.mha.gov.sg/news\\_details.aspx?nid=MTcwNQ%3D%3D-Q9CJuc52SKk%3D](http://www.mha.gov.sg/news_details.aspx?nid=MTcwNQ%3D%3D-Q9CJuc52SKk%3D)> accessed 9 August 2014.

132 In July 2010, guidelines on the use of commercial spaces for religious activities were issued. This was followed in June 2012 with the guidelines on the non-exclusive and limited religious use in industrial premises. See Part One, B2 of the report.



## PART THREE: CONTRIBUTING FACTORS AND SURROUNDING CIRCUMSTANCES

### A. Negative Contributing Factors

Despite the diversity, the state of religious and racial group relations was positive pre- and post-11 September 2001, as attested to by the 2001 and 2002 *Survey on Social Attitudes of Singaporeans*.<sup>133</sup> This diversity along racial, linguistic and religious lines contributes to the tendency to view everyday phenomenon in ethnic terms. This is reinforced by the saliency of ethnic consciousness in popular and official discourse. It reflects a norm of socialization, reinforcing racial stereotypes and differences between the various races. Where the Malay community is concerned, racial and religious identities are not only prominent but also conflated.

As 99.6 percent of Malay-Singaporeans profess Islam, Malays are regarded synonymously as Muslims, and Muslim identity is treated as an integral part of Malay identity. In the last two decades, the religious identifier for Malays has become more prominent. This double affiliation, Malay-Muslim (or “Malay/Muslim” in official Singapore discourse) is of fairly recent vintage – it was not used in the ascription of the Malay community prior to the 1980s – is an indication of the centrality of Islam as an integral marker of being Malay in Singapore.

Within the community itself, such an identity nurtures a greater community self-consciousness of the double bond of race and faith. This resort to the “Muslim” identifier is in part a legacy of the state’s encouragement of recourse to religion as a bulwark against the effects of cultural and moral enervation in the modernization process. By the late 1970s,

133 David Chan, *Survey on Social Attitudes of Singaporeans 2002: Attitudes on Race and Religion* (Singapore: Ministry of Community Development and Sports, 2003), and David Chan, *Survey on Social Attitudes of Singaporeans 2001: Attitudes on Race and Religion* (Singapore: Ministry of Community Development and Sports, 2002).

the government’s concern with the Malay-Muslim community’s “3D” problem of drugs, divorce, and delinquency was palpable. Malay civil society, Islamic organisations, and the Islamic faith were mobilized to help counter the social and moral decline.<sup>134</sup> As Malay and Muslim identities are deemed coterminous, this has resulted in the Malay-Singaporeans’ Islamic identity being more sensitive and less negotiable. As two sociologists astutely point out the implications:

[T]he tightly drawn “community” boundaries, doubly marked by a sense of “Malayness” and the religious injunctions of Islam, appear to have the effect of reducing individual and sub-group differences within the Malay-Muslim community itself, or at least, not to allow the differences within to be aired outside the community... [T]he term *the Malay community* with the Islamic faith as its chief characteristic is used in Singaporean public discourse without any reservation about the referent’s presumed “unity.” One of the consequences of these tightly drawn boundaries is that a general conservatism prevails among Malay-Muslims in Singapore. But the conservatism is fraught with ambivalence, torn between the desire to preserve “traditions” and the need to open the community to new bodies of knowledge and economic opportunity.<sup>135</sup>

At the same time, global developments after September 11 have encouraged an affirmation of Muslims’ Islamic identity in solidarity with

134 Ibrahim Ismail and Elinah Abdullah, “The Singapore Malay/Muslim Community: Civic Traditions in a Multiracial and Multicultural Society,” in Gillian Koh and Ooi Giok Ling (eds.), *State-Society Relations in Singapore* (Singapore: Oxford University Press, 2000), 50-60.

135 Chua Beng Huat and Kwok Kian Woon, “Social Pluralism in Singapore,” in Robert W. Hefner (ed.), *The Politics of Multiculturalism: Pluralism and Citizenship in Malaysia, Singapore, and Indonesia* (Honolulu: University of Hawai’i Press, 2001), 86-118 at 116.

their co-religionists elsewhere within the global Muslim *ummah*. Malay-Muslim Singaporeans have generally been unsettled and discomfited by the negative coverage on Islam in the international media, as well as by the non-Muslim perception that Islam condones violence committed in its name. As a minority community, Malay-Muslims have become more self-conscious as Muslims and insecure at the suspicion that they may be sympathetic to Islamic extremism, and have responded by stressing Islamic “moderation”.

Even if it reflects social reality, conflating Malay and Muslim identities can be unproductive to deeper social cohesion since it reinforces racial and cultural difference with the religious cleavage. Thus, problems afflicting the Malay community are almost always simultaneously profiled as racial, cultural, and religious. Although it would be misleading to equate increased religiosity of the Malay-Muslims with Islamism (understood here as Muslim political activism), the government’s concern with the Malay-Muslim way of life in recent years is evident. Indeed, it is this conflation of race and religion that constrains the closer integration of Malay/Muslims in the Singapore Armed Forces (SAF). The government is concerned that primordial loyalties of ethnicity and religion may trump the civic and secular loyalties to the Singaporean nation. In 2002, 122 Muslim organisations came together, as “a matter of conscience and national concern” and publicly condemned terrorism as being at odds with Islam.<sup>136</sup>

Increased religiosity across all major faiths in Singapore is a key challenge. The more spiritual orientation in and of itself is not necessarily a problem. Instead, how and what Singaporeans make of the increased piety is the key concern.

136 See “Singapore Muslim Organizations Decry Terrorism in Name of Islam: Oct. 9 (2002) statement urges Singaporeans to unite against terrorism,”

<<http://iipdigital.usembassy.gov/st/english/texttrans/2002/10/20021011151324larocque@pd.state.gov0.9141504.html>> accessed 9 August 2014.

Will a rigid religious identity lead to exclusionary practices and undermine integration? If so, this could very well result in self-segregation, an isolated “micro-community” and the unilateral closing of common space. Alternatively, will the concern with the state of public morality lead to a more muscular canvassing of religious values in the public sphere? This could result in confrontation with those who oppose such a movement.

## B. Positive Contributing Factors

### *Building societal resilience*

As the US State Department’s 2012 Report on International Religious Freedom notes, the government-initiated Interracial and Religious Confidence Circles (IRCC) gave racial and religious group leaders “a forum for promoting racial and religious harmony at the municipal level”.<sup>137</sup> Under the auspices of the Ministry for Culture, Community and Youth, the IRCCs conducted local interreligious dialogues, counselling and trust-building workshops, community celebrations, and similar activities.

In addition, the government also introduced the Community Engagement Programme (CEP) in 2006 primarily to foster social cohesion and minimize ethnic or religious discord in the event of a terrorist attack or other civil emergency. The CEP is supported by the work of the IRCCs and other local “clusters” of participants. The government trained community leaders involved in the CEP in emergency preparedness and techniques for promoting racial and religious harmony. The CEP also conducted youth outreach activities and engaged local celebrities, such as radio disk jockeys and television personalities, to reinforce messages of communal harmony.

137 US Department of State 2012 Report on International Religious Freedom, <<http://www.state.gov/j/drl/rls/irf/2012/eap/208264.htm>> accessed 9 August 2014.

The Singapore government also believes in its engagement with religious community leaders as part of the overall effort to build trust and confidence. This is done through regular, closed-door dialogues between political leaders and religious leaders. This enables all stakeholders to be involved in issues of mutual concern.

### *Use of soft law*

Singapore's use of a coercive legal framework to deal with threats to public order has been crucial in the maintenance of peace and stability as well as enabling a relatively high degree of religious freedom. However, this hard law approach tends to elicit reasoning and responses that are primarily egocentric, denominated in self-centred terms of avoiding punishment, compliance with an authority, and group norms. For example, anti-terrorism legislation 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. The reality is that hard law is often reactionary. It is also grossly inadequate as a means of pre-emptive, adaptive socialization and social learning.

As indicated earlier, the use of a coercive framework has its limitations and needs to be balanced against the trust- and confidence-building efforts to set normative standards of conduct in exercising one's religious freedom rights. Hard law is not equipped to promote such social learning since its focus is often on deterrence, compliance, and sanctions.

Singapore has increasingly used soft law mechanisms such as the Declaration on Religious Harmony to nurture and sustain regulative, practical effects similar to hard law. Soft law's discursive power

is primarily 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. 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 subsequently acquire effectiveness, efficacy, and legitimacy. In this regard, soft law can help knowledge, norms and values to be framed strategically and dovetail with existing normative frameworks. 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.

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. 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 (a) laws that seek to prevent terrorist acts from taking place, and (b) 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

society as a cooperative effort. 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 terms of enforcement, there is strong judicial support for the government's pre-emptive 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.<sup>138</sup>

### ***Government's vigilance***

Not surprisingly, the state invests utmost care, concerted effort, and pre-emptive prudence in nurturing multi-religiosity as an integral part of Singapore's multi-racialism framework. This stability is jealously guarded by the state especially since rapid modernization has neither resulted in the decline of religious belief nor the downgrading of importance of religious institutions among Singaporeans. Religious faith is a "major part of

Singapore's cultural ballast" and exerts a tremendous pull on Singaporeans (Shared Values 1991, p. 8; Tong 2002).

In a post 9/11 world, religion and national security are now even more intimately linked. In some respects, 9/11 and its aftermath have driven home the message that to manage "religious-inspired" threats to Singapore's national security, the better approach is to ensure that the citizens' religious identities remain secure. Looking at religion solely as a security threat is manifestly inadequate in keeping both state and society safe. This perspective also entails civil society being inducted into playing a bigger, if at times ambivalent, role in ensuring that the state and religion are both secure.

As such, the government is now more conscious and responsive to civil society's role in strengthening inter-faith engagement and understanding, and the enhancement of social capital. 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 the threat posed by terrorism to national security, public order, and social cohesion. This is a tacit acknowledgement that the security of the state, government, and society are all inter-linked. The terrorism threat requires not just a security response but a holistic one, one which seeks to align the hearts and minds of the faith communities to the societal objective of harmony and peace.

138 Chief Justice Yong Pung How in *Chan Hiang Leng Colin and others v PP* [1994] 3 SLR(R) 209 at [59].

## PART FOUR: CONCLUSION

Beyond the constitutional and legal framework, the overarching policy paradigm in Singapore is of a pragmatic and strategic secularism that seeks to engage and co-opt religion towards the goal of state- and nation-building. Nonetheless, the fundamental law and policy challenge remains: Can Singapore's social cohesion withstand the onslaught of the contested forces of value pluralisms that deliberately or unwittingly seek to divide and perhaps even destroy? Singapore demonstrates that the protection and promotion of religious freedom paradoxically requires "keeping God in place" – unbridled freedom in the name of exercising one's fundamental liberty to religious freedom is viewed as a recipe for the eventual curtailment of religious freedom and a threat to public order and national security. In this regard, this work of maintaining and ensuring religious freedom is always a work-in-progress given the subtleties and complexities in which religion has impacted on public life and, in turn, is being affected by public life. The transnational characteristic of religion, embodied in a global imagined community of faith believers, coupled with the revival tendencies in all major faiths are critical developments that impinge upon Singapore's quest to maintain ethnic and religious harmony.

Singapore's earlier focus on dichotomizing the moderate and radical elements of Islamic faith perhaps exaggerated the image and perception of Muslim-Singaporeans as being susceptible to religious radicalism. Fortunately, this discourse has now taken a backseat and a more inclusive approach adopted. Had the government persisted in putting the terrorist threat at the feet of the Muslim community, it would have marginalized the "moderates" who are needed to form the bulwark in the proverbial battle for the hearts and minds of Muslims.

In dealing with the threat of extremism of any religious hue in Singapore's context, the role of civil society, as a hitherto untapped resource, is increasingly critical and appreciated. The tendency of governments to "know it all" and focus on the relevant target community can have detrimental policy implications.<sup>139</sup> Equally important is the patent need to engage civil society. By their very nature, religiously inspired ideas cannot be hemmed in by military threats and action, draconian laws, and coercive rhetoric. Given their potential appeal to the faithful, the strategy is to challenge those ideas head on in the marketplace of ideas. This requires the equally important vanguard action of strengthening society that terror entrepreneurs seek to fragment, if not to impose their nihilism. Post-9/11, a civil society engaged and manifested through greater citizenry involvement and trust of fellow citizens and the government can play a critical role in combating the destructive ideas and heinous acts that mislead, threaten, and divide our societies.

Increasingly, public policy and legislation in a multi-religious society like Singapore have to reflect the value- and belief- systems of citizens, including religious ones. For the state to remain neutral (if this is possible in the first place) and secular in a multi-religious polity, the state must paradoxically regulate the religious realm in a way that is acceptable to all stakeholders. The discourse of managed pluralism is strong and there is no doubt that the Singapore state has a larger say on the extent of religion in the public square as compared with religious bodies being able to influence the limits of the state. Given that Singapore is a multi-religious society, the overarching philosophy underpinning the legal and policy thrusts is encapsulated in the belief that religious freedom intimately requires a thoughtful and calibrated intersection of rights, regulation, and responsibility. This "3R" approach may well be the

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139 See, for example, John L. Esposito and Dalia Mogahed, "Battle for Muslims' Hearts and Minds: The Road Not (Yet) Taken," (2007) XIV(1) *Middle East Policy* 27-42; Natasha Hamilton-Hart, "Terrorism in Southeast Asia: Expert Analysis, Myopia and Fantasy," (2005) 18(3) *The Pacific Review* 303-325.

best approach for Singapore in ensuring religious freedom in a society that seeks to be governed by the rule of law.

Today, religious freedom and national security are now even more intimately linked than ever. Religion and national security are taken seriously in Singapore although there has been no overt religious conflict since its hurried independence in August 1965. The terrorism threat post-9/11 has driven home the message that “religious-inspired” threats to national security are best dealt with by not indiscriminately clamping down on religion.

Even as national security comes under threat, the prudent and better approach is to ensure that the citizens’ religious identities remain strong and secure. Such a policy imperative also entails that a multi-stakeholder approach is essential, especially with a civil society that plays a bigger role in ensuring that the state and religion are both secure. Similarly, the political will to entrench religious freedom is crucial. Ultimately, looking at religion merely as a security threat is manifestly inadequate in keeping both state and society safe. The Singapore case strongly suggests that religious freedom and its continual growth and development are integral to the wellbeing of the state, government, and society.

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Supreme Court of Judicature Act (Cap. 322, 2007 Revised Edition)

Undesirable Publications Act (Cap. 338, 1998 Revised Edition)