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SINGAPORE

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, and the Organization of American States. ADF International is also a participant in the FRA Fundamental Rights Platform.
2. This report highlights the legal restrictions on the rights to freedom of religion, expression and conscience in Singapore. It raises concerns about arbitrary and overly restrictive regulations on faith-based associations and religious activities, as well as the Singaporean government’s failure to respect the right to conscientious objection.

(a) Freedom of Religion or Belief and Freedom of Expression

3. The Republic of Singapore has a population of approximately 5.7 million, consisting of around 74% Chinese, 13% Malay and 9% Indian ethnicities, with 4% other.¹ In a 2014 report on the topic, the Pew Research Center named Singapore the most religiously diverse country in the world.² The proportions are 33% Buddhist, 18% Christian, 14% Muslim, 10% Taoist, 6% Hindu, 19% non-religious and other.³
4. Article 14 of the Constitution of the Republic of Singapore guarantees the rights to freedom of speech, assembly and association. The exercise of these rights is subject to restrictions on grounds of preserving “security, [...] friendly relations with other countries, public order, or morality, [...] or to provide against contempt of court, defamation or incitement to any offense.”⁴
5. Article 15 of the Constitution protects freedom of religion, including one’s right to “profess and practice his religion and to propagate it.” However, it “does not authorize any act contrary to any general law relating to public order, public health or morality.”⁵
6. Singapore has only ratified four of the nine core human rights treaties, not including the ICCPR or International Covenant on Economic, Social and Cultural Rights (ICESCR).⁶
7. Notwithstanding the overall broad constitutional protections for religious freedom and freedom of expression, and despite its low ranking in terms of social hostilities, in 2019 Singapore was included among the top 10 countries in terms of governmental

¹ R. Hirschmann, ‘Singapore resident population as of June 2019 by ethnic group’ (Statista, 22 April 2020) <<https://www.statista.com/statistics/622748/singapore-resident-population-by-ethnic-group/>> accessed 5 October 2020.

² ‘Global Religious Diversity’ [2014] Pew Research Center 4.

³ R. Hirschmann, ‘Population in Singapore in 2015, by religious affiliation’ (Statista, 16 January 2020) <<https://www.statista.com/statistics/883801/singapore-population-by-religion/>> accessed 5 October 2020.

⁴ 1965 Constitution of the Republic of Singapore (SGP) Art 14.

⁵ Ibid. Art 15.

⁶ ‘UN Treaty Body Database’ (UNOHCHR) <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=157&Lang=EN> accessed 5 October 2020.

restrictions on religion, according to the Pew Research Center.⁷ This can be attributed to an excessive emphasis on security and public order considerations in both legislation and practice, thereby threatening the full enjoyment of the rights to freedom of expression and religion.

The Sedition Act

8. The 1948 Sedition Act, as revised in 2013, criminalizes actions that carry a “seditious tendency”, defined in Article 3(1) as aimed to, inter alia, “bring into hatred or contempt or to excite disaffection against the Government”, or “to promote feelings of ill-will and hostility between different races or classes of the population of Singapore.” Under these provisions, ‘seditious actions’, including speech acts and published material contrary to these regulations, can result in up to 5 years of prison time and a 5,000 Singapore dollar fine. Mere possession of ‘seditious material’ can also lead to 3 years of imprisonment.
9. The detrimental effects of the Act are exemplified by the District Court’s decision in the case of the Ong Kian Cheong and Doroty Chan Hien Leng, a Protestant Christian married couple sentenced to 8 weeks in prison for sedition after handing out tracts promoting their faith as preferable to other religions.
10. On the one hand, because ethnicity and religion are so closely interrelated in Singapore, expression considered offensive to a religious community is deemed “to promote feelings of ill-will and hostility between different races or classes of the population of Singapore.” This effectively disallows any expressions of disagreement on religious matters in light of their potentially punishable nature.
11. On the other hand, consistent with District Court’s explanation that “There is no requirement [...] that proof of sedition requires intent to endanger the maintenance of the government,” people can be found guilty of sedition even if their actions are not the result of malicious intent.⁸
12. Moreover, reliance on inherently subjective elements such as ‘disaffection’ and ‘feelings’, or even to an unspecified “right” to be free from offense, to restrict the exercise of freedom of expression and other fundamental rights is at odds with both the provisions of Article 14 and 15 of the Constitution, and relevant international human rights norms and standards, with clear detrimental effects especially for minorities.⁹

The Maintenance of Religious Harmony Act

13. The 1990 Maintenance of Religious Harmony Act (MRHA) gives the Minister of Home Affairs the authority to issue restraining orders against religious leaders for, among other things, “causing feelings of enmity, hatred, ill-will or hostility between different religious groups;” or “exciting disaffection against the President or the Government while, or under the guise of, propagating or practicing any religious belief.”¹⁰ In

⁷ ‘A Closer Look at How Religious Restrictions Have Risen Around the World’ [2019] Pew Research Center 85.

⁸ Public Prosecutor v Ong Kian Cheong and Another [2009] SGDC 163.

⁹ 2013 Rev. Sedition Act (SGP).

¹⁰ 2001 Rev. Maintenance of Religious Harmony Act (SGP) Art 8.

practice, this piece of legislation may effectively justify the quashing of views that dissent from majority or government-held positions under the pretext of preserving religious and social harmony. Similarly to the Sedition Act, the weight attributed by the MRHA to subjective ‘feelings’ and ‘disaffection’ generates a legal framework prone to arbitrary judgement.

14. The restraining order can effectively remove the person’s ability to address their congregation, publish any religious documents or holding office in a religious institution. That is, even persons who are suspected of having encouraged others to act in an unacceptable manner can be targeted. The punishment for violating the restraining order can result to up to 3 years imprisonment or up to a 20,000 Singapore dollar fine.¹¹
15. Under Article 12 of the MRHA, the Minister’s order is submitted to the Presidential Council for Religious Harmony, a group of representatives who then provide a non-binding recommendation. Article 18 further establishes that, after approval by the President, the decision of the Minister cannot be challenged before any court, thereby depriving the persons concerned of a means to appeal the decision.¹²
16. In 2019, the MRHA was amended to include “safeguards against foreign influence that affect religious harmony”, including monitoring and potentially blocking foreign donations as well as limiting international religious leadership; expand the scope of the restraining orders, as well as removing any notice period; and consolidate offences formerly found in Section 298 of the Penal Code, including criminalizing acts that: “Urge force or violence on the basis of religion, or against a religious group or its members;” “Incite feelings of enmity, hatred, ill-will or hostility against a religious group;” or “Insult the religion or wound the religious feelings of another person.”¹³
17. Furthermore, the lack of judicial accountability of the decisions of the Minister, combined with weak checks-and-balances, reflects a structural failure to respect freedom of expression as established in both the Constitution of Singapore as well as in Article 19 of the Universal Declaration of Human Rights (UDHR).¹⁴
18. Because it leaves the door open to arbitrary and abusive targeting of persons the MRHA indirectly casts a “chilling effect” on legitimate forms of expression, including proselytization, as well as other public manifestations of religious beliefs. It also restricts constructive and meaningful dialogue initiatives between faiths, such as those undertaken by Singapore’s Inter-Racial and Religious Confidence Circles, which are intended to “deepen people’s understanding of the various faiths, beliefs and practices” .¹⁵ The absence of clear boundary lines for what constitutes acceptable

¹¹ Ibid. Art 16.

¹² Ibid. Art 18.

¹³ ‘The Maintenance of Religious Harmony Act’ (Ministry of Home Affairs, October 2019) <<https://www.mha.gov.sg/about-us/key-topics/law-and-order/safeguarding-race-and-religious-harmony>> accessed 5 October 2020.

¹⁴ Universal Declaration on Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) Art 19.

¹⁵ ‘About IRCC’ (Inter-Racial and Religious Confidence Circle, 2020) <<https://www.ircc.sg/ABOUT%20IRCC>> accessed 13 October 2020.

discourse, and the fear of consequences for peacefully expressing one's deeply-held opinions or beliefs, may fundamentally undermine such notable efforts.

(b) Freedom of Conscience

19. According to the 1967 Law on National Service, Singapore has a minimum 2-year mandatory conscription for all males. The law contains no provisions for conscientious objection. According to the government, "No able-bodied Singaporean is exempted from National Service as every Singaporean benefits from the peace and security which National Service has helped to ensure." No civil service alternative exists.¹⁶
20. As such, conscientious objection is effectively criminalized, with objectors regularly facing up to 3 years of military detention as well as fines. This is in violation of Article 18 UDHR, which affirms freedom of conscience as a fundamental human rights. Although Singapore is not a party to the ICCPR, freedom of thought, conscience and religion is widely considered a fundamental right that all States are bound to respect under customary law. As confirmed inter alia by the Human Rights Committee in its General Comment No. 22 on ICCPR Article 18, a right to conscientious objection exists "inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief".
21. The impact of Singapore's legal restrictions on the exercise of the right to freedom of conscience are long-lasting. In 1972, Singapore deregistered Jehovah's Witnesses (JWs) and other groups as religious communities, claiming their religion "was prejudicial to public welfare and order because it objected to national service, reciting the national pledge, or singing the national anthem." To date, while JWs can practice their faith privately, they are not allowed to hold public meetings or publish or import any religious material.¹⁷
22. There are currently 11 Jehovah's Witnesses imprisoned for conscientious objection to Singapore's mandatory military service. One in particular, Benedict Ho Kang Yu, has repeatedly expressed a willingness to undertake civil service as an alternative, but this was refused.¹⁸

(c) Recommendations

23. In light of the aforementioned, we suggest the following recommendations be made to Singapore:
 - a. Review the 1948 Sedition Act to end any arbitrary or discriminatory restrictions to freedom of expression;
 - b. Amend the 1990 Maintenance of Religious Harmony Act (MRHA) in conformity with international human rights standards relating to freedom of expression;

¹⁶ 'Country report and updates: Singapore' (War Resisters' International, February 2016) <https://wri-irg.org/en/programmes/world_survey/country_report/en/Singapore> accessed 5 October 2020.

¹⁷ Singapore 2019 International Religious Freedom Report [2019] US Commission on International Religious Freedom 3.

¹⁸ 'Imprisoned for Their Faith' (Jehovah's Witnesses, 15 September, 2020) <<https://www.jw.org/en/news/legal/by-region/singapore/jehovahs-witnesses-in-prison/>> accessed 5 October 2020.

- c. Stop all criminal prosecutions and arrests of individuals as a result of the peaceful exercise of their rights to freedom of expression or freedom of religion or belief;
- d. Enable foreign religious leaders to carry out religious activities in the country without any restrictions;
- e. Amend the 1967 Law on National Service to guarantee the right to conscientious objection to mandatory military service, in accordance with Article 18 UDHR;
- f. Allow for a civil service alternative to military service;
- g. Release immediately those detained for refusing military service on grounds of conscience.
- h. Ensure full respect for the rights to freedom of religion or belief and of expression, in accordance with relevant international human rights norms and standards;
- i. Amend or repeal laws that limit the right to freedom of thought, conscience and religion, and the right to freedom of assembly of persons belonging to religious minorities;
- j. Preserve ongoing interfaith dialogue efforts by ensuring full protection to the right to freedom of expression, including religious expression;



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