

UPR Report by the Alliance of Liked Minded Civil Society Organisations in Singapore

Submitted (in alphabetical order) by:

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7. Think Centre – (www.thinkcentre.org)
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9. We Believe in Second Chances – (secondchances.asia)
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Methodology:

Representatives from the above organisations have been briefed on the UPR process since 2013 through workshops supported by the UN Office of the High Commissioner for Human Rights (OHCHR). Periodic meetings were held every few months to get the various groups up to date on the significance, mechanism and process of the UPR with the help from the OHCHR. More importantly, however, these meetings provided the platform for each individual to understand the motivations of the diverse groups and the position they take regarding each human rights issue. After being cognisant of the process, each group submitted concerns according to the themes that they were familiar with. These submissions were collated and presented for approval in the presence of all member organisations at several consultation meetings that took place in the run up during preparation of the final draft. Amendments and decisions were then made and the final submission was endorsed by all.

[WGUPR XX.XX] refers to similar recommendations with reference to the previous UPR document “A/HRC/18/11, Report of the Working Group on the Universal Periodic Review”

Singapore Civil Society Stakeholders' Report for the Universal Periodic Review

A. Introduction

1. This report is a consolidation of concerns from 10 civil society organisations (CSO) listed on the cover page. It is organized in response to the recommendations that were both accepted and rejected, by the State under review¹.

B. Equality and Non-discrimination

2. Section 377A² of the Penal Code criminalises sexual contact between two male persons even if they are consenting adults and even if intimacy occurs in private. Despite government promises that it will not be enforced, the law stigmatizes LGBT persons in Singapore, male and female, cisgender and transgender alike.

Recommendation (R1): Repeal legal provisions criminalising sexual activity between consenting adults of the same sex [WGUPR 97.12].

3. Marital rape: Section 375(4) and 376A(5) of the Penal Code offers immunity to rapists if they are married to their victims, making them liable only to the lesser charge of “voluntarily causing hurt”. This tells women that marriage removes them from legal protections against rape, except when the wife has commenced formal legal steps to terminate the marriage or when she has obtained a Personal Protection Order (PPO). These exceptions require married women to make prior arrangements if they are to be legally protected from marital rape. Such requirements are of concern since the PPO application procedure is subject to administrative delays, resulting in 90.4% of women being assaulted more than once before they are granted PPOs.³

R2: Introduce legislation to make marital rape illegal in all circumstances, because consent to marriage should not be equated with consent to rape and sexual assault [WGUPR 97.13].

4. Discrimination against Muslim women: The Administration of Muslim Law Act (AMLA) permits a Muslim man to enter into polygamous marriages of up to 4 living wives at any point in time, without any legal requirement to obtain consent from the first wife. Unless specifically provided for in the initial marriage contract, a husband’s polygamy is not recognised as a valid ground of divorce available to the wife. The AMLA also requires a woman to have a male relative (also Muslim, of sane mind, and past the age of puberty) be her pre-marital guardian, requiring her to obtain his consent to her marriage and his accompaniment when marriage registration is being made⁴. However, religious officials appointed to solemnise Muslim marriages can allow marriages with girls below the age of 18 if they have attained puberty⁵. Under AMLA, male heirs are given two shares of inheritance to every share given to a female heir in the same degree of relationship to the deceased. For matters of marriage, divorce and inheritance, Muslims are subject to the adjudication of the Singapore Sharia court, which administers AMLA.

R3:

- Amend the AMLA to make consent from the first wife mandatory for such marriages and recognise a husband's polygamy as grounds for divorce that automatically accrues to all women.
- Remove the requirements of guardianship as a condition for marriage and recognize that a competent adult woman should be given unrestricted rights to choose when and whom to marry, as consistent with the Hanafi school of law⁶ and the practice of certain other countries applying Islamic law.
- Disallow marriage for girls below the age of 18 in all circumstances.
- Ensure that men and women in the same degree of relationship to a deceased are entitled to equal shares and equal rank in the order of succession.
- Give Muslims a choice between Sharia and civil law for matters of marriage, divorce and inheritance.

5. Discrimination in public housing: Housing is a human right but it is denied to certain groups of people in Singapore in order to promote a particular family type. In a country where more than 80% of the population live in public housing, people excluded from public housing can find housing only in the vastly more expensive private property market. This is discrimination on the basis of marital status, gender identity and sexual orientation, which excludes unwed mothers, same-sex couples, and transgender people who have not undergone sex reassignment surgery. Even divorced single parents may become homeless if considered ineligible for public housing. Statistics on homelessness in Singapore are unavailable. In 2011, divorcing parties had 4,800 children aged 14 and below, most of whom were aged 5 to 9⁷. The impact of homelessness on children is profound, constituting a violation of their human rights.

R4: Ensure that public housing is made available to all citizens, irrespective of marital status, gender identify or sexual orientation.

6. Discrimination against single parents and their children: Although unmarried mothers do enjoy some benefits, they are excluded from baby bonuses, 16 weeks of maternity leave, the parenthood tax rebate, various forms of child relief, family housing grants and housing priority for families. With regards to public housing, unmarried mothers are treated as singles, with their children not recognised as part of their family. This violates UDHR Article 25(2): "All children, whether born in or out of wedlock, shall enjoy the same social protection."

R5: Equalise benefits for single parents and their children with what is available to married parents and their children.

7. Socio-economic inequality is a huge political issue, with the bottom 20% of workers in Singapore not experiencing any increase in real incomes over a decade and the country's Gini coefficient rising to 0.478, one of the widest among developed countries⁸. Even the pre-intervention Gini coefficient may greatly underestimate the real level of economic inequality, as Singapore's Gini coefficient is calculated with reference to only the incomes of Singapore citizens and permanent residents⁹. Were the incomes of wealthy expatriates, who are drawn to Singapore as a top place to live and work¹⁰, and migrant workers, some of whom subsist

on salaries of \$2 an hour, included in the calculation of the Gini coefficient, the disparity would undoubtedly increase. The state is reluctant to intervene to provide social protection/security to support basic needs, such as sustenance and housing, due to its attachment to the state ideology of ‘meritocracy’, whereby ‘merit’ is rewarded, rather than human rights protected. This affects every aspect of Singapore’s welfare system where access to social assistance is decided by extremely stringent standards of means-testing or premised on employment. Regardless of personal merit, everyone has the right to an adequate standard of living (UDHR Article 25).

R6:

- Institute social protection for vulnerable groups, including the unemployed, the elderly and the disabled.
- Introduce a minimum wage that is adequate for meeting basic livelihood needs.

8. Wage discrimination: Discrimination in wages by nationality is rampant, debunking the State’s claim of meritocracy. All low wage migrant workers are paid less than local workers. Low wage South Asian workers in all sectors of the economy are paid less than workers of all other nationalities. Domestic workers from the Philippines are paid the most, followed by those from Indonesia, Myanmar and South Asia. Research by HOME has shown that migrant domestic workers from Myanmar and Indonesia receive an average monthly wage of \$474 and \$576 respectively, and are among the least paid from all surveyed nationalities¹¹. As an unequal wage structure is not a statutory offence, there is no legal recourse for the discriminated worker. Wage discrimination and low wages led to a strike by over 200 bus drivers from China in 2012. The State was quick to penalize the drivers and sentenced them to jail for instigating and participating in the strike.

R7: Review the practice of wage discrimination by nationality and take steps to address the issue.

9. Women are systematically disadvantaged by the state preference for employed people. In Singapore, one’s retirement pensions are drawn from monthly contributions from one’s salary towards the Central Provident Fund, a compulsory legislated savings plan to fund retirement, healthcare and housing needs. Women earn less than men, a wage gap that increases with age. A large proportion of women drop out of the workforce because they take on caregiving responsibilities for children, elderly parents or disabled family members¹². This poses a huge financial risk for unpaid caregivers as they do not receive economic compensation for their work. When such women reach retirement age, many become impoverished due to insufficient savings.

R8: Compensate caregivers. In addition to CPF, introduce a pension for elderly people, estimated to cost well below 1% of GDP as long as GDP per capita growth rate is well above 1% per annum.

10. Lack of anti-discrimination legislation: The Government’s response to the CEDAW Committee in 2014 stated that enacting anti-discrimination legislation would introduce labour market rigidities¹³. The state thus accepts discrimination against women, LGBT, ethnic minorities, the elderly and the disabled as good for business. State-perpetuated prejudice

against LGBT persons manifests as discrimination against LGBT employees by many private sector organisations at both hiring and promotion points [UDHR Article 23 (1), (2) and (3)]. This is particularly serious for male-to-female transgender persons whom few companies would hire. Without anti-discrimination or equal opportunity legislation, affected persons have no recourse. Anecdotal reports cite gay teachers being shunted out of classrooms into dead-end administrative jobs, or have their contracts terminated.

R9:

- Ratify ICERD¹⁴ and enact an anti-discrimination law, outlawing discrimination in employment on the basis of gender, race, sexual orientation, age and disability [WGUPR 96.1-96.11/96.13-96.19].
- Create an independent anti-discrimination commission to implement the legislation.

11. Immigration law: The Immigration Act of Singapore regulates the removal of immigrants from Singapore. It is drawn in an overly-broad manner that affords much discretion to the appointed Controller of Immigration. As a result of the 2013 Little India riots, 53 migrant workers were deported without due process. This is also evident in the State's treatment of local and undocumented migrant sex workers working without permits. They are deported without any due process and then banned from re-entry for 3 years. There are no available records of the number of people deported or detained without legal documentation.

R10: Introduce due process including appeals and judicial review for deportation cases.

12. HIV Travel Ban: Section 8(3)(ba) of the Immigration Act of Singapore prohibits the entry and stay of any person living with HIV/AIDS. Singapore is one of the few countries left in the world that continues to deport and ban people living with HIV/AIDS¹⁵. This is a highly outdated and discriminatory practice that serves to discourage testing and encourage stigmatisation.

R11: Remove Section 8(3)(ba) of the Immigration Act and create access to high standards of healthcare for migrants.

C. Right to liberty and security of the person

13. Arbitrary arrest and imprisonment without trial: The Internal Security Act (ISA), Criminal Law (Temporary Provisions) Act (CLTPA) and the Misuse of Drugs Act (MDA) allow for arrest and imprisonment without trial. The number of arrests and detentions made under these three laws are not known. Estimated figures are in thousands. Although the State claims that such preventive actions are used only as a last resort to protect national security and the identity of witnesses, lack of evidence and executive convenience are more realistic explanations.

ISA has been used against dissenters who do not agree with government policies. Detention orders are set for a maximum of two years, but are renewable such that a person may be imprisoned for decades. No ISA prisoner has ever been released by the judiciary. Judicial review for ISA cases was abolished in 1989.

The government's claim that it has "thwarted terrorist attacks" in 2001 has never been proven. Between 2001 and 2013, at least 78 Muslims were arrested and imprisoned without trial. Eleven of them are still in prison. Three of these 11 have been in prison for 13 years. None has challenged their imprisonment.

There are no checks and balances in the ISA. The executive alone decides on arrest, imprisonment and the renewal of detention orders. An advisory board appointed by the executive may review a detention order, but this is conducted behind closed doors with no independent body overseeing the proceedings or checking the basis for its recommendation. This process is flawed.

14. CLTPA also authorizes imprisonment without trial. This law was meant to be temporary but has been renewed every five years since it was enacted in 1955. As at 31 October 2013, there were 209 detainees. An order for detention is set for 12 months but is renewable indefinitely. While the original intention was to combat gangsterism, the Act has over the years been conveniently extended to crimes like drug trafficking, illegal moneylending and even international soccer match fixing. There are no safeguards. Detention orders are reviewable yearly by a Criminal Law Review Committee which operates behind closed doors. It has no power to order the release of prisoners. Power rests entirely with the minister.

15. Misuse of Drugs Act: any person who is suspected to be a drug addict can be detained in an institution for a period of 6 months on the order of the Director of the Central Narcotics Bureau. This order can be extended to 3 years. The Review Committee reviews cases in secret with no oversight from any independent institution. Only the committee or the director has the power to discharge the detainee.

R12:

- Abolish the ISA, the CLTPA and remove Part 4 which permits detention without trial under the MDA.
- Release or charge all prisoners in open court.
- Require the State to disclose the number of detainees under the three laws as at the date of review [WGUPR 97.10-11].

16. Sex notation on identity card: The National Registration Act requires each citizen to be issued with an identity card and to have recorded such details as the Commissioner of National Registration requires. This includes one's sex and race.

The administrative practice is that a transgender person shall have their sex at birth recorded on the identity card even when the person clearly identifies with and presents themselves as someone of the opposite gender. The "sex" entry on the identity card, and by extension the passport, is not changed unless the individual can prove that he or she has undergone the full scope of sex-reassignment surgery. For the majority of transgender people, this is neither affordable, practicable, nor wanted. The result is a life lived in contradiction, between their documented sex and lived gender. The state issued identity card thus becomes an instrument by the state and others to inflict social humiliation (UDHR Article 5). Furthermore, while transgender people have been identified as a key affected population by UNAIDS and the WHO, statistics on HIV/AIDS in Singapore are not disaggregated for transgender people.

This results in policies and services not being sensitized to the particular needs and behaviours of transgender men and women. In addition, pre-operative transgender women are not allowed to work in licensed brothels due to the influences of the Penal Code's Section 377A. This exposes the many transgender women sex workers to increased policing and harassment on the streets. Many end up being incarcerated or detained. The discrimination against transgender women in society led many to join the sex work industry as the only viable option. This is a vicious cycle as a criminal record further stigmatizes them and limits their options in life.

R13:

- Remove the 'race' and 'sex' fields on identity cards.
- Focus on more targeted public health interventions for transgender men and transgender women by first identifying and disaggregating the national HIV data for this specific group.
- Enact anti-discrimination policies [See R10].

D. Administration of Justice, including Impunity and the Rule of Law

17. Insufficient protection and assistance for victims of trafficking

Singapore contributed to the efforts of neighbouring countries to combat trafficking by introducing the *Prevention of Human Trafficking Act* in 2014. While the *Prevention of Human Trafficking Act* covers many aspects, important indicators are not clearly defined and it does not follow the Palermo Protocol standards. In particular, the protection and assistance offered to victims is not adequate and sufficient. Crucially, they are not guaranteed the right to work while investigations are ongoing, an important incentive for trafficked victims to file complaints [WGUPR 94.18].

R14:

- Strengthen the protection and assistance to victims of trafficking.
- Define the elements of human trafficking in the Palermo Protocol clearly in the *Prevention of Human Trafficking Act* (e.g. forced labour).
- Ratify the UN-CRSR and its Protocol.

18. Asylum: Singapore continue to deny asylum to thousands of Rohingya fleeing Myanmar, resulting in them being stranded at sea (UDHR Article 14, ASEAN Human Rights Declaration Articles 1 and 13).

R15: Offer asylum to refugees who seek protection from persecution in their home countries.

19. Insufficient legal protection of migrant workers: Singapore supported the recommendation that calls for strengthening the protection of migrant workers' rights, but existing legislations are poorly enforced, inadequate in its provisions and discriminatory. Migrant workers covered by the *Employment Act* continue to be routinely denied overtime pay, annual leave, paid sick leave and protection from wrongful dismissals. Those whose salary claims are brought to the labour court find it costly to enforce court orders when employers refuse to pay and many return home empty handed. Aggrieved workers do not

have the right to switch employers freely, similar to the *kafala* system used in the Middle East. This makes migrant workers vulnerable to forced labour. Often workers are also forcefully repatriated without access to justice by employers and hired thugs [WGUPR 94.13-14 and 16].

R16: Review the process for claims of unpaid salaries to ensure workers are rightfully compensated. Proactively investigate and prosecute errant employers who violate the Employment Act.

20. Contravening the Convention on the Rights of the Child: As recently as 2014-2015, there were cases of 16 and 17-year-olds charged in court where their faces appeared in press photos and identities made public. At least one case resulted in assault of an accused teen. This contravenes the CRC (Article 3, 4, 16). [WGUPR 95.11, 96.38-39, 97.9]

R17: Ensure the incorporation into the domestic legal system of the principles and provisions of the Convention on the Rights of the Child.

E. Right to Privacy, Marriage and Family Life

21. Inequality resulting from lack of legal recognition for same sex relationships: Neither the law nor the state recognises same-sex relationships. Even marriages contracted in other jurisdictions between same-sex partners are specifically not recognised in Singapore under Section 12(1) of the Women's Charter. Consequently, many benefits and rights enjoyed by married opposite-sex couples are denied to same-sex couples. These include employee benefits whose scope extend to spouses, medical visitation and next-of-kin rights, rights to purchase subsidised public housing from the state and tax allowances for married couples. (UDHR Article 7)

R18: Repeal Section 12(1) of the Women's Charter and permit registration of same-sex marriages.

22. Discrimination against Migrant Workers' right to Family Life and Marriage: Female work permit holders face deportation for being pregnant. Low skilled migrant workers in general require permission from the Ministry of Manpower to marry Singaporeans and permanent residents.

R19: Review the practice of deporting and blacklisting pregnant migrant domestic workers. Allow pregnant migrant domestic workers to continue their pregnancy in their home country before returning to Singapore to work. Recognise the right of all to enter into marriage and eliminate the need for a migrant worker to seek permission from MOM and/or other immigration bodies prior to being able to legally marry a Singaporean or Permanent Resident.

F. Freedom of Movement

23. Restricted freedom of movement of Migrant Workers: The Employment of Foreign Manpower Act and Passports Act forbid employment agencies and employers from holding on to a worker's identity documents. Regardless, employment agencies and employers continue to confiscate and retain migrant domestic workers' travel and identity documents, in

a manner that infringes on their freedom of movement. They are rarely punished for these violations. HOME's research among domestic workers indicated that 67% of these workers were not in possession of their passports, and 60% did not have their employment contracts¹⁶.

R20: Enforce Employment of Foreign Manpower Act and Passports Act requirement for workers' identity documents to not be held by employment agencies and employers.

G. Freedom of Religion or Belief, Expression, Association and Peaceful Assembly and Right to Participate in Public and Political Life

24. Censorship: Singapore's media has been facing pressure of censorship from the state in recent years, especially independent online practitioners. Notable examples include a cartoonist being charged for sedition (subsequently dropped), a human rights activist found guilty of contempt of court, and a blogger sued for defamation by the Prime Minister. The blogger was subsequently fired from his job, a move some suspected to be politically motivated. An independent news site is fighting a gag order brought upon by the Ministry of Defence, the most well resourced government agency, which ironically deployed the new Protection from Harassment Act, a law that was designed to protect the vulnerable. Another independent news site is currently facing sedition charges, but forced to close down without a court verdict. The online community is also facing increasing direct regulation, with more independent websites asked to register under the Broadcasting Act that imposes onerous rules on fund-raising.

R21: Conduct a holistic review of all the laws that can potentially restrict freedom of expression, such as the Newspaper and Printing Presses Act, Broadcasting Act, Protection from Harassment Act, Sedition Act and defamation laws, with the intention of protecting the right for free expression by media and citizens [WGUPR 99.1-99.4].

25 Section 8(3)(ba) of the Immigration Act. The Media Development Authority Act, the Films Act and the Broadcasting Act empower the Media Development Authority (MDA) to ban, classify and, through licensing, restrict the content of various media. The MDA effectuates these powers through conditions attached to licences that it issues, and through published "guidelines" which include prohibitions and restrictions on material with LGBT characters and themes. E.g. film and Free-to-air television classification guidelines say: "Films should not promote or justify a homosexual lifestyle. However, non-exploitative and non-explicit depictions of sexual activity between two persons of the same gender may be considered for R21" (R21 means viewings restricted to adults, 21 years old and above).

In practice, these guidelines are treated as binding rather than advisory and are interpreted in risk-averse ways, with films and television programs containing LGBT themes and characters censored or restricted even when no sex is involved, either by the MDA itself or by producers required to abide by the MDA's licence conditions.

Depictions of LGBT characters in normal or positive light, or any speech that advocates for their dignity and rights are routinely cut out or barred (UDHR Article 19). The result of this stereotypical, negative and skewed depiction is a perpetuation of prejudice and stigma to the public of the LGBT community. Such censorship policy also means that LGBT persons are

deprived of positive role models in the media, reinforcing low self-esteem and rendering them accepting of discrimination and rights abuses.

R22: Remove censorship policies that allow for the discriminatory treatment of LGBT-related material and viewpoints

26. Barriers to Association: The Societies Act gives discretionary power to the Registrar of Societies to approve or disapprove a society (defined as any group with ten or more persons), with appeals against his decision directed to the minister in charge. The Societies Act does not require the Registrar or the minister to give reasons for whatever decision they make. Section 14 of this Act defines any unregistered society as an "unlawful society" whose leaders and members are liable to criminal prosecution.

LGBT groups were denied registration by the Registrar of Societies and given reasons like "contrary to the national interest" as response. (UDHR Article 20(1)). No elaboration were given on how LGBT interests could be contrary to the national interest. Thus, LGBT advocacy groups, operate under threat of arrest and prosecution (UDHR Article 20(1)). Even without such clampdowns, the lack of legal status means an inability to raise funds in any organised way, and denial of access to mainstream media wary of giving legitimacy to unregistered groups (UDHR Article 19).

On the other hand, some other human rights advocacy groups have received approval for registration but were required to agree not to "engage in any activities that may undermine national interest, public security, public order or public confidence and trust in public institutions", effectively curtailing their ability to advocate. Three groups are gazetted by the government as "political associations" to curb their advocacy on human rights issues.

27. No Right to Association for Migrant Workers: The Trade Unions Act forbids migrant workers from forming their own trade unions.

R23: Allow registration LGBT-related groups under the Societies Act without onerous conditions and Migrant workers to form their own unions. Remove the discriminatory and onerous restrictions on "political associations" to allow for the freedoms of expression and association (UDHR Articles 18-20).

H. Right to Work and to Just and Favourable Conditions of Work

28. Foreign domestic workers are excluded from the Employment Act, preventing them from enjoying basic rights such as public holidays, sick leave, maternity leave and limits to working hours as other workers.

R24: Review existing labour protections of Foreign Domestic Workers, with the aim of ensuring they are offered protection comparable to other workers, e.g. ensuring a 24-hour weekly rest day.

29. Exploitative recruitment fees: Singapore's cooperation is required with countries of origin so that migrant workers are better protected from exploitation. Although Singapore's Employment Agencies Act caps recruitment fees to just one month's worth of salary for each year of contract, there are still widespread reports of migrant workers being exploited through

excessive recruitment fees amounting to up to USD 8000 per worker. Singapore does not respect laws which protect the nationals of sending countries going abroad; therefore, contract substitution and illegal collection of exorbitant recruitment fees are rampant [WGUPR 94.17].

R25: Establish a framework of cooperation with countries of origin to ensure migrant workers have not paid excessive recruitment fees in the country of origin and country of destination.

30. Discrimination in employment: There is no legislation against discriminatory practices in employment. Refer to para. 10.

R26: Enact an anti-discrimination law, outlawing discrimination in employment on the basis of gender, race, sexual orientation, age and disability. Create an independent anti-discrimination commission to implement the legislation.

31. Sex work comes under a two-tiered system of regulation in Singapore—a licensing scheme is in place to designate some workers as legal and others as illegal. While there's a need to regulate the industry for public health and safety reasons, policies that govern the industry are not made public and seems to be applied arbitrarily. Unlike migrant workers who are covered under the Employment of Foreign Manpower Act and related policies, sex work comes under the police anti-vice branch and are not made public. This makes it impossible for civil society groups to monitor, hold relevant agencies accountable, and make concrete suggestions to improve the working conditions of the workers. Research by Project-X shows that many workers within the licensed tier of the industry lack access to justice, have low bargaining power, and are restricted in their freedom of movement. Non-licensed sex workers often face violence from law enforcers, members of the public, as well as their clients, and are mostly denied access to justice.

R27: Make public the policies governing the sex work industry. Involve sex worker civil society groups in consultation processes to ensure, and enable high levels of safety standards for both tiers of the industry.

I. Right to social security and to an adequate standard of living

32. Poor access to medical treatment: Despite existing provisions, migrant workers do not have universal access to health care. Employers often deport workers who are ill or in need of medical treatment and there is no redress when this happens. Those awaiting work injury compensation claims, assisting in investigations, or waiting for their claims to be processed have no access to medical treatment if employers refuse to pay and the government does little to ensure treatment is received, despite laws mandating so. Domestic workers are excluded from the Work Injury Compensation Act, which means that medical benefits and compensation which all other workers enjoy are denied to them [WGUPR 94.3 and 94.5].

R28: Strictly enforce employers' obligation to provide medical treatment to migrant workers. Provide treatment on a right to health basis and ensure migrant workers have easy access to comprehensive and affordable health services.

33. Poor food and living conditions: Regulations stipulating that migrant workers should receive adequate and nutritious food are vague and poorly enforced. As a result, workers who do not have sufficient and nutritious meals have ineffective avenues of redress. Similarly, regulations stipulating accommodation standards for live-in domestic workers are vague, resulting in many of them sleeping in places such as kitchens, living rooms, and storerooms with no privacy. Other migrant workers (e.g. construction and shipyard workers) continue to live in crowded, cramped and unhygienic conditions due to weak enforcement. Those who are pursuing employment related claims such as unpaid salaries are often left to fend for themselves, even though the employer is responsible for their accommodation, food and daily living expenses.

R29: Introduce minimum standards of accommodation for migrant domestic workers. Ensure all migrant workers are housed according to internationally accepted standards, such as those stipulated by the International Labour Organisation. Review the possibility of allowing domestic workers to live out of the employer's home. Refine current legal requirements for employers to provide "adequate food" and provide clearer guidelines on what it entails. Proactively enforce existing legislation to ensure that employers provide adequate housing and food while workers are pursuing their claims. Allow migrant workers who are pursuing employment related claims to support themselves through work.

J. Environmental & Ecological Rights

34. We are all victims of environmental degradation from experiencing the effects of ecosystem delivery from water shortages to overfishing and increased CO₂ emissions from deforestation. Unsustainable practices by companies registered in, but operating out of Singapore, especially with regards to palm oil, pulp, paper and timber significantly contribute to the annual haze pollution in Singapore and result in serious issues for public health and safety.

As outlined in the Second National Climate Change Study, Singapore can face temperature increases of up to 4.6°C as a consequence of climate change. Cross-referencing the 5th IPCC report uncovers the amplified risk of heat-related mortality and the related water and food shortage risks, causing malnutrition.

R30: A national commitment to Certified Sustainable Palm Oil and laws regulating investments in industries responsible for deforestation need to be instated. Long term infrastructure adaptation plans need to go hand in hand with more ambitious emission reduction and mitigation targets.

K. Right to Life and Judicial Caning

35. The death penalty is most commonly used for drug trafficking and murder offences. In 2013, amendments to the death penalty were made (Appendix A). In 2014, two executions were carried out, followed by another in 2015 (Appendix B1). Currently, there are about 23 individuals on death row (Appendix B2).

36. Continued retention of the Mandatory Death Penalty (“MDP”): Section 300(a) of the Penal Code prescribes the MDP for murder with an intention to kill. The MDP also applies for drug trafficking, importation and exportation of controlled drugs unless the offender:

- a. Was a drug courier AND
- b. Was suffering from an abnormality of the mind in relation the offence OR
- c. Received the certificate of co-operation by the Prosecutor certifying that the offender had provided substantial assistance (Appendix A)

R31: Repeal the MDP.

37. Problems with the exceptions to the MDP for drugs offences: In the context of the amendments to drug trafficking, importing and exporting of controlled drugs, the requirement that co-operation must lead to substantial outcomes before a certificate of co-operation is granted is problematic. Whether the offender’s information leads to substantive outcomes depends largely on factors that s/he cannot control, making the decision one based on chance. For instance, authorities may fail to pursue leads provided by offenders, or such information becomes useful only when pieced together with other leads which are temporarily missing. Further, because couriers have a limited role, s/he is unlikely to possess useful information. Moreover, the Prosecutor is not required to provide reasons in denying the certificate and cannot be appealed nor reviewed by the court unless bad faith or malice is shown (Appendix C).

R32: Remove the requirement of the certificate of co-operation and abolish the death penalty.

38. Continued lack of information: The number of executions and names of inmates executed are the only public data available on the death penalty (Appendix D). Important information such as the backgrounds of current death row inmates and those that have been executed, or whether botched executions have taken place before are not available. The government has not conducted independent criminological studies on the deterrent effect of the death penalty.

R33: Conduct criminological studies on the deterrent effect of the death penalty and its marginal deterrence effect vis-a-vis alternative sentences such as life imprisonment. Make available statistics and other factual information regarding the death penalty.

39. Continued practice of judicial caning: Singapore is among the 33 countries in the world that still practise judicial caning. Offences that will lead to judicial caning include rape, robbery, vandalism and overstaying of migrant workers. Judicial caning is applicable for male offenders over the age of 16, and under the age of 50, who are medically certified to be fit for caning. Judicial caning arguably amounts to torture, given that torture is defined as *“any act by which severe pain or suffering whether physical or mental, is intentionally inflicted on a person”* under the United Nations Convention Against Torture (Article 1), which Singapore forms a small minority against in refusing to share the large international consensus it represents. In 2012, 2500 offenders were sentenced to judicial caning. Out of the 2203 sentences carried out, 1070 involved foreigners who were caned for committing immigration offences such as overstaying.

R34: Hold a moratorium on judicial caning, and look into possible alternative tools of justice.

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Appendix A

In 2013, two reforms were made to the death penalty regime.

Murder

Murder is defined in Section 300 of the Penal Code (Cap 224, 2008 Rev Ed), which provides that:

Murder

300. Except in the cases hereinafter excepted culpable homicide is murder —

- (a) if the act by which the death is caused is done with the intention of causing death
- (b) if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused;
- (c) if it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or
- (d) if the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death, or such injury as aforesaid.

Before 2013, the Mandatory Death Penalty applied to all murder offences under Section 300 of the Penal Code. After the amendments, the Mandatory Death Penalty applies only for Section 300(a) of the Penal Code. For offences under Section 300(b) – (d) of the Penal Code, judges are given the discretion to determine whether to impose the death penalty OR imprisonment for one’s natural life AND caning.

Drug Trafficking, Importing and Export of Controlled Drugs

Drug Trafficking is defined under Section 5 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) as:

Trafficking in controlled drugs

5. —(1) Except as authorised by this Act, it shall be an offence for a person, on his own behalf or on behalf of any other person, whether or not that other person is in Singapore —

- (a) to traffic in a controlled drug;
- (b) to offer to traffic in a controlled drug; or
- (c) to do or offer to do any act preparatory to or for the purpose of trafficking in a controlled drug.

(2) For the purposes of this Act, a person commits the offence of trafficking in a controlled drug if he has in his possession that drug for the purpose of trafficking.

Under the Second Schedule of the Misuse of Drugs Act, the death penalty is attracted when the offender commits the following:

- Unauthorised manufacture of morphine, or any salt of morphine, ester of morphine or salt of ester of morphine;
- Unauthorised manufacture of diamorphine or any salt of diamorphine;
- Unauthorised manufacture of cocaine or any salt of cocaine;
- Unauthorised manufacture of methamphetamine or any salt of methamphetamine;

Traffics or imports/exports without authorisation, more than,

- 30 grammes of Morphine or 1200 grammes of opium;
- 15 grammes of Diamorphine;
- 30 grammes of Cocaine;
- 500 grammes of Cannabis;
- 1000 grammes of cannabis mixture;
- 200 grammes of cannabis resin;
- 250 grammes of methamphetamine;

Drug Importation and Export of controlled drugs is set out under Section 7 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) as:

Import and export of controlled drugs

7. Except as authorised by this Act, it shall be an offence for a person to import into or export from Singapore a controlled drug.

Under the Second Schedule of the Misuse of Drugs Act, the death penalty is attracted if the offender imports or exports more than:

Previously, the mandatory death penalty applied to drug trafficking, importation and export of the above drugs. After the 2013 amendments, the mandatory death penalty still applies to the drug trafficking, importation and export of the above drugs unless:

- The offender's role was only of a drug courier **AND** that
- The offender was suffering from an abnormality of mind at the time of commission of the offence **OR;**
- The Public Prosecutor has granted him a certificate of co-operation because he had **substantively assisted in disrupting drug trafficking activities within or outside Singapore.**

If these two conditions are met, the judge is given to discretion to determine whether the offender should be given the death sentence OR life imprisonment with minimum 15 strokes of the cane. This is set out in Section 33B of the Misuse of Drugs Act which provides that:

Discretion of court not to impose sentence of death in certain circumstances

33B.—(1) Where a person commits or attempts to commit an offence under section 5(1) or 7, being an offence punishable with death under the sixth column of the Second Schedule, and he is convicted thereof, the court —

(a) may, if the person satisfies the requirements of subsection (2), instead of imposing the death penalty, sentence the person to imprisonment for life and, if the person is sentenced to life imprisonment, he shall also be sentenced to caning of not less than 15 strokes; or

(b) shall, if the person satisfies the requirements of subsection (3), instead of imposing the death penalty, sentence the person to imprisonment for life.

(2) The requirements referred to in subsection (1)(a) are as follows:

(a) the person convicted proves, on a balance of probabilities, that his involvement in the offence under section 5(1) or 7 was restricted —

- (i) to transporting, sending or delivering a controlled drug;
- (ii) to offering to transport, send or deliver a controlled drug;
- (iii) to doing or offering to do any act preparatory to or for the purpose of his transporting, sending or delivering a controlled drug; or
- (iv) to any combination of activities in sub-paragraphs (i), (ii) and (iii); and

(b) the Public Prosecutor certifies to any court that, in his determination, the person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities within or outside Singapore.

(3) The requirements referred to in subsection (1)(b) are that the person convicted proves, on a balance of probabilities, that —

(a) his involvement in the offence under section 5(1) or 7 was restricted —

- (i) to transporting, sending or delivering a controlled drug;
- (ii) to offering to transport, send or deliver a controlled drug;
- (iii) to doing or offering to do any act preparatory to or for the purpose of his transporting, sending or delivering a controlled drug; or
- (iv) to any combination of activities in sub-paragraphs (i), (ii) and (iii); and

(b) he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in relation to the offence under section 5(1) or 7.

(4) The determination of whether or not any person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities shall be at the sole discretion of the Public Prosecutor and no action or proceeding shall lie against the Public Prosecutor in relation to any such determination unless it is proved to the court that the determination was done in bad faith or with malice.

Appendix B1

On 18th July 2014, inmate Tang Hai Liang, 36, and Foong Chee Peng, 48 were executed. Both inmates were convicted of trafficking in a controlled drug.

Source: Press Release, Central Narcotics Bureau

http://www.cnb.gov.sg/newsroom/current/news_details/14-07-18/Execution_of_convicted_drug_traffickers.aspx

On 17th April 2015, inmate Muhammad bin Kadar was executed. He was convicted of a charge of intentional murder, which carried the mandatory death penalty.

Source: <http://www.channelnewsasia.com/news/singapore/convicted-murderer-who/1790984.html>

Appendix B2

This estimate is based on our research on, LawNet, a legal research site in Singapore.

Appendix C

Section 33B (4) of the Misuse of Drugs Act provides that

(4) The determination of whether or not any person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities shall be at the sole discretion of the Public Prosecutor and no action or proceeding shall lie against the Public Prosecutor in relation to any such determination unless it is proved to the court that the determination was done in bad faith or with malice.

Appendix D

The Singapore Prison Service has an Annual Statistics Release report, which details the number of executions that has taken place in that particular year, and the previous years before. The most recent report can be downloaded on their website (<http://www.sps.gov.sg/news-about-us/news/2015-singapore-prison-service-annual-statistics-release-0>).