

WHITE PAPER

ON

THE REPRESSION OF POLITICAL FREEDOMS IN SINGAPORE

•

THE CASE OF OPPOSITION LEADER DR CHEE SOON JUAN

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EXECUTIVE SUMMARY

I INTRODUCTION

This White Paper documents the repression of political freedoms in Singapore. It reviews how the Government of Singapore, under the leadership of the People's Action Party (PAP), has monopolized the state's apparatus to its own benefit. The result has been the denial of democratic rights and freedoms and the muzzling of domestic and international media.

The case of Dr Chee Soon Juan is examined in detail. Being the leader of one of Singapore's most important opposition parties – the Singapore Democratic Party (SDP) – Dr Chee has been sued, charged, and sentenced ever since his first political act of opposition. He is recognized internationally and by human rights NGOs as a defender of political freedoms and has received the Defender of Democracy Award by the Parliamentarians for Global Action.

II THE FACTS OF POLITICAL REPRESSION IN SINGAPORE

As Southeast Asia's financial and high-tech hub, Singapore has become one of the world's most prosperous countries. Founded as a British colony in 1819, Singapore became a separate Crown colony in 1946 and was awarded a democratic constitution and internal self-government in 1959. In 1965, Singapore became an independent state and joined the United Nations.

Ever since Singapore gained internal self-government in 1959, it has been ruled by the PAP which has won control of Parliament in every election. The government has solidified its near monopoly on the political apparatus of the state by perverting the rights' guarantees of the Constitution of Singapore through the passage and arbitrary enforcement of unconstitutional domestic laws. The absence of independence in a compliant judiciary and a media silenced through state ownership and the ever-present threat of defamation and libel suits has created a climate for the suppression of political freedoms. Recent legislative developments with the enactment in April 2009 of the *Public Order Act* have consolidated further the authority of the ruling PAP over the political opposition.

- Under the *Public Order Act*, all citizens, including members of the political opposition and opposition Members of Parliament, must apply for permits before speaking in public. Permits are rarely given to critics of the government.
- Under the *Public Order Act*, government authorization is required before any public assembly. Opposition rallies are rarely authorized. The operative presumption is against public expression of any kind, the only exception being a designed 'Speakers' Corner'.

- Under the *Defamation Act*, the government sues all – including the domestic and foreign press and members of the political opposition – who criticize its policies and actions.
- Under the *Internal Security Act*, the government may arbitrarily arrest and indefinitely detain any person it suspects of endangering public security.
- Under the *Newspaper Printing and Presses Act*, the government forbids private ownership of newspaper companies unless permission is granted.

This state of affairs has warranted international criticism for the violations of human rights from Amnesty International, the World Bank, Freedom House, the International Bar Association, the Alliance for Reform and Democracy in Asia, and the Committee to Protect Journalists, among others.

III THE CASE OF DR CHEE SOON JUAN

Dr Chee was born in 1962. After receiving a PhD in neuropsychology from the University of Georgia, he returned home to Singapore to teach at the National University of Singapore. In 1992 he joined the SDP, attracting considerable attention as the first academic from the state-run university openly to challenge the government. Shortly after joining the SDP, Dr Chee was charged with an alleged misuse of research funds and was fired by the head of his department at the National University of Singapore. The department head was a PAP Member of Parliament.

Dr Chee denied the charges, asserting his firing was politically motivated. For this, he was held liable for defamation and for costs and damages of US\$350,000. In addition to the 1993 defamation suit by the head of his university department, Dr Chee has been taken to court in subsequent defamation proceedings by all three of Singapore's PAP prime ministers.

In addition, Dr Chee has been:

- censured by Parliament for failing to exercise his freedom of expression in the United States despite not having any such freedom in Singapore;
- fined by Parliament over an article he wrote on healthcare costs;
- fined for selling his second book – *To Be Free: Stories About Asia's Struggle Against Oppression* – in public;
- repeatedly prosecuted for speaking in public without a permit; and
- jailed for attempting to attend an international democracy conference.

Dr Chee also faces a barrage of ongoing trials, cases awaiting trial, and police investigations.

The violation of Dr Chee's political freedoms has attracted international condemnation from Amnesty International, Human Rights Watch, the International Bar Association, Human Rights First, and the Lawyers' Committee for Human Rights, among others.

IV HUMAN RIGHTS VIOLATIONS BY THE GOVERNMENT OF SINGAPORE

The treatment of Dr Chee and other members of the political opposition by the Singaporean government constitutes a violation of the Constitution of Singapore and international law. Members of the political opposition have been prosecuted and jailed for participating in peaceful demonstrations and for expressing political views. The Singaporean government's actions can in no way be justified in the interests of public order. Singapore is and has long been in systematic breach of its constitutional and international legal obligations.

The human rights of all citizens of Singapore are guaranteed by the Constitution of Singapore as well as international human rights standards applicable to the state by virtue of Singapore's membership in the United Nations and duty to comply with customary international law.

- Freedom of Expression

Singapore violates the free expression of Dr Chee and the political opposition by way of the frequent and exaggerated reliance on defamation suits under the *Defamation Act*; the requirement to obtain a permit from the police prior to speaking in public under the *Public Order Act*; the governing policy against awarding permits for such purposes; the prohibition on communicating political messages to citizens under the *Films Act*; and the absence of a free press, due in large part to the *Newspaper Presses and Printing Act*.

These measures are in contravention of the guarantee of free expression under the Constitution of Singapore as well as under international law.

- Freedom of Assembly

Singapore violates the freedom of association of Dr Chee and the political opposition by way of the requirement that government authorize all assembling of persons – irrespective of their numbers – in public under the *Public Order Act*; the governing policy against awarding permits for such purposes; and the unqualified government discretion to ban demonstrations under the *Internal Security Act*.

These measures are in contravention of the guarantee of free association under the Constitution of Singapore as well as under international law.

- Right to Stand for Election

Singapore violates the right of Dr Chee and the political opposition to stand for election by way of the frequent and exaggerated reliance on defamation suits under the *Defamation Act* to disqualify the political opposition from standing for election; and the frequent and

exaggerated criminal suits under the *Public Order Act*'s predecessor legislation – the *Public Entertainments and Meetings Act* and *Miscellaneous Offences Act* – to disqualify the political opposition from standing for election.

These measures are in contravention of the constitutional structure of Singapore and a violation of international law.

- Equal Protection of the Law

Singapore violates the right of Dr Chee and the political opposition to the equal protection of the law by way of the selective enforcement of Acts of Parliament like the *Public Entertainments and Meetings Act* and the *Miscellaneous Offences Act* against opposition members.

These measures are in contravention of the guarantee of the equal protection of the law under the Constitution of Singapore as well as under international law.

- Right to an Independent and Impartial Judiciary

Singapore violates the right to an independent and impartial judiciary of Dr Chee and the political opposition by way of executive discretion with respect to the security of tenure of judges; potential executive interference with the administration of the judicial function; and a reasonable apprehension of bias in favour of the government in defamation cases.

These measures are in contravention of the guarantee of an independent and impartial judiciary under the Constitution of Singapore as well as under international law.

V CONCLUSIONS

Singapore has not accepted the jurisdiction of most international courts and, in consequence, there are no international tribunals available in which Dr Chee can challenge his treatment. With domestic courts closed to or predisposed against Dr Chee, the best course of action to pressure Singapore into recognizing political freedoms is through the support of human rights organizations, the international media, and foreign governments. Singapore's global stature as an international trading hub could be undermined if sufficient attention were paid to the human rights abuses of Dr Chee and other political opposition members. For this reason, every statement in support of Dr Chee is of critical importance.

This White Paper calls upon foreign governments, NGOs, and the media to pressure for reform in the name of Singapore's political opposition.

Annex A outlines a series of strategies for achieving political freedoms in Singapore.

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ANNEX A STRATEGIES FOR POLITICAL FREEDOM IN SINGAPORE

ANNEX B SUMMARY CHRONOLOGY OF DR CHEE'S CONVICTIONS AND ACCUSATIONS

I

INTRODUCTION

This White Paper presents the case of Dr Chee Soon Juan, an opposition leader whose political freedoms have been repressed by the Government of Singapore. At all relevant times, the People's Action Party (PAP) has been in power, first under the leadership of former Prime Minister Lee Kuan Yew and now under the leadership of his son, the current Prime Minister, Lee Hsien Loong.

Dr Chee's case is illustrative of the repression of political freedoms in Singapore at the hands of the government. Singapore's progressive technological and financial model of modernity should not deflect attention from the violations of human rights committed under the cover of legality.

The White Paper begins in Part II with a context-setting introduction to Singapore. This will illustrate the political dominance of the PAP since Singapore's independence and how the Government of Singapore has used the state apparatus to repress political freedoms and human rights. Various Acts of Parliament will be shown to be inconsistent with basic human rights standards and contrary to the basic premises of a democracy.

Part III is devoted to the case of Dr Chee. A chronology of Dr Chee's struggle for political freedoms is documented from the loss of his academic position with the National University of Singapore due to his membership with the opposition Singapore Democratic Party through to the countless defamation suits and charges for breaches of unconstitutional and arbitrarily enforced laws.

Part IV reviews the status of domestic and international human rights guarantees in Singapore. It reviews how the laws and practices of the Government of Singapore violate freedom of expression, freedom of assembly, the right to stand for election, the equal protection of the law, and the right to an independent and impartial judiciary.

The ultimate purpose of this White Paper is to bring further international attention to Singapore's repression of political freedoms through the use of defamation laws as a tool of repression, a largely compliant judiciary, and a muzzled media, all of which has permitted the government to achieve its goal of denying its political opposition the necessary political freedoms of a democratic society. The constant and exaggerated repression of political freedoms in one of the world's financial powerhouses constitutes an urgent call for greater international action.

II

THE FACTS OF POLITICAL REPRESSION IN SINGAPORE

Founded as a British colony in 1819, Singapore became a separate Crown colony in 1946 and was awarded a democratic constitution and internal self-government in 1959.¹ Under the leadership of the governing PAP, Singapore joined the Federation of Malaya and, under the Malaysia Agreement of 1963, a new Federation of Malaysia was established.² Under this federal arrangement, Singapore was awarded a new state constitution by an Order in Council of the United Kingdom, which effectively relinquished British sovereignty and jurisdiction over and in Singapore.³

This federal arrangement lasted until 1965, when the Governments of Singapore and Malaysia entered into an agreement that Singapore should become an independent state.⁴ The agreement was constitutionally implemented by the Constitution and Malaysia (Singapore Amendment) Act 1965.⁵ Singapore joined the United Nations that same year.

Speaking to the aspirations of an independent Singapore, PAP Prime Minister Lee Kuan Yew proclaimed:

[O]n behalf of the people and the Government of Singapore that as from today the ninth day of August in the year one thousand nine hundred and sixty five, Singapore shall be forever a sovereign, democratic and independent nation, founded upon the principles of liberty and justice and ever seeking the welfare and happiness of her people in a more just and equal society.⁶

The promise of 1965 remains only fulfilled in part, as concern for the economic welfare of Singapore has eclipsed concern for the principles of liberty and justice. Despite its high rankings in economic competitiveness, trade policies, and business transactions, Singapore has developed a poor reputation with respect to its commitment to democracy and human rights.

¹ Singapore (Constitution) Order in Council, S.I. 1956 (1958) (U.K.).

² Malaysia Act 1963.

³ Order in Council, S.I. 1493 (1963) (U.K.).

⁴ Independence of Singapore Agreement, Singapore Government Gazette Extraordinary, 9 August 1965, vol VII, no 66.

⁵ Act 53 of 1965.

⁶ Cited in A.J. Harding, 'Parliament and the Grundnorm in Singapore' (1983) 25 MAL. L. REV. 351, 353.

A Singapore: Economically Progressive, Politically Repressive

1 Economic Success

As Southeast Asia's financial and high-tech hub, Singapore has become one of the world's most prosperous countries. Though Singapore has felt a direct hit from the current financial turmoil, it ranks as the 5th wealthiest country in the world in terms of GDP (PPP) per capita and, as of early 2008, had foreign exchange reserves of more than US\$177 billion. Most recently, the United Nations' Human Development Index placed the country 25th in the world.⁷ Political oppression and fear are not the images that readily come to mind when one envisions this level of technological and financial sophistication. Most of the nearly 37 million passengers who pass through Singapore's extraordinary Changi International Airport every year would be surprised by the extent of single-party, authoritarian control underlying this commercial landscape.

Former Prime Minister Lee Kuan Yew has been credited with the vision of Singapore's commercial success and with the role of principal actor in Singapore's political oppression. As Freedom House's 2008 Report summarizes: 'Prime Minister Lee Kuan Yew and the ruling People's Action Party (PAP) transformed the port city into a regional financial center and exporter of high-technology goods, but restricted individual freedoms and stunted political development in the process.'⁸

2 Political Dominance of the PAP

Ever since Singapore gained internal self-government in 1959, it has been ruled by the PAP, which has dominated the political process, having won control of Parliament in every election since 1959. Lee Kuan Yew was Prime Minister of Singapore from 1959 to 1990. In 1990, he passed his title to Goh Chok Tong while maintaining the position of Senior Minister. In 2004, Lee Kuan Yew's son, Lee Hsien Loong, became Prime Minister; his father continues to serve as a member of Cabinet in the position of Minister Mentor. Prime Minister Lee is also the secretary-general of the PAP.

The PAP maintains a strong hold on parliamentary representation. The PAP enjoyed a monopoly on the legislative assembly until 1981, when the first opposition member was elected; yet, JB Jeyaretnam's tenure in Parliament was short-lived. It ended in 1986 when he was expelled after being found guilty of misuse of party funds in a series of judgments severely criticized by the Judicial Committee of the Privy Council, then Singapore's highest court of appeal.⁹ Despite the Privy Council's dictum, Jeyaretnam remained barred from standing for election until 1997, when he returned to Parliament as a non-constituency member. Shortly thereafter, he was sued for defaming members of the PAP. Many, including Amnesty International, have expressed concern with the 'apparent political motives behind

⁷ United Nations Development Programme, 2007/2008:
http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_SGP.html

⁸ Freedom House, FREEDOM IN THE WORLD: 2008.

⁹ *Jeyaretnam v Law Society of Singapore* [1988] 3 MLJ 425 (Judicial Committee of the Privy Council).

the suits, and aspects of the [courts'] judgments'.¹⁰ In its history, Singapore has witnessed parliamentary representation from only three opposition parties.

The PAP exercises considerable control over its Members of Parliament. In part, this results from a constitutional stipulation that Members of Parliament who are expelled from their party must resign.¹¹ This effectively secures the support of backbench members for the government. Moreover, many prominent opposition figures are prevented from being eligible for a parliamentary seat because of the confluence of two factors: first, a constitutional stipulation that one is ineligible for membership in Parliament if one is bankrupt or sentenced to imprisonment or fined and, second, the strategic and repeated recourse to defamation suits by the government against the political opposition. In addition, Freedom House reports that '[a]lthough elections are free from irregularities and vote rigging, the opposition is hamstrung by a ban on political films and television programs, the threat of libel suits, strict regulations on political associations, and the PAP's influence on the media and the courts'.¹²

As the following will demonstrate further, the Government of Singapore has not paid heed to the Vienna Declaration and Programme of Action developed at the 1993 World Conference on Human Rights, which recognized that 'democracy, development and respect for human rights and fundamental freedoms are mutually reinforcing'.¹³

B Government control of the political opposition

The Government of Singapore has solidified its near monopoly on the political apparatus of the state by repressing the rights' guarantees of the Constitution of Singapore through the passage and enforcement of unconstitutional domestic laws.¹⁴ The absence of independence in a largely compliant judiciary and a media silenced through state ownership and the ever-present threat of defamation and libel suits has created a climate for the suppression of political freedoms.¹⁵

Singapore's opposition parties 'have been denied permits to hold public events or to make political speeches; they have been charged with defamation of PAP officials both during and outside of election periods, and often risk arrest'.¹⁶ Even when opposition members are able to overcome these formidable obstacles and gain representation in Parliament, 'their speaking time is limited and their speech is not protected' by the PAP-controlled assembly.¹⁷

¹⁰ Amnesty International, 'Singapore: Defamation suits threaten Chee Soon Juan and erode freedom of expression' (2 November 2001).

¹¹ Constitution of Singapore, s. 46(2)(b).

¹² Freedom House, *FREEDOM IN THE WORLD: 2008*. See also Carl Trocki, *SINGAPORE: WEALTH, POWER AND THE CULTURE OF CONTROL* (2006).

¹³ UN General Assembly, A/CONF.157/23 (12 July 1993).

¹⁴ See Diane K Mauzy and RS Milne, *SINGAPORE POLITICS UNDER THE PEOPLE'S ACTION PARTY* (Routledge, 2002), ch. 10 'Authoritarian aspects of PAP rule' and US Department of State, 2008 HUMAN RIGHTS REPORT: SINGAPORE (2009).

¹⁵ See James Gomez, *SINGAPORE: FREEDOM OF EXPRESSION AND THE MEDIA* (London: Article 19, 2005), at p. 5.

¹⁶ James Gomez, 'Free Speech and Opposition Parties in Singapore' (2006) 5 Asia Rights 1, at p. 6.

¹⁷ James Gomez, 'Free Speech and Opposition Parties in Singapore' (2006) 5 Asia Rights 1, at p. 6.

The US Department of State's 2008 Human Rights Report concludes that 'the PAP, which has held power continuously and overwhelmingly for almost five decades, has used the government's extensive powers to place formidable obstacles in the path of political opponents' and that, as 'a result of these and other factors, opposition parties were unable to challenge seriously the ruling party'.¹⁸

1 Reversing the presumption of freedom: Public Order Act

In April 2009, the Government of Singapore expanded the extent of government control over the activities of its citizens, effectively reversing the presumption of freedom known to free and democratic societies. The *Public Order Act 2009*¹⁹ provides that all outdoor activity is presumed to be unauthorized unless a police permit is first acquired. No exception is made for members of the political opposition; instead, it appears to be expressly targeted.

The *Public Order Act* seeks to consolidate the workings of two Acts, the *Public Entertainments and Meetings Act*²⁰ – which regulated groups of four or less – and the *Miscellaneous Offences (Public Order and Nuisance) Act*²¹ – which regulated groups of five or more. According to the Ministry of Home Affairs' overview of the *Public Order Act*, the stated purpose is to provide that all 'cause-related activities will be regulated by permit regardless of the number of persons involved or the format they are conducted in'.²²

The causes which the *Public Order Act* presumes to be unauthorized are all-encompassing:²³

- demonstrating support for or opposition to the views or actions of any person, group of persons or any government;
- publicizing a cause or campaign; or
- marking or commemorating any event.

Essentially, attempts by the political opposition to 'support' their parties, 'oppose' the government, 'publicize' their cause, or 'campaign' will all be subject to the discretion of the police official charged with awarding permits. Given that judicial recognition of an unofficial policy not to award permits,²⁴ this Act essentially bans the activities of the political opposition.

¹⁸ US Department of State, 2008 HUMAN RIGHTS REPORT: SINGAPORE (2009).

¹⁹ Public Order Act 2009, no 15 of 2009

²⁰ Public Entertainments and Meetings Act, Cap. 257.

²¹ Miscellaneous Offences (Public Order and Nuisance) Act, Cap. 184.

²² Singapore Ministry of Home Affairs, Overview of the Public Order Act, 23 March 2009, www.mha.gov.sg/news_details.aspx?nid=MTM5OQ%3D%3D-3BtUG%2B2xe3A%3D.

²³ *Public Order Act*, s 2.

²⁴ See *Public Prosecutor v Chong Kai Xiong and others* (2009) PS 1344-8/2008, at para. [19]: 'The defendants were able to show by their cross-examinations of the prosecution witnesses that there was a policy not to grant any permit for political events to be held outdoors.'

The *Public Order Act* also stipulates that the presumptive prohibition on all activities or events associated with these all-encompassing categories ‘includes a demonstration by a person alone for any such purpose’.²⁵ For greater certainty, the Act specifies that an ‘assembly’ related to any one of these all-encompassing clauses includes ‘any lecture, talk, address, debate or discussion’.²⁶ All such gatherings, meetings, events, and groupings must apply for a permit from the police.

The *Public Order Act* also authorizes the government to constrain the authority of the police to grant permits in important ways:

- First, the government may designate certain ‘areas’ as prohibited;²⁷
- Second, the government may overrule a permit by prohibiting a specific gathering, meeting, event, or grouping;²⁸ and
- Third, the government may designate any event as a ‘special event’, with the consequence that the police will be authorized to stop and search individuals, demand their reasons for seeking entry, deny individuals entry, require individuals to undergo security screening before continuing, and other like measures – effectively, the Act authorizes a mini-state of emergency.²⁹

In addition, the *Public Order Act* authorizes the police to give ‘move-on’ orders, effectively ordering a single person or groups of persons to disperse and leave a given place. The conditions precedent for giving such a move-on order are generous, and include the police’s suspicion that the person or group of persons is interfering with trade or business, is disrupting an event, or is ‘just about to commit an offence’.³⁰

The Act also empowers law enforcement officers to prohibit persons from filming law enforcement activities and imposes a duty on property owners to ensure that their property is not used for activities prohibited by the Act.³¹

The overarching philosophy of the *Public Order Act* is disclosed by the authority given to the government to designate certain places as ‘unrestricted’; that is, as operating under the presumption of the freedoms known by citizens of free and democratic societies. The Act conditions such authorization on the government’s conclusion that ‘it is appropriate to allow citizens and other persons to exercise the right to participate in assemblies and processions

²⁵ *Public Order Act*, s 2.

²⁶ *Public Order Act*, s 2.

²⁷ *Public Order Act*, s 12.

²⁸ *Public Order Act*, s 13.

²⁹ *Public Order Act*, Part III.

³⁰ *Public Order Act*, ss 35-36.

³¹ *Public Order Act*, ss 38, 42.

in that public place' (emphasis added).³² Thus far, only one place has been so designated: the Speakers' Corner. Every other corner of Singapore is presumed to be unfree.

Against this general framework, we now turn to review in greater detail the effect of the *Public Order Act* and associated legislation on the repression of political freedoms in Singapore.

2 Government authorization to speak in public: Public Order Act

The position of the Government of Singapore was succinctly stated in 2003 by the Minister for Home Affairs: 'The government does not authorise protests and demonstrations of any nature.'³³

Under the *Public Entertainments Act 1973*, and now under its successor legislation, the *Public Order Act*, individuals, groups, and organizations must apply for a permit with the police in order to hold gatherings that are open to the public. The Public Entertainment Licensing Unit, a sub-unit of the Singapore Police Force, is tasked with evaluating requests for permits. In other words, 'the police must sanction all public gatherings in Singapore'.³⁴

This Act has had special importance in the context of political debate, as it restricts 'outdoor political communication activities by opposition parties'.³⁵ It has not been relied upon to regulate outdoor political communication by members of the ruling PAP. Under the Act, 'opposition party MPs need to apply for licenses each and every time they speak in public, even in their own wards, whereas MPs from the ruling PAP do not have to'.³⁶

When opposition parties attempted to argue in court that political speeches and meetings did not qualify as 'entertainment' for the purposes of the *Public Entertainments Act 1973*, the government amended the Act and renamed it the *Public Entertainments and Meetings Act 2000*, all the while introducing amendments to provide for heavier fines for its breach.³⁷ As there is an unofficial policy not to award permits, the law essentially amounts to a ban on the fundamental rights of free speech and peaceful assembly. The more recent 2009 *Public Order Act* consolidates this presumption against freedom of expression.

The political opposition has complained of inconsistent determinations of its permit requests, long delays before receiving an answer from the police with respect to a permit application, and an arbitrary and unjustified distinction between political communication by the PAP and other political parties. Despite the judicial recognition of the unofficial policy of not awarding permits, the courts remain of the view that expression and assembly may only be held if a permit is awarded:

³² *Public Order Act*, ss 14.

³³ The Straits Times (17 February 2003).

³⁴ James Gomez, 'Free Speech and Opposition Parties in Singapore' (2006) 5 Asia Rights 1, at p. 5.

³⁵ James Gomez, 'Free Speech and Opposition Parties in Singapore' (2006) 5 Asia Rights 1, at p. 5.

³⁶ James Gomez, 'Free Speech and Opposition Parties in Singapore' (2006) 5 Asia Rights 1, at p. 6.

³⁷ James Gomez, 'Free Speech and Opposition Parties in Singapore' (2006) 5 Asia Rights 1, at pp. 7-9.

Whether a permit could or could not have been obtained for that event is not an issue and would not be relevant. . . . The defendants knew that no permit to carry out the event would have been granted under the policy which meant that they were well aware that they had no permission to conduct the activity.³⁸

The Asian Human Rights Commission has concluded that the Act is regularly relied upon to convict and imprison citizens 'who attempt to voice their opinions or criticism of the government's handling of social and political issues'.³⁹ In turn, the International Bar Association has concluded that '[t]here appears to have been a tendency for the PEMA [*Public Entertainments and Meetings Act*, now superseded by the *Public Order Act*] to be applied rigorously to opposition candidates'.⁴⁰

In addition to these forms of suppression of political freedoms, the *Films Act*⁴¹ prohibits the production, distribution, and exhibition of films with a political element. As a result, public speeches subject to the arbitrary will of the police in granting permits are the only available mode of political communication for Singapore's political opposition.

3 Systemic government use of defamation suits: Defamation Act

Defamation and libel suits have been relied on by the Singapore government to silence the political opposition and intimidate the media. Defamation suits have been used against opposition politicians during election rallies for allegedly defaming PAP figures in speeches made during election time.⁴²

In Singapore, defamation is both a criminal offence and a civil action. Singapore's *Defamation Act*⁴³ governs libel, slander, and falsehoods and the *Penal Code* provides for criminal defamation offences. If political opponents say anything critical of the government and its leaders, even for the purposes of defending themselves against accusations levelled against them, they risk suit on the grounds of defamation.

The judiciary has awarded damages of such consequence that many political opponents have been bankrupted in addition to being imprisoned. In either alternative, the Constitution of Singapore provides that an undischarged bankrupt or a person who has been convicted of an offence and sentenced to imprisonment for at least one year or fined at least S\$2000 is ineligible for membership in Parliament and therefore cannot stand for election.

The International Bar Association and Lawyers' Rights Watch Canada have expressed concern with how 'the twin swords of defamation and bankruptcy law effectively allow the

³⁸ *Public Prosecutor v Chong Kai Xiong and others* (2009) PS 1344-8/2008, at para. [20].

³⁹ Asian Human Rights Commission, 'Singapore Urgent Appeal' (24 October 2002).

⁴⁰ International Bar Association – Human Rights Institute, *PROSPERITY VERSUS INDIVIDUAL RIGHTS? HUMAN RIGHTS, DEMOCRACY, AND THE RULE OF LAW IN SINGAPORE* (2008), at p. 63.

⁴¹ (1981, 2002).

⁴² James Gomez, 'Free Speech and Opposition Parties in Singapore' (2006) 5 Asia Rights 1.

⁴³ (1957, 1997)

PAP to silence and eliminate members of the opposition'.⁴⁴ The International Commission of Jurists reinforces these critiques, noting:

Singapore's leadership has a long standing reputation for using defamation action as a mechanism for removing opposition members from Singapore's parliament: far from tolerating critical remarks (not even those spoken or written in the heat of an election campaign), Messrs Goh and Lee have been swift to commence actions, to succeed with them, to obtain such unconscionably high damages (and costs) as to bankrupt their opponents.⁴⁵

In addition, Amnesty International denounces how the 'misuse of defamation suits by PAP leaders has contributed to a climate of self-censorship in Singapore and restricted the right of those Singaporeans with dissenting opinions to participate freely and fully in public life. Dissenting political activity continues to be deterred and curbed by the knowledge that no PAP leader has ever lost a defamation suit against an opposition figure in court, and that heavy awards for damages have led to the financial ruin of prominent critics of the PAP'.⁴⁶

4 Government authorization to meet in public: Public Order Act

Under Singaporean law, government authorization is required before assembling in public.

The *Public Order Act*, like its predecessor legislation the *Miscellaneous Offences Act*, constrains the rights of Singaporeans to assemble and to protest in public. As with the regulation of public expression, the *Public Order Act* likewise requires prior authorization for any assembly of any number of persons (a) to demonstrate support for or opposition to the views or actions of any person, group of persons or any government; (b) to publicise a cause or campaign; or (c) to mark or commemorate any event.⁴⁷

The Act empowers the Police Commissioner to regulate freedom of assembly by declining the request for a permit for any of the following reasons: the assembly would '(a) occasion public disorder, or damage to public or private property; (b) create a public nuisance; (c) give rise to an obstruction in any public road; (d) place the safety of any person in jeopardy; (e) cause feelings of enmity, hatred, ill-will or hostility between different groups in Singapore', among others.⁴⁸ In addition and as reviewed above, the Act authorizes the Minister to prohibit the holding of any public assembly if the Minister is 'of the opinion that it is necessary in the public interest to do so'.⁴⁹

⁴⁴ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 29; see also p. 7.

⁴⁵ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 30.

⁴⁶ Amnesty International, 'Singapore: Defamation suits threaten Chee Soon Juan and erode freedom of expression' (2 November 2001).

⁴⁷ Public Order Act 2009, s 2.

⁴⁸ Public Order Act 2009, s 7(2).

⁴⁹ Public Order Act 2009, s 13.

In October 2009, defendants charged with participating in a procession under the *Miscellaneous Offences Act* in September 2007 were acquitted on the grounds that they did 'not cause inconvenience to the public, affect traffic flow or make noise which disturbed the public peace'.⁵⁰ The same judgment reminds the defendants that the unofficial policy of not awarding permits would not have relieved them of the obligation to hold a permit before participating in a procession.

5 Government discretion to ban demonstrations: Internal Security Act

One of the most troubling departures from the rule of law in Singapore is the *Internal Security Act*.⁵¹ Introduced by the British during colonial years, the Act allows the government to arbitrarily arrest and indefinitely detain citizens it suspects of endangering public security.

Using the *Internal Security Act* in 1963, the Government of Singapore ordered the arrest of more than 100 opposition members, newspaper editors, labour leaders, and other political activists. Never charged of a crime, they were consigned to serve prison sentences, some of which lasted up to two decades. The longest-serving detainee under the Act was Chia Thye Poh, arrested in 1966 and locked up for the next 23 years.⁵²

As of January 2004, thirty-seven persons had been imprisoned under the *Internal Security Act* for allegedly being involved in terrorist networks and plotting to attack US interests in Singapore. A few have since been released but the majority remain in custody without trial. Human Rights First has concluded that in 'cracking down on their critics, the government often cites security concerns, but the goal of these repressive policies is not a safer Singapore . . . The goal is to severely restrict the amount of political space that Singaporeans can operate in.'⁵³

6 Control over local media and intimidation of foreign media: Newspaper and Printing Presses Act and Public Order Act

The level of political oppression in Singapore would not be possible without the subjugation of the media. Soon after it came to power in 1959, the Government of Singapore challenged the independence of the media. Today, Singapore's local print media is run by the Singapore Press Holdings, a state-owned organization which is chaired by a former deputy prime minister. The government can appoint and dismiss all members of the staff and all directors of the Singapore Press Holdings.⁵⁴

The *Newspaper Presses and Printing Act* forbids private ownership of newspaper companies without the permission of the government. Beyond a mere 'right of reply', the Act

⁵⁰ *Public Prosecutor v Chong Kai Xiong and others* (2009) PS 1344-8/2008, at para. [20].

⁵¹ Act No.18/60, 1960.

⁵² S. J. Chee, *TO BE FREE: STORIES FROM ASIA'S STRUGGLE AGAINST OPPRESSION* (Melbourne: Monash Asia Institute, 1988).

⁵³ Human Rights First, 'Singapore: Government Continues to Use Judicial System to Stifle Political Opposition' (12 November 2002).

⁵⁴ International Bar Association – Human Rights Institute, *PROSPERITY VERSUS INDIVIDUAL RIGHTS?* (2008), at pp. 7, 42

incorporates numerous restrictions. Publications that have had their circulation restricted under this Act include the Asian Wall Street Journal, Time, the FEER and The Economist.⁵⁵ Moreover, members of the Government of Singapore have sued major international and Asian newspapers and, as with defamation claims against political opponents, have never lost.⁵⁶

In a telling sweep, Singapore's leaders have sued and have won defamation lawsuits and damages against Bloomberg, The Economist, the International Herald Tribune, the Far Eastern Economic Review, and the Wall Street Journal. After losing yet another defamation case against the Government of Singapore, the Far Eastern Economic Review, founded in 1946, announced that it would cease its operations.⁵⁷

In the light of these precedents, the International Bar Association has commented that:

Many Singaporean publications facing defamation suits initiated by the government have been criticized for their unwillingness to fight such suits and for the readiness at which they issue public apologies and pay compensation. Yet, considering that the alternative is a lengthy and expensive trial, the predecessors of which have never been lost by PAP members, and the possibility that the government may cut circulation of the publication in Singapore leading to financial ruin, it is evident why such action may be taken.⁵⁸

The harassment and intimidation of the domestic and foreign press has created a culture of self-censorship amongst journalists.⁵⁹ Reporters without Borders has ranked Singapore 144 out of 173 countries in its 2008 press freedom index.⁶⁰ The Wall Street Journal has concluded that 'virtually every Western publication that circulates in the city-state has faced a lawsuit or the threat of one', and that it would appear that no foreign publication has ever won in a Singapore court of law.⁶¹

The recent addition of the *Public Order Act* to the statutory landscape has introduced further restrictions on freedom of the press. The Act empowers law enforcement officers to prohibit persons, including the media, from recording law enforcement activities. An officer is authorized to stop any person from filming or taking photos of law enforcement activities, seize any photos or film, and search any person without warrant if the officer suspects him or her of possessing such a film.⁶²

⁵⁵ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 7.

⁵⁶ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 42.

⁵⁷ See BCC News, 'Singapore backs Lee in media case' (8 Oct 2009, news.bbc.co.uk/1/hi/world/asia-pacific/8296157.stm).

⁵⁸ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 42.

⁵⁹ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 39; Freedom House, FREEDOM IN THE WORLD: 2008.

⁶⁰ See Reporters Without Borders, PRESS FREEDOM INDEX 2008.

⁶¹ Editorial, The Wall Street Journal (29 November 2008).

⁶² Public Order Act 2009, s 38.

As the Committee to Protect Journalists has observed, ‘state control of the media in Singapore is so complete that few dare to challenge the system and there is no longer much need to arrest or even harass journalists. Even foreign correspondents have learned to be cautious when reporting on Singapore, since the government has frequently hauled the international press into court to face lengthy and expensive libel suits.’⁶³

C International Critiques of Singapore’s Human Rights Record

Singapore’s treatment of its political opposition has attracted considerable international attention. In addition to the international criticisms already referred to, the following warrant emphasis.

1 *Amnesty International*

Amnesty International has called on ‘the Singapore government to stop using restrictive laws and defamation suits to muzzle critics and opposition party members’, expressing concern with respect to ‘the continuing use of restrictive laws and civil defamation suits in Singapore to penalise and silence peaceful critics of the government’.⁶⁴

Amnesty International’s condemnation of human rights abuses in Singapore is stated in uncompromising language:

Laws allowing the authorities to impose restrictions on freedom of expression and assembly which violate international standards, combined with a pattern of politically motivated defamation suits, have served to maintain a climate of political intimidation and self-censorship in Singapore. This climate continues to stifle freedom of expression, deter the expression of views alternative to those of the ruling People’s Action Party (PAP) and dissuade many Singaporeans from exercising their right to take part in public affairs.⁶⁵

According to Amnesty International, this state of affairs, which stifles ‘criticism and debate’, is a ‘clear violation of international law and standards on freedom of expression and belies the government’s repeated claims that it is building an “open society”’.⁶⁶

2 *World Bank*

While the World Bank gives Singapore a strong ranking with respect to certain aspects of its Governance Indicators, Singapore consistently receives a comparatively low ranking on *voice and accountability*, which ‘measures the extent to which a country’s citizens are able to

⁶³ Committee to Protect Journalists, ‘Attacks on the Press in 2000 – Singapore’ (February 2001).

⁶⁴ Amnesty International, ‘Singapore: Government misusing the law to muzzle critics’ (14 December 2006).

⁶⁵ Amnesty International, ‘Singapore: Government misusing the law to muzzle critics’ (14 December 2006).

⁶⁶ Amnesty International, ‘Singapore: Government misusing the law to muzzle critics’ (14 December 2006).

participate in selecting their government, as well as freedom of expression, freedom of association, and a free media'.⁶⁷

3 *Freedom House*

In its 2008 Report, Freedom House gave Singapore a 'partly free' status with a Political Rights score of 5/7 and a Civil Liberties score of 4/7. The report declares that 'Singapore is not an electoral democracy', in large measure because the 'ruling PAP dominates the political process, using a variety of methods to handicap opposition parties'.⁶⁸

Freedom House expresses the concern that although 'elections are free from irregularities and vote rigging, the opposition is hamstrung by a ban on political films and television programs, the threat of libel suits, strict regulations on political associations, and the PAP's influence on the media and the courts'.⁶⁹

4 *International Bar Association*

In 2008, the International Bar Association's Human Rights Institute released a report addressing Singapore's violations of freedom of expression and assembly, freedom of the press, and the independence of the judiciary.

The report is the summation of investigations undertaken in preparation for the International Bar Association's 2007 Annual Conference in Singapore. It documents 'the use of defamation legislation to hinder opposition activities, and restrictions on freedom of the press and the internet' and 'allegations of executive influence' with respect to the independence of the judiciary.⁷⁰

5 *Alliance for Reform and Democracy in Asia*

The Asia Democracy Index developed by the Alliance for Reform and Democracy in Asia gave Singapore the low score of 30.42 on a scale of 100. Only Myanmar ranked below Singapore.⁷¹

6 *Committee to Protect Journalists*

The Committee to Protect Journalists has expressed the strong concern that Singapore's government has an 'ongoing commitment to silencing opposition voices both in print and online'.⁷²

⁶⁷ World Bank, SINGAPORE: GOVERNANCE MATTERS 2007 (2007).

⁶⁸ Freedom House, FREEDOM IN THE WORLD: 2008.

⁶⁹ Freedom House, FREEDOM IN THE WORLD: 2008.

⁷⁰ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 5.

⁷¹ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 22.

⁷² Committee to Protect Journalists, 'Singapore detains U.S. blogger over libel commentary' (30 June 2009).

D Conclusions

The foregoing canvasses the extent of political repression in Singapore. This White Paper now turns to explore the effects of such repression by focusing on the case of opposition leader Dr Chee Soon Juan.

III

THE CASE OF DR CHEE SOON JUAN

Dr Chee was born in 1962. He earned a PhD in neuropsychology from the University of Georgia in 1990 and returned home to teach at the National University of Singapore. In 1992 he joined the opposition Singapore Democracy Party (SDP), attracting considerable attention as the first academic from the state-run university to openly challenge the government. Shortly after joining the SDP, he became its secretary-general.

He has held the posts of Honorary Research Associate at the Monash Asia Institute and at the University of Chicago and participated in the Reagan-Fascell Democracy Program at the National Endowment for Democracy in Washington, DC. In 2003, he was awarded the Defender of Democracy Award by the Parliamentarians for Global Action. Amnesty International calls him 'a leading member of a number of international human rights bodies' who has 'expressed determination to continue to press for non-violent change in Singapore, regardless of the consequences to himself'.⁷³

Dr Chee's challenge to the political dominance of the ruling PAP has resulted in seventeen years of ever-escalating challenges to his position as a member of Singapore's political opposition, all under the cover of legality. Dr Chee has been jailed, sued, bankrupted, and banned from leaving the country. He currently faces numerous criminal charges.

A Chronology of Dr Chee's Struggle for Political Freedoms

The following outlines some of the instances of repression of Dr Chee's political freedoms.

1 *Loss of university position*

The repression of Dr Chee's political freedoms began within three months of his joining the opposition SDP. After unsuccessfully running as an opposition parliamentary candidate in 1993, Dr Chee was charged with an alleged misuse of research funds and was fired by the head of his department at the National University of Singapore. The department head was a PAP member of Parliament.

Dr Chee denied the charges, asserting his firing was politically motivated. The department head, together with two other university officials, sued for defamation. The plaintiffs won costs and damages of US\$350,000. Dr Chee and his wife, Dr Huang Chihmei, paid the sum by selling their home and possessions. The alternative would have been a declaration of bankruptcy, which would have barred Dr Chee from standing for an election.

⁷³ Amnesty International, 'Singapore: Government misusing the law to muzzle critics' (14 December 2006).

2 *Further defamation proceedings to silence Dr Chee*

Dr Chee has been taken to court in subsequent defamation proceedings by all three of Singapore's PAP prime ministers.

The first of these suits occurred during the 2001 general elections when Dr Chee questioned a loan promised in secrecy by the Government of Singapore to then Indonesian President Suharto. Former prime ministers Lee and Goh Chok Tok sued Dr Chee for defamation on the grounds that he implied their dishonesty. Dr Chee was ordered to pay US\$350,000 in damages. Having already sold all his possessions to meet the damage award in relation to his university firing, Dr Chee had no further assets to liquidate. He was declared bankrupt in 2004 and has been barred from standing for elections and travelling overseas. His passport has been seized and not returned.

During the 2006 elections, Dr Chee was sued again for defamation, this time by Lee and his son, Prime Minister Lee Hsien Loong, over an article published in the SDP newsletter. The plaintiffs applied for summary judgment and won the case without a trial, despite the fact that Dr Chee and his co-defendant, his sister Chee Siok Chin, had filed a defence. When Dr Chee and his sister raised objections to the judge's accommodation of the Lees, they were convicted for contempt of court and sentenced to twelve and ten days in jail, respectively. The judge awarded the Lees a total of \$610,000 in damages.

3 *Parliamentary censure for failure to defend the Singaporean judiciary*

In November 1995, Dr Chee was censured by Parliament for not speaking while attending a forum in the United States. The Singaporean authorities were of the view that he did not sufficiently defend Singapore's judiciary during a question and answer period, even though Dr Chee was only a member of the audience.⁷⁴

4 *Parliamentary fine for a report error*

In 1996, Dr Chee was summoned before a parliamentary select committee over an article he had written on healthcare costs. Citing an error in one of his statistics, Parliament accused Dr Chee of falsifying information and deliberately misleading the public. For this offence, he was fined, together with three other SDP colleagues, a total of US\$35,000.⁷⁵

⁷⁴ Amnesty International, 'Defending Free Speech: Opposition Politician Chee Soon Juan Imprisoned in Singapore' (4 February 1999).

⁷⁵ James Gomez, 'Free Speech and Opposition Parties in Singapore' (2006) 5 Asia Rights 1.

5 *Unauthorized sale of Dr Chee's book*

In 1999, Dr Chee was prosecuted and fined for selling his second book, *To Be Free: Stories About Asia's Struggle Against Oppression*.⁷⁶ As a political exile, Dr Chee was unable to secure employment after being fired from the National University of Singapore. Having turned his skills to writing, he has been unable to get bookstores to carry his publications and has proceeded to sell his scholarship on street corners. The authorities said that the sales constituted illegal hawking prohibited under the *Public Health Act*.

6 *Dr Chee's unauthorized public statements*

Singaporean law requires that all public speakers obtain a permit. Such permits are generally not awarded to protestors against or opponents of the government. As a result, Dr Chee has repeatedly been prosecuted for speaking in public without a permit.

In 1998, he gave a speech in the heart of the central business district to a crowd of nearly one thousand. He was charged, imprisoned, and held in solitary confinement. In 2002, Dr Chee was again arrested, prosecuted and jailed for conducting a May Day rally. In 2003, he was prosecuted and fined for speaking without a permit on a religious topic at Singapore's Speakers' Corner. In 2006, Dr Chee and two other activists were charged and imprisoned for speaking in public.

He is presently facing eight more charges for speaking in public and for taking part in illegal assembly.

7 *Dr Chee jailed for attempting to attend democracy conference*

In 2006, Dr Chee was jailed for his 2004 attempt to attend the World Movement for Democracy conference in Turkey. As a bankrupt, Dr Chee had to apply for a permit to leave the country and, when his application to travel overseas was not processed in time for the conference, he went to the airport for his departing flight. He was detained, charged, convicted, and jailed.

The National Endowment for Democracy denounced the course of action taken by Singaporean authorities. In a letter to Singapore's Ambassador to the US, the National Endowment for Democracy stated that it was 'unacceptable that Dr. Chee will also have to attend trial on December 21 for attempting to leave Singapore without a permit, as well as another pre-trial on January 4 for a suit brought against his family'.⁷⁷

⁷⁶ (Melbourne: Monash Asia Institute, 1988).

⁷⁷ Letter dated 2 December 2006 from the National Endowment for Democracy to the Singapore Ambassador to the United States, Chan Heng Chee.

B Summary of State Action against Dr Chee

The following outlines in summary form the chronology of convictions, ongoing trials, cases awaiting trial, and ongoing police investigations against Dr Chee.

1 Chronology of Convictions

date	charge	punishment
1993	defamation	<i>ordered to pay US\$350,000 in damages</i>
1996	contempt of Parliament	<i>fined US\$17,000 by Parliament</i>
1999	speaking in public without a permit	<i>jailed 7 days</i>
1999	speaking in public without a permit	<i>jailed 12 days</i>
1999	selling books	<i>fined US\$400</i>
2002	attempting to hold a rally on May Day	<i>jailed 5 weeks</i>
2003	speaking on Muslim schoolgirls' head scarves	<i>fined US\$2,000</i>
2006	defamation	<i>ordered to pay US\$350,000 in damages</i>
2006	contempt of court	<i>jailed 8 days</i>
2006	attempting to leave country without permit	<i>jailed 3 weeks</i>
2007	speaking without a permit	<i>jailed 5 weeks</i>
2008	defamation	<i>ordered to pay US\$400,000 in damages</i>
2008	contempt of court	<i>jailed 12 days</i>

2 On-going trials

charge	legal authority
participating in the assembly with 18 others outside Parliament House on 15 March 2008	<i>Miscellaneous Offences Act</i> s. 5(4)(b)
participating in a procession with 18 others outside Funan Centre on 15 March 2008	<i>Miscellaneous Offences Act</i> s. 5(4)(b)
attempting to participate in a procession at Speakers' Corner during the WB-IMF meeting on 16 September 2006	<i>Miscellaneous Offences Act</i> Rule 5, s. 5(1)
speaking in public without a permit during SDP's newspaper sale at Blk 269 Queens Street on 12 April 2006	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)
speaking in public without a permit during SDP's newspaper sale at Blk 269 Queens Street on 16 November 2005	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)
participating in an assembly without permit at the entrance of City Hall MRT, Raffles City Shopping Centre on 10 September 2006	<i>Miscellaneous Offences Act</i> Rule 4(1)(a), s. 34

3 Awaiting trial or appeal

charge	legal authority
speaking in public without a permit during SDP's newspaper sale at Blk 105 Yishun Ring Road on 16 April 2006	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)
speaking in public without a permit during SDP's newspaper sale at Blk 260 Bangkit Road on 15 April 2006	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)
speaking in public without a permit during SDP's newspaper sale at Blk 19 Marsiling Lane on 9 April 2006	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)
speaking in public without a permit during SDP's newspaper sale at Blk 494 Jurong West Street 42 on 13 November 2005	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)

4 Current police investigations

subject matter of investigation	legal authority
distributing flyers at Toa Payoh Central on National Day; assembly without a permit on 9 August 2008	<i>Miscellaneous Offences Act</i> s. 5(4)(b), para. 2
holding a vigil outside of Central Police Station at Cantonment Road; Participating in an assembly without a permit on 3 June 2008	<i>Miscellaneous Offences Act</i> s. 5(4)(b), para. 2
holding a one-man protest against Burma at the Istana Park; providing public entertainment without a license on 15 October 2007	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)
participating in a protest against Burma outside the Istana; public assembly without a permit; public procession without a permit on 8 October 2007	<i>Miscellaneous Offences Act</i> s. 5(4)(b)
participating in the Burma petition-signing campaign outside the Burmese Embassy; holding an assembly without a permit on 30 September 2007	<i>Miscellaneous Offences Act</i> Rule 5
distributing flyers at Orchard Road outside Takashimaya Shopping Centre; participating in an assembly without permit on 31 March 2007	<i>Miscellaneous Offences Act</i> Rule 5

C International Critiques of Singapore's Treatment of Dr Chee

The Government of Singapore's repression of Dr Chee's political freedoms has received international attention. Among those calling on the Singaporean government to correct the actions taken against this opposition leader are the following.

1 *Amnesty International*

'Amnesty International called on the Singapore government to stop using restrictive laws and defamation suits to muzzle critics and opposition party members. Dr Chee Soon Juan, Secretary General of the opposition Singapore Democratic Party (SDP), is . . . imprison[ed] [after] having been convicted of speaking in public without a permit.'⁷⁸

2 *Human Rights Watch*

'Dr. Chee Soon Juan is being arbitrarily detained for exercising his right to free expression and should be immediately and unconditionally released . . . Once again, the Singaporean government has reacted to public criticism by jailing the critic.'⁷⁹

3 *International Bar Association*

'It certainly appears that Dr Chee has been made a target by the Singapore Government, and that their criticism of him goes far beyond a reasonable standard.'⁸⁰

4 *Human Rights First*

'Dr. Chee's arrest fits into a larger pattern of political suppression in Singapore. In the last three years [since 2002], Dr. Chee has been in and out of jail three times as the authorities have tried to stifle his ability to galvanize support for his views. Others who have spoken out against the government have also faced defamation law suits, fines and jail.'⁸¹

The numerous court challenges taken against Dr Chee 'appear to be part of a concerted campaign to punish non-violent political activity . . . Dr Chee should not be punished or prevented from using this right to express a point of view in a non-violent manner. Dr. Chee should be released immediately and all pending legal actions against him should be reviewed to ensure that they do not violate universally recognized human rights standards.'⁸²

⁷⁸ Amnesty International, 'Singapore: Government misusing the law to muzzle critics' (14 December 2006).

⁷⁹ Human Rights Watch, 'Singapore: Release Opposition Party Leader' (7 December 2006).

⁸⁰ International Bar Association – Human Rights Institute, *PROSPERITY VERSUS INDIVIDUAL RIGHTS?* (2008), at p. 38.

⁸¹ Human Rights First, 'Singapore: Government Continues to Use Judicial System to Stifle Political Opposition' (12 November 2002).

⁸² Letter dated December 2006 from Human Rights First to Singapore's Ambassador to the US, Chan Heng Chee.

5 *Lawyers' Committee for Human Rights*

The 'application procedures [under the *Public Entertainments and Meetings Act*] seem arbitrary and lacking in transparency and represent an illegitimate restriction on Dr Chee's rights to freedom of speech and assembly, which are enshrined in Article 14 of the Constitution of Singapore. We are concerned that the regulation of public gatherings in Singapore is not solely motivated by a reasonable desire to maintain public order but that the legislation is being selectively enforced against voices of the opposition.'⁸³

D Conclusions

The Government of Singapore's treatment of Dr Chee, facilitated by the willingness to use the state apparatus to stifle his political freedoms, constitutes repeated violations of the Constitution of Singapore and international human rights law.

⁸³ Letter dated November 2002 from the Lawyers' Committee for Human Rights to the Singapore Minister of Law, Professor S Jayakumar.

IV

HUMAN RIGHTS VIOLATIONS BY THE GOVERNMENT OF SINGAPORE

The treatment of Dr Chee by the Singaporean government constitutes a violation of the Constitution of Singapore and international law. He has been denied his rights to freedom of expression and assembly, the right to stand for election, the right to the equal protection of the right, and the right to an independent and impartial judiciary. He has been prosecuted and jailed for participating in peaceful demonstrations and for expressing his political views. The Singaporean government's actions can in no way be justified in the interests of public order. As a result, Singapore is and has been in systematic breach of its constitutional and international legal obligations.

The government, through the enactment of legislation and by the arbitrary enforcement mechanisms in place, has co-opted the state apparatus to repress the rights of its political opposition. Almost anything said, including simple enunciations of fact, that contradicts, opposes, or displeases the government is grounds for a charge of libel and a defamation suit. With a largely compliant judiciary, the damages in defamation suits have been so overwhelming as to result in bankruptcy. And since bankruptcy in Singapore disqualifies one not only from running for office but also from leaving the country, the consequence has been to constrain and mute the voices of political opposition.

This White Paper calls upon the government and the courts of Singapore to recognize and remedy the human rights violations in contravention of the Constitution of Singapore and international human rights law.

A The Status of Domestic and International Human Rights in Singapore

The human rights of all citizens of Singapore are guaranteed by the Constitution of Singapore as well as international human rights standards applicable to the state by virtue of Singapore's membership in the United Nations and duty to comply with customary international law.

1 *Constitution of Singapore*

The Constitution of Singapore is the 'the supreme law of the Republic of Singapore and any law enacted by the legislature after the commencement of this Constitution which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void'.⁸⁴ All state action must comply with its requirements, less it be unlawful and liable to remedy.

In concert with constitutions enacted in the post-World War II era, the Constitution of Singapore provides for a bill of rights. Part IV of the Constitution guarantees, among other

⁸⁴ Constitution of Singapore, art. 4.

rights, freedom of speech, assembly, and association, and equal protection of the law. In addition, the constitution provides for courts to exercise judicial power, thus importing the necessary corollaries of independence and impartiality in the administration of justice. The guarantee of an elected Parliament implies the necessary right to stand for election for all citizens of Singapore.

Singapore's bill of rights provides for a series of right-specific limitation clauses. These clauses are familiar to international instruments, such as the Universal Declaration of Human Rights,⁸⁵ the European Convention of Human Rights,⁸⁶ the International Covenant on Civil and Political Rights,⁸⁷ and the International Covenant on Economic, Social and Cultural Rights.⁸⁸ They are equally familiar to domestic constitutions, such as the German Basic Law,⁸⁹ the Canadian Charter of Rights and Freedoms,⁹⁰ the South African Bill of Rights,⁹¹ and the Israeli Basic Law;⁹² and to statutory bills of rights, such as the British Human Rights Act,⁹³ the New Zealand Bill of Rights,⁹⁴ the Human Rights Act of the Australian Capital Territory,⁹⁵ and the Charter of Human Rights and Responsibilities Act of the Australian state of Victoria.⁹⁶

Despite different legal and political cultures, countries and courts the world over have reached consensus on the limitation of rights. In the Commonwealth as well as in Europe and beyond, rights have received an expansive reading,⁹⁷ subject only to a proportionality or balancing evaluation of any right's limitation. This approach to rights and the proportionality of their limitation has been adopted in the case law of the European Court of Human Rights,⁹⁸ the German Federal Constitutional Court,⁹⁹ the Supreme Court of Canada,¹⁰⁰ the New Zealand Court of Appeal,¹⁰¹ the Israeli Supreme Court,¹⁰² the British House of Lords,¹⁰³

⁸⁵ Universal Declaration of Human Rights, art. 29(2).

⁸⁶ Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended), arts. 8(2), 9(2), 10(2), 11(2).

⁸⁷ International Covenant on Civil and Political Rights, arts. 12(3), 14(1), 19(3), 22(2).

⁸⁸ International Covenant on Economic, Social and Cultural Rights, arts. 4, 8(1).

⁸⁹ Basic Law for the Federal Republic of Germany, art 2(1).

⁹⁰ Part I of the Constitution Act 1982 (Canada), s. 1.

⁹¹ Constitution of the Republic of South Africa (1996), s. 36(1).

⁹² Basic Law: Human Dignity and Liberty (1992) (Israel), s. 8.

⁹³ Human Rights Act 1998 c 42 (United Kingdom) (incorporating the European Convention).

⁹⁴ New Zealand Bill of Rights Act 1990 no 109, s. 5.

⁹⁵ Human Rights Act 2004 A2004-5 (Australian Capital Territory), s. 28.

⁹⁶ Charter of Human Rights and Responsibilities Act 2006 no 43/2006 (Victoria, Australia) s. 7.

⁹⁷ In Singapore, see *Ong Ah Chuan v PP* [1980-81] SLR 48.

⁹⁸ *Handyside v United Kingdom* (1976) Series A no 24 (1979-80) 1 EHRR 737; *Olsson v Sweden* (1988) Series A no 130 (1989) 11 EHRR 259.

⁹⁹ See R Alexy, *A THEORY OF CONSTITUTIONAL RIGHTS* (Oxford: Oxford University Press, 2002).

¹⁰⁰ *R v Oakes* [1986] 2 SCR 103 (Supreme Court of Canada).

¹⁰¹ *Ministry of Transport v Noort* [1992] 3 NZ L Rev 260, 283 (New Zealand Court of Appeal).

¹⁰² H CJ 2056/04 *Beit Sourik Village Council v Government of Israel* [2004] Isr SC 49 (Supreme Court of Israel).

¹⁰³ *R (Daly) v. Secretary of State for the Home Department* [2001] 2 AC 532 (House of Lords).

the Judicial Committee of the Privy Council,¹⁰⁴ as well as the courts in central and eastern Europe,¹⁰⁵ among others.

In all cases, it is recognized that although few rights are absolute, no right should be subject to unreasonable or unjustified limitations. The following general principles have been accepted in evaluating the limitation of a right:¹⁰⁶

- The burden is always on the government to demonstrate that a right's limitation is reasonable and justified and consistent with a democratic society;
- The authority to limit a right is interpreted strictly and in favour of the right;¹⁰⁷
- The scope of a limitation shall never be permitted to jeopardize the essence of the right itself;
- The denial of a right cannot be a reasonable and justified limitation; and
- The limitation of a right must in all cases be necessary in that it must pursue a legitimate aim and be proportionate to that aim.

The burden of justifying the infringement of a right must be a high one; in the words of the Supreme Court of Canada, 'any [limitation] inquiry must be premised on an understanding that the impugned limit violates constitutional rights'.¹⁰⁸ In this way, the justification for any limitation must be 'convincing and compelling'.¹⁰⁹

The principle of proportionality provides the dominant framework for evaluating the justification of a right's infringement. Under European, German, Canadian, British, Israeli, and South African jurisprudence, among other jurisdictions, the principle of proportionality proceeds according to the following four inquiries:

- First, the objective of the legislation setting out the limitation must be of sufficient importance to warrant infringing a right.
- Second, the means in service of the objective should be rationally connected to the objective.

¹⁰⁴ *de Freitas v. Permanent Secretary of Ministry of Agriculture, Fisheries, Lands, and Housing* (1999) 1 AC 69 (Judicial Committee of the Privy Council).

¹⁰⁵ W Sadurski, *RIGHTS BEFORE COURTS: A STUDY OF CONSTITUTIONAL COURTS IN POSTCOMMUNIST STATES OF CENTRAL AND EASTERN EUROPE* (Dordrecht: Springer, 2005), ch 10.

¹⁰⁶ See Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR.

¹⁰⁷ *Funke and others v France* (1993) Series A no 256-A (1993) 16 EHRR 297 [55]; *Klass v Germany* (1978) Series A no 28 (1979-1980) 2 EHRR 214 [42]; *Sunday Times v United Kingdom* (1979) Series A no 30 (1979-1980) 2 EHRR 245 [65].

¹⁰⁸ *R v Oakes* [1986] 2 SCR 103, at p. 135 (Supreme Court of Canada).

¹⁰⁹ *ÖZDEP v Turkey* (2001) 31 EHRR 674 [44]; *Autronic AG v Switzerland* (1990) Series A no 178 (1990) 12 EHRR 485 [61]; *Weber v Switzerland* (1990) Series A no 177 (1990) 12 EHRR 508 [47].

- Third, the means should impair the right as little as possible.
- Fourth, the deleterious effects on the right should be proportional to the public interests' beneficial effects.

As will be seen below, Singapore's reliance on the Constitution's limitation clauses to justify the excessive and exaggerated restriction on political freedoms cannot be accepted. On no reading of proportionality or balancing can Singapore's laws and enforcement mechanisms be understood to be anything other than the denial of the rights guaranteed by its Constitution. As will be reviewed below, Singapore's actions amount to the denial of rights that do not pursue a legitimate state objective and that cannot be justified as necessary in a democratic society.

As a result of the invalidity of the main tools of political repression exercised by the government, all state action relied upon to muzzle opposition critics are themselves invalid and unconstitutional.¹¹⁰ As recognized by the Latimer House Principles on the Three Principles of Government – drafted by a working group including Singapore's law minister and endorsed by the Commonwealth Heads of Government at their 2003 Summit – 'judges have a vital part to play in developing and maintaining a vibrant human rights environment throughout the Commonwealth', such that judges should 'adopt a generous and purposive approach in interpreting a Bill of Rights'.¹¹¹ Unfortunately, the courts of Singapore are generally of the view that the constitutionality of the more troubling aspects of the legal landscape are settled beyond question, such that '[t]here is no basis for the defendants to attack the constitutionality of the legislation'.¹¹²

Singapore's constitutional bill of rights is buttressed by international human rights law, which informs the proper scope and content of the political freedoms held by Dr Chee and other members of the political opposition. Indeed, the Universal Declaration on Human Rights 'has been invoked before Singapore courts in adjudicating rights, in recognizing the persuasive value of international law norms as a valuable aid to constitutional interpretation'.¹¹³

2 International Law

The denial of Dr Chee's political freedoms by the Singaporean government violates international customary and treaty law. The freedoms of speech and assembly are among the most fundamental in the international human rights system. It is through the exercise of

¹¹⁰ See, e.g., *Boddington v British Transport Police*, [1999] 2 AC 143 (House of Lords): 'If subordinate legislation is ultra vires on any basis, it is unlawful and of no effect in law. It follows that no citizen should be convicted and punished on the basis of it.'

¹¹¹ Commonwealth (Latimer House) Principles on the Three Branches of Government: Commonwealth Principles on the Accountability of and Relationship between the Three Branches of Government (2003), p. 16.

¹¹² *Public Prosecutor v Chong Kai Xiong and others* (2009) PS 1344-8/2008, at para. [17].

¹¹³ See Thio Li-ann, 'Reading Rights Rightly: The UDHR and its Creeping Influence on the Development of Singapore Public Law' (2008) SINGAPORE JOURNAL OF LEGAL STUDIES 264, at p. 265.

these freedoms that citizens are able to protect and enjoy all other rights they are guaranteed in both domestic constitutional and international law. These freedoms give voice and meaning to the protection of human dignity that underlies the international human rights system. It is therefore not surprising that these two rights are guaranteed in and central to nearly every international human rights instrument.

As a member of the United Nations, Singapore is bound by the UN Charter. Article 1 of the Charter confirms as one of the fundamental and foundational purposes of the United Nations the 'promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion'.

Over the past sixty years, fundamental freedoms have been recognized by nearly every government in the world and have given rise to binding legal obligations. The rights contained in the Universal Declaration of Human Rights are part of international law, binding on all states and guaranteed to all persons. The Declaration is now, in whole or in large measure, 'legally binding, either as a matter of customary international law or as an authoritative interpretation of the UN Charter'.¹¹⁴

As early as 1966, the United Nations International Conference on Human Rights advised that the Universal Declaration of Human Rights constitutes an 'obligation for the members of the international community' to all persons. More recently, the 1993 Vienna World Conference on Human Rights noted that it is 'the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems'.

While Singapore is one of the few countries in the world that has not ratified the International Covenant on Civil and Political Rights (ICCPR), the ICCPR – like the Universal Declaration – 'aspires to universality' and 'includes the great majority of the world's states'.¹¹⁵ It is recognized that the rights in the ICCPR seek to provide greater detail to the guarantees of the Universal Declaration,¹¹⁶ and together with the International Covenant on Social and Economic Rights, constitutes an integral part of the 'International Bill of Human Rights'.

Irrespective of the formal applicability of the ICCPR to Singapore, the ICCPR and the General Comments issued by the Human Rights Committee are of immediate relevance to Singapore. They inform the international understanding of the rights of the Universal Declaration on Human Rights and explicate the international community's understanding of the basic requirements for their satisfaction, respect, and implementation. They also inform the meaning and scope of Singapore's bill of rights. Indeed, the Latimer House Principles on the Three Principles of Government recognize that 'international law, and, in particular, human

¹¹⁴ See H.J. Steiner, P. Alston, R. Goodman, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS* (3rd ed, Oxford: Oxford University Press, 2008), at p. 152.

¹¹⁵ H.J. Steiner, P. Alston, R. Goodman, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS* (3rd ed, Oxford: Oxford University Press, 2008), at p. 152.

¹¹⁶ H.J. Steiner, P. Alston, R. Goodman, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS* (3rd ed, Oxford: Oxford University Press, 2008), at p. 152.

rights jurisprudence, can greatly assist courts in interpreting a Bill of Rights. It also can help expand the scope of a Bill of Rights making it more meaningful and effective.’¹¹⁷

Singapore has ratified certain international human rights treaties, accepting the obligations contained in them. Specifically, Singapore is a party to the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) and has assumed obligations to protect the human rights of these groups of persons as a matter of treaty law. While these treaties only expressly guarantee the rights of two groups that frequently suffer human rights violations – women and children – the proper realization and implementation of the rights protected in these conventions depends upon the freedom of speech and assembly more generally. Through CEDAW and the CRC, Singapore has committed itself to respect and protect the fundamental human rights of women and children. The enjoyment of the most basic rights of expression and assembly for all citizens is an absolute prerequisite to the guarantees of other rights to particular groups, for it is through the exercise of the freedom of assembly and expression that violations of other rights can be identified and remedied. Without such freedom of assembly and expression for all citizens, Singapore cannot meaningfully fulfil its international treaty obligations to protect women and children.

In addition, the actions of the Singapore government explicitly recognize the obligation to protect its citizens’ political freedoms. In 2006, Singapore voted in favour of General Assembly Resolution 28/251 establishing the new Human Rights Council. This Resolution ‘reaffirms the Universal Declaration of Human Rights’ and provides ‘that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis’. In voting in favour of this resolution, Singapore acknowledged the basic significance of the Universal Declaration of Human Rights and the fundamental nature of the rights to freedom of expression and assembly, rights without which the very fabric of a democratic society is in danger.

Moreover, in ratifying the *Charter of the Association of Southeast Asian Nations*, Singapore affirmed ‘the promotion and protection of human rights’ as a fact of good governance.¹¹⁸ Indeed, the Asian states, including Singapore, who adopted the *Final Declaration of the Regional Meeting for Asia of the World Conference on Human Rights* reaffirmed the commitment to the principles in the United Nations Charter and the Universal Declaration of Human Rights.¹¹⁹

The government and courts of Singapore should recognize and remedy the violations of the international human rights of Dr Chee and the other members of the political opposition.

¹¹⁷ Commonwealth (Latimer House) Principles on the Three Branches of Government: Commonwealth Principles on the Accountability of and Relationship between the Three Branches of Government (2003), p. 16.

¹¹⁸ 20 November 2009.

¹¹⁹ A/CONF.157/ASRM/8 (7 April 1993).

B Freedom of Expression

Freedom of expression is a cornerstone of democracy. Its exercise allows for the free exchange of ideas and the opportunity to hold the government to account for the interests of its citizens. No bill of rights is complete and no democracy is true without the guarantee and the enjoyment of freedom of expression. As a member of the Commonwealth, Singapore is bound to recognize that parliamentary government is ultimately governed by the 'free public opinion of an open society', which in turn demands 'virtually unobstructed access to and diffusion of ideas'.¹²⁰ Political expression in particular has been recognized as being at the core of the guarantee of free expression and one of the primary justifications for this freedom.

Singapore violates the free expression of Dr Chee and the political opposition by way of the following measures:

- The frequent and exaggerated reliance on defamation suits under the *Defamation Act*;
- The presumption that no speech is free unless prior authorization is granted under the *Public Order Act*;
- The prohibition on communicating political messages to citizens under the *Films Act*; and
- The absence of a free press, due in part to the *Newspaper Presses and Printing Act*.

These measures are in contravention of the guarantee of free expression under the Constitution of Singapore as well as under international law.

1 Constitutional and International Guarantees

Article 14 of the Constitution of Singapore guarantees to every citizen of Singapore 'the right to freedom of speech and expression'.¹²¹ This right is subject to a limitation clause, which provides that Parliament may, by law, provide for:

. . . such restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or to provide against contempt of court, defamation or incitement to any offence.

The Universal Declaration of Human Rights guarantees the right to freedom of expression, which includes 'the right to hold opinions without interference and to seek, receive and

¹²⁰ See *Switzman v Elbling* [1957] SCR 285 (Supreme Court of Canada).

¹²¹ Constitution of Singapore, art. 14(1)(a).

impact information and ideas through any media and regardless of frontiers'.¹²² This right may be 'subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society'.¹²³

Article 19 of the ICCPR guarantees to everyone the right to freedom of expression, which includes 'freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice'. This right may be 'subject to certain restrictions, but these shall only be such as are provided by law and are necessary' either for 'respect of the rights or reputations of others' or for 'the protection of national security or of public order (ordre public), or of public health or morals'.

In its General Comment on freedom of expression, the Human Rights Committee noted the important relationship between freedom of expression and the right to participate in public affairs:

In order to ensure the full enjoyment of [the right to participate in public affairs], the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for the rights [of] [peaceful assembly] and [freedom of association], including the freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.¹²⁴

In accordance with the unanimous approach to the evaluation of right's limitations in the Commonwealth, Europe, and in other countries, a right's limitation will be valid only if it complies with the principle of proportionality. With respect to political speech, the burden of justification is especially high given the importance of the free communication of political ideas in a democracy. In no case may a limitation go so far as to put the right in jeopardy or to impair its very core. As the following will demonstrate, the actions of the ruling PAP and the PAP-controlled Parliament amount to a denial of any freedom of expression in Singapore.

¹²² Universal Declaration of Human Rights, art. 19.

¹²³ Universal Declaration of Human Rights, art. 29(2).

¹²⁴ Human Rights Committee, General Comment 25 (57), General Comments under article 40, paragraph 4, of the ICCPR, adopted by the Committee at its 1510th meeting, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996).

2 The Defamation Act's violation of the right to criticize government

Under Singaporean law, defamation is both a criminal offence and a civil action. The *Defamation Act* broadly defines civil defamation and libel and slander and provides for substantial damages to 'vindicate the reputation of the plaintiff'. The *Penal Code* regulates the criminal offence of defamation.¹²⁵ The international community generally censures criminal defamation when, as in Singapore, civil remedies are available.

Because the law of defamation limits the free expression of ideas, it constitutes an infringement of freedom of expression. Under the Constitution of Singapore, the law will only be justified as a limitation of the freedom of expression if it is 'necessary or expedient' to provide against 'defamation'.

Law of defamation must be crafted so as to be an accommodation between freedom of expression and the right to one's reputation. Comparative law recognizes that the accommodation between these two values will be different for public officials and private citizens. Given the importance of political speech, the accommodation of the value of personal reputation will be less in the case of speech criticizing a public official. The constant concern is that public officials may rely on the law of defamation to chill political debate and create a culture of self-censorship. The facts in Singapore and the constant recourse of government members to defamation suits testify to this fear and its consequences.

The courts of Singapore have ruled that there is no 'greater latitude to make statements about public figures or matters of public concern' than there is with respect with private citizens.¹²⁶ This is confirmed by the fact that no ruling PAP leader has ever lost a defamation suit and that, in many cases, the alleged defamation constitutes no more than factual assertions and matters of political debate in a true democracy. In this respect, Singapore's courts break ranks with the Commonwealth.

The over-accommodation of the personal reputation of public officials in Singapore is an unjustified violation of the constitutional and international guarantee of free expression. It is a recognized principle of democracy that political exchange must not be chilled at the expense of shielding government policies and members from criticism. This principle has been recognized by the courts in Australia (*Theophanous v Herald & Weekly Times*),¹²⁷ the United States (*New York Times v Sullivan*),¹²⁸ and Canada (*Hill v Church of Scientology*).¹²⁹ It is recognized to be a general maxim that, in evaluating the limitation of free expression, 'the reputation of others shall not be used to protect the state and its official from public opinion or criticism'.¹³⁰ Singapore has acted contrary to the chorus of international and comparative

¹²⁵ Penal Code, s. 499.

¹²⁶ *Lee Hsien Loong v the Singapore Democratic Party, Dr Chee and Ors*, cited in International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 38.

¹²⁷ (1994) 182 CLR 104 (High Court of Australia).

¹²⁸ (1964) 376 US 254 (United States Supreme Court).

¹²⁹ [1995] 2 SCR 1130 (Supreme Court of Canada).

¹³⁰ See the Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR, n° 37.

law on the reasonable and justified limitation of freedom of expression. The current state of Singaporean law is unconstitutional and contrary to international law.

The excessive damages awarded to the government against political opponents constitute a further violation of freedom of expression. The awards for damages against Dr Chee for participating in political debate as a leader of the political opposition have no other purpose than to deter further political speech by the opposition. Together, these aspects of Singapore's law of defamation give rise to a chilling effect on political speech and constitute a grossly disproportionate violation of freedom of expression under the Constitution of Singapore.

Under the limitation clause applicable to the guarantee of freedom of expression in Singapore's Constitution, it cannot be said to be either 'necessary' or 'expedient' in the pursuit of any legitimate public interest to subject all political criticism of the government to defamation proceedings. Nor can excessive damages destined to bankrupt the political opposition and prevent them from standing for election be considered to be proportional and balanced. These practices rather testify to a dislike for political opposition and the conflation of government interests with those of Singapore's democracy.

This view is shared by Amnesty International and Lawyers' Rights Watch Canada, which have expressed their concern that 'a number of defamation suits against opposition members and perceived government critics, resulting in large damage awards, may have failed to achieve the requisite balance between protection of reputation and protection of freedom of expression and as such may be inconsistent with international norms protecting the fundamental right to freedom of expression.'¹³¹

3 *Unjustified prior restraint under the Public Order Act*

The prior restraint of political expression in Singapore cannot be justified as a reasonable limitation of freedom of expression. It is inimical to political debate in a democracy for the political opposition to seek the government's permission before speaking in public.

The operative presumption under the *Public Order Act* that all speech is prohibited unless authorized by the government is inimical to the core values of freedom of expression. The requirement to apply for a permit before holding gatherings open to the public that 'demonstrate support for or opposition to the views or actions of any person, group of persons or any government', 'publicise a cause or campaign', or 'mark or commemorate any event' denies Dr Chee and other members of the political opposition the right to hold the government to account. By requiring opposition party members of Parliament to apply for permits each and every time they speak in public, including in their own wards, the government controls its own critics.¹³² This denies to all citizens the right to be aware of and to form an informed opinion about the political choices made by the ruling PAP government.

¹³¹ Amnesty International/Lawyers' Rights Watch Canada, 'Singapore: International trial observer to attend Court of Appeal as former opposition leader JB Jeyaretnam faces possible expulsion from parliament' (20 July 2001).

¹³² James Gomez 'Free Speech and Opposition Parties in Singapore' (2006) 5 Asia Rights 1.

Under the limitation clause applicable to the guarantee of freedom of expression in Singapore's Constitution, it cannot be said to be either 'necessary' or 'expedient' in the interest of 'public order' to subject *all* public gatherings to prior restraint, irrespective of timing, size of the gathering, subject matter of discussion, or location. The statutory presumption that one may not speak in public unless authorized by the State to do so undermines the very core of freedom of expression. The fact that only in the 'Speakers' Corner' may citizens speak in public without seeking prior permission rather testifies to the reality that everywhere else, *speakers are cornered* at the will of the ruling PAP.

The active encouragement exemplified by other democracies to allow the political opposition to speak without prior notice and authorization illustrates the absence of any reasonable basis for this form of prior restraint and how foreign it is to free and democratic societies.¹³³ Indeed, the richer political debate and stronger democratic credentials of democracies which allow such freedom of political expression illustrate the proposition that it is necessary for a democratic society to provide opportunities for the political opposition to hold the government to account.

In light of the excessive harm to political debate, under any understanding of the principle of proportionality the *Public Order Act* and its predecessor, the *Public Entertainments and Meetings Act*, fail to satisfy the requirements of a valid public objective, minimal impairment of freedom of expression, and overall proportionality.

4 *The prohibition on communicating political messages to citizens under the Films Act*

The prohibition on producing, distributing, and exhibiting political films under the *Films Act* constitutes an obviously unjustified violation of freedom of expression. The ban on political films was introduced by the government 'in direct response to the attempt by the Singapore Democratic Party to produce videotapes to get its message across', which was itself a reaction by the 'opposition parties related to the lack of adequate, if any, news coverage in the [state-controlled] media'.¹³⁴

Comparative and international law distinguishes between the denial and limitation of a right. The total prohibition of any political films, rather than the regulation of time, manner, and place restrictions, cannot be justified under the limitation clause of Singapore's guarantee of freedom of expression or under international law. The prohibition in the *Films Act* has no legitimate purpose and is stained by the government's willingness to use the apparatus of the state to silence the political opposition.

To suggest otherwise is to confuse the limitation of a right with its denial.

¹³³ See the Supreme Court of Canada decision in *Saumur v City of Quebec* [1953] 2 SCR 299 for the dangers for a democracy to regulate by prior restraint political expression.

¹³⁴ James Gomez, SINGAPORE: FREEDOM OF EXPRESSION AND THE MEDIA (London: Article 19, 2005), p. 42.

5 The absence of a free press and the Newspaper Presses and Printing Act

The *Newspaper Presses and Printing Act* forbids private ownership of newspaper companies without the permission of the government. The government's control of Singapore Press Holdings and ability to appoint and dismiss all members of the staff and all directors of the Singapore Press Holdings denies any space for the development of a free press.

Moreover, the systemic use of defamation suits to stifle criticism of the government and its leadership has been as successful against the media as it has been against Dr Chee and other members of the political opposition. The 'climate of fear and self-censorship surrounding the press in Singapore causes disquiet' and 'suggests that there is not truly free press operating within the country'.¹³⁵

This state of affairs constitutes a violation of the right of all citizens of Singapore to receive unbiased and fair information and commentary on the operations and activities of the government. In the case of Dr Chee and other members of the political opposition, they are denied the ability to communicate their message to the citizens of Singapore. It is recognized that in 'order to protect the right to freedom of expression, it is imperative that the media be permitted to operate independently from government control'.¹³⁶

Comparative law recognizes that the freedom of the press 'affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of their political leaders' and 'thus enables everyone to participate in the free political debate which is at the very core of the concept of a democratic society'.¹³⁷ Such freedom is altogether absent in Singapore, which contributes to the absence of a rights' culture within Singapore's borders.

C Freedom of Assembly

The freedom of citizens peacefully to assemble is recognized as a necessary feature of a democracy. In relation to political activities, it permits citizens to express their support or opposition to government policies. It allows citizens to be exposed to alternative political views and to manifest their support for opposition parties.

Singapore violates the freedom of association of Dr Chee and the political opposition by way of the following measures:

- The requirement that government authorize all assembling of persons in public under the *Public Order Act*; and
- The unqualified government discretion to ban demonstrations under the *Internal Security Act*.

¹³⁵ International Bar Association – Human Rights Institute, *PROSPERITY VERSUS INDIVIDUAL RIGHTS?* (2008), at pp. 69-70.

¹³⁶ James Gomez, *SINGAPORE: FREEDOM OF EXPRESSION AND THE MEDIA* (London: Article 19, 2005), p. 21.

¹³⁷ See *Castells v Spain*, 24 April 1992, Application No. 11798/85, para. 43 (European Court of Human Rights). See also UN Human Rights Committee General Comment 25 (12 July 1996).

These measures are in contravention of the guarantee of free association under the Constitution of Singapore as well as under international law.

1 *Constitutional and International Guarantees*

Article 14 of the Constitution of Singapore guarantees to ‘all citizens of Singapore . . . the right to assemble peacefully and without arms’.¹³⁸ This right is subject to a limitation clause, which provides that Parliament may, by law, impose:

. . . such restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof or public order.

In addition, article 9 of the Constitution provides that ‘no person shall be deprived of . . . personal liberty save in accordance with law’.

The Universal Declaration of Human Rights guarantees the ‘right to freedom of peaceful assembly’.¹³⁹ This right may be ‘subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society’.¹⁴⁰

The ICCPR guarantees to everyone the right of peaceful assembly. The exercise of this right may be restricted only by law if ‘necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others’.¹⁴¹

In accordance with the unanimous approach to the evaluation of a right’s limitation in the Commonwealth, Europe, and other countries, a right’s limitation will be valid only if it complies with the principle of proportionality. With respect to the peaceful assembly of citizens for political purposes, the burden of justification is especially high given the importance of political opposition in a democracy. In no case can a right’s limitation go so far as to put the right in jeopardy. The absence of unobstructed political rallies in Singapore testifies to the complete denial of the right by the government.

2 *The Public Order Act’s violation of the right to freedom of peaceful assembly*

The prior restraint of peaceful assembly in Singapore cannot be justified as a reasonable limitation of freedom of expression. It is inimical to freedom of peaceful assembly for the political opposition to seek the government’s permission before assembling in public.

¹³⁸ Constitution of Singapore, art. 14(1)(b).

¹³⁹ Universal Declaration of Human Rights, art. 20(1).

¹⁴⁰ Universal Declaration of Human Rights, art. 29(2).

¹⁴¹ International Covenant on Civil and Political Rights, art. 21.

The operative presumption under the *Public Order Act* that no assemblies are authorized unless authorized by the government is inimical to the core values of freedom of peaceful assembly. The requirement to apply for a permit before holding gatherings open to the public that 'demonstrate support for or opposition to the views or actions of any person, group of persons or any government', 'publicise a cause or campaign', or 'mark or commemorate any event' denies Dr Chee and other members of the political opposition the right to hold the government to account.

Given that the authority of the government to ban assemblies does not rest exclusively on cases threatening the security of Singapore or any reasonable conception of 'public order', there is no identifiable legitimate public purpose. The terms of the Act, as well as its administration, go so far as to authorize the government to prohibit all political gatherings, protests, and processions, including those by Dr Chee and the political opposition. Moreover, the *Public Order Act* creates an arbitrary framework whereby even in the unlikely event that a permit is granted by the police, it can be annulled by the government. Moreover, the authority granted by the Act to the government to designate certain places as 'off-limits' and certain events as 'special' effectively grants the government the authority to silence the political opposition at will and to hide them from the international media.

The *Public Order Act* and its predecessor, the *Miscellaneous Offences Act*, have become tools for the repression of political freedoms. Under the principle of proportionality, the authority granted to the government suffers from overbreadth. The objective of an excessive delegation to the government cannot be justified as necessary in a democratic society and, as such, the Act is in contravention of Singapore's constitutional and international obligations.

3 *The arbitrary and indefinite detention powers of the Internal Security Act*

The *Internal Security Act* allows the government to arbitrarily arrest and indefinitely detain citizens it suspects of endangering public security. This act has been exercised to deny the right of political protest to political dissidents, including Chia Thye Poh, arrested in 1966 and locked up for the next 23 years.¹⁴²

The Act creates a chill in the exercise of the right to peaceful assembly. Beyond the obvious violation of the right against arbitrary detention, the Act creates yet another hurdle in the exercise of political assembly. In its current formulation, the Act constitutes an unjustified violation of the rights to freedom of peaceful assembly and liberty. It is insufficiently targeted to support any legitimate public purpose and its overbreadth vitiates any possible proportionality evaluation. It leaves citizens constantly in fear and subjects all political protest to sudden government repression.

¹⁴² S. J. Chee, *TO BE FREE: STORIES FROM ASIA'S STRUGGLE AGAINST OPPRESSION* (Melbourne: Monash Asia Institute, 1988).

D Right to Stand for Election

Together with the right to vote, the right to stand for election is a definitional component of democracy. The qualifications for eligibility to stand for election must be reasonable, lest the conclusion be drawn that they are designed to silence the political opposition.

Singapore violates the right of Dr Chee and the political opposition to stand for election by way of the following measures:

- The frequent and exaggerated reliance on defamation suits under the *Defamation Act* to disqualify Dr Chee and the political opposition from standing for election; and
- The frequent and exaggerated criminal suits under the *Public Order Act*'s predecessor legislation – the *Public Entertainments and Meetings Act* and *Miscellaneous Offences Act* – to disqualify Dr Chee and the political opposition from standing for election.

These measures are in contravention of the constitutional structure of Singapore and a violation of international law.

1 Constitutional and International Guarantees

The Constitution of Singapore provides for an elected branch of government and stipulates that Parliament shall consist of 'such number of elected Members as is required to be returned at a general election by the constituencies prescribed by or under any law made by the Legislature'.¹⁴³ As a necessary corollary of this right, the citizens of Singapore must be able to stand for election to Parliament. Absent this right, any government cannot be said to represent the will of its people, no matter how high its popular support. A government must not only be selected by the people; ultimately, it must be composed of the people in all of their diversity. Election by acclamation suffers a political legitimacy deficit.

The necessity of a citizen being qualified for membership to the legislature in a democracy is recognized by the Universal Declaration of Human Rights, which declares that 'everyone has the right to take part in the government of his country, directly or through freely chosen representatives'.¹⁴⁴ Without the right to vote and the right to stand for election, the 'will of the people' cannot be recognized as 'the basis of the authority of government'.¹⁴⁵ In addition, the basis for the limitation of any right under the Universal Declaration is measured against the standard of a 'democratic society', with the consequence that the limitation of democracies definitional rights warrants the closest possible scrutiny.¹⁴⁶

¹⁴³ Constitution of Singapore, art. 39(1)(a).

¹⁴⁴ Universal Declaration of Human Rights, art. 21(1).

¹⁴⁵ Universal Declaration of Human Rights, art. 21(3).

¹⁴⁶ Universal Declaration of Human Rights, art. 29(2).

The ICCPR guarantees to every citizen the ‘right and the opportunity . . . to take part in the conduct of public affairs, directly or through freely chosen representatives’.¹⁴⁷ In its General Comment on this guarantee, the Human Rights Committee affirmed:

The effective implementation of the rights and the opportunity to stand for election ensures that persons entitled to vote have a free choice of candidates. Any restrictions on the right to stand for election, such as a minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation.

The Vienna Declaration and Programme of Action articulated at the 1993 World Conference on Human Rights recognized that ‘democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives.’¹⁴⁸

2 *Abuse of the constitutional disqualifications of the right to stand for election*

The Constitution of Singapore provides that a ‘person shall be disqualified for appointment as a member’ of Parliament if that person:

- is insolvent or an undischarged bankrupt; or
- has been convicted of an offence by a court of law in Singapore or Malaysia and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$2,000 and has not received a free pardon.¹⁴⁹

These terms of disqualification, unfamiliar to most democracies, are of concern in their own right. However, they constitute violations of the right to stand for election when combined with the systematic and ongoing court challenges initiated by the government against Dr Chee and other members of the political opposition.

The defamation court challenges, reviewed above, have as one of their primary purposes the award of damages sufficient to bankrupt Dr Chee. In 1993, Dr Chee was ordered to pay US\$350,000 in defamation damages. He survived bankruptcy only by liquidating all of his assets, including his family home. In 2006, he was ordered to pay the same amount of US\$350,000 and, in 2008, was ordered to pay the greater amount of US\$400,000 in defamation.

¹⁴⁷ International Covenant on Civil and Political Rights, art. 25(a).

¹⁴⁸ UN General Assembly, A/CONF.157.23 (12 July 1993).

¹⁴⁹ Constitution of Singapore, art. 72(b) and (c).

It is internationally recognized that the systemic pursuit of political opposition leaders by members of the government for defamation has been 'a mechanism for removing opposition members from Singapore parliament: far from tolerating critical remarks (not even those spoken or written in the heat of an election campaign), Messrs Goh and Lee have been swift to commence actions, to succeed with them, to obtain such unconscionably high damages (and costs) as to bankrupt their opponents'.¹⁵⁰

In addition, the court challenges initiated under the *Public Entertainments and Meetings Act* and the *Miscellaneous Offences Act*, reviewed above, have resulted in numerous convictions for offences which are contrary to the Constitution of Singapore and international law. In addition, Dr Chee stands charged or is under investigation for at least an additional 15 offences under these two Acts, as authorized by the new *Public Order Act*. This constant harassment effectively acts to disqualify the leader of a political opposition party from standing for election.

For these reasons among others, Freedom House has concluded that 'Singapore is not an electoral democracy'.¹⁵¹ The actions of government constitute a violation of Dr Chee's right to stand for election as a member of Parliament.

This unconstitutional state of affairs impugns the democratic legitimacy and authority of Singapore's Parliament. Given the number of uncontested seats in the PAP-dominated legislative assembly, it cannot be said that the government is of the people's choosing.

E Equal Protection of the Law

The equal protection of the law is a necessary feature of the rule of law and the fundamental principle against arbitrary government action.

The Singaporean judiciary is under a duty not only to find unconstitutional and contrary to international law the various Acts of Parliament relied upon by the government to stifle the political opposition, but as importantly it should sanction the arbitrary and unequal application of the law to the benefit of the government and detriment of Dr Chee and the political opposition.

Singapore violates the right of Dr Chee and the political opposition to the equal protection of the law by way of the following measure:

- The selective enforcement of Acts of Parliament like the *Public Order Act's* predecessor legislation – the *Public Entertainments and Meetings Act* and the *Miscellaneous Offences Act* – against opposition members.

This measure is in contravention of the guarantee of the equal protection of the law under the Constitution of Singapore as well as under international law.

¹⁵⁰ Letter dated 21 October 1997 from the International Commission of Jurists to the Deputy Secretary, Ministry of Law, Lau Wah Ming.

¹⁵¹ Freedom House, FREEDOM IN THE WORLD: 2008.

1 *Constitutional and International Guarantees*

Article 12 of the Constitution of Singapore provides that ‘all persons are equal before the law and entitled to the equal protection of the law’. This protection extends to reviewing the exercise of executive and administrative discretion in the application of Acts of Parliament. It requires that no exercise of authority with respect to one category of persons be different from the exercise of authority with another category.

The same is required in international law. Both the Universal Declaration of Human Rights at Article 2 and the ICCPR at Article 2 provide that ‘everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as . . . political or other opinion’.

2 *The selective enforcement of Acts of Parliament*

The administration of the *Public Entertainments and Meetings Act* by the Public Entertainment Licensing Unit, a sub-unit of the Singapore Police Force, suffers from arbitrariness and inconsistencies in the award of permits and licenses to speak in public. The same practice is expected to continue under the more encompassing and demanding *Public Order Act*.

Dr Chee and opposition parties have documented the absence of any transparency in the administration of the law, the inconsistency in responses to similar requests for a permit, and the slow process it takes for permits to be awarded, which sometimes leads to the inevitable cancellation of scheduled events.¹⁵² Moreover, while members of Parliament for the ruling PAP need not apply for licenses, opposition members of Parliament do each and every time they speak in public, even in their own wards.¹⁵³

The requiring of permits to speak in public and then the failure to grant such permits to unwelcome voices extends well beyond the case of Dr Chee. For example, Amnesty International reports that in 2008, a ‘visiting delegation of European and Asian parliamentarians were refused a permit to speak at a SDP [Singapore Democratic Party] forum on the development of democracy internationally’.¹⁵⁴

The selective enforcement of Acts of Parliament against the political opposition constitutes a violation of Singaporean and international law that corrupts and undermines the rule of law. It erodes the public’s confidence in the administration of justice and violates the right of all citizens to the equal protection of the law.

¹⁵² See James Gomez, ‘Free Speech and Opposition Parties in Singapore’ (2006) 5 Asia Rights 1.

¹⁵³ See James Gomez, ‘Free Speech and Opposition Parties in Singapore’ (2006) 5 Asia Rights 1.

¹⁵⁴ Amnesty International, ‘Singapore: Government misusing the law to muzzle critics’ (14 December 2006).

F Right to an Independent and Impartial Judiciary

The independence and impartiality of the judiciary is a value with deep roots in the common law and the Commonwealth. It is inherent in the very role of the judge as an adjudicator between two opposing parties that he or she not be partial to either. This has special importance when the government that is responsible for appointing the judges of the courts is before these same courts. In order to address such concerns, comparative and international law has implemented several necessary measures to maintain the independence and impartiality of judges as well as the public's faith in the judiciary as the administrator of justice.

The independence of the judge from the executive and the legislature is a necessary feature of the rule of law and the subjection of government to the law. Absent a judiciary able and willing to hold the government's exercise of power to the law – be it the law of Parliament to the Constitution or the actions of the executive to the law of Parliament and of the Constitution – the rule of law would give way to arbitrary rule and undermine a country's legal foundations. Absent judicial independence and impartiality, the protection and realization of human rights is less secure and, in the case of Singapore, constitutional guarantees become illusory.

Singapore violates the right to an independent and impartial judiciary of Dr Chee and the political opposition by way of the following measures:

- Executive discretion with respect to the security of tenure of judges;
- Potential executive interference with the administration of the judicial function; and
- A reasonable apprehension of bias in favour of the government in defamation cases.

These measures are in contravention of the guarantee of an independent and impartial judiciary under the Constitution of Singapore as well as under international law.

1 *Constitutional and International Guarantees*

Article 93 of the Constitution of Singapore provides that the 'judicial power of Singapore shall be vested in a Supreme Court and in such subordinate courts as may be provided by any written law for the time being in force'. This constitutionally stipulated judicial power is separate and independent from the executive power and legislative power; in other words, the Constitution explicitly contemplates a separation of powers between the judicial and other branches of government.

The role of the judiciary as a guardian of the Constitution and protector of constitutional rights is equally contemplated by the bill of rights itself. For example, article 9 provides that 'where a complaint is made to the High Court or any Judge thereof that a person is being unlawfully detained, the Court shall inquire into the complaint and, unless satisfied that the detention is lawful, shall order him to be produced before the Court and release him'.

Beyond these specific constitutional provisions, judicial independence and impartiality has been recognized as an unwritten constitutional principle due to its fundamental role in a constitutional democracy.¹⁵⁵ Commonwealth countries have recognized the individual and institutional components to an independent judiciary. These components connote 'not only a state of mind but also a status or relationship to others – particularly to the executive branch of government – that rests on objective conditions or guarantees'.¹⁵⁶ The individual independence of a judge is 'reflected in such matters as security of tenure' and financial security, whereas the institutional independence of the courts is 'reflected in its institutional or administrative relationship to the executive branch of government'.¹⁵⁷

There is, and has been at least since the Act of Settlement,¹⁵⁸ international agreement that judicial independence requires security of tenure and financial security. In recent years, important international documents have fleshed out in more detail the content of the principle of judicial independence in free and democratic societies: see, for example, the thirty-two articles in the Syracuse Draft Principles on the Independence of the Judiciary (1981), the forty-seven standards enunciated in the International Bar Association Code of Minimum Standards of Judicial Independence (1982), and, especially, the Universal Declaration of the Independence of Justice adopted at the final plenary session of the First World Conference on the Independence of Justice in 1983. Invariably, security of tenure and financial security have been recognized as central components of the international concept of judicial independence.

Article 10 of the Universal Declaration of Human Rights recognizes that 'everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him'. The UN Basic Principles on the Independence of the Judiciary provide that the 'judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason'.¹⁵⁹ In addition, other provisions of the Universal Declaration of Human Rights – including the right to an effective remedy – all contemplate a fair judicial process.

This is echoed by the ICCPR which provides, at article 14, that 'all persons shall be equal before the courts and tribunals', which includes the right to 'a fair and public hearing by a competent, independent and impartial tribunal established by law'.

Furthermore, Article IV of the Latimer House Principles on the Three Principles of Government states:

¹⁵⁵ See *Re Remuneration of Judges*, [1997] 3 SCR 3 (Supreme Court of Canada).

¹⁵⁶ *Valiente v. The Queen*, [1985] 2 SCR 673 (Supreme Court of Canada).

¹⁵⁷ *Valiente v. The Queen*, [1985] 2 SCR 673 (Supreme Court of Canada).

¹⁵⁸ 1700 (Engl.), 12 & 13 Will. 3, c. 2.

¹⁵⁹ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August to 6 September 1985, U.N. Doc. A/CONF.121/22/Rev.1 at 59 (1985).

An independent, impartial, honest and competent judiciary is integral to upholding rule of law, engendering public confidence and dispensing justice. The function of the judiciary is to interpret and apply national constitutions and legislation, consistent with international human rights conventions and international law, to the extent permitted by the domestic law of each Commonwealth country.¹⁶⁰

Moreover, the Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region, signed by the Chief Justice of Singapore, the Honorable Justice Yong Pung, underscores the 'indispensable' importance of the judiciary for implementing the right guaranteed in the Universal Declaration of Human Rights and the ICCPR to a fair and public hearing by a competent, independent and impartial tribunal established by law.¹⁶¹

It bears emphasizing that in no instance – either in the Constitution of Singapore or in the various international instruments – is the right of a citizen to an independent and impartial judiciary subject to a limitation clause. The right is, in every respect, absolute.

2 *The absence of security of tenure*

The repeated violations of Dr Chee's human rights would not have been possible without a judiciary willing to exercise excessive deference to the executive and the PAP-controlled Parliament. This is evident from the inability of the judiciary to uphold Dr Chee's constitutional and international human rights against unconstitutional Acts of Parliament and illegal executive action. It is equally evident from the excessive damages awarded to repeat PAP defamation litigants.

The first cause of the violation of Dr Chee's right to an independent and impartial judiciary results from the absence of security of tenure for the judges of Singapore. Article 98 of the Constitution of Singapore provides that 'a Judge of the Supreme Court shall hold office until he attains the age of 65 years *or such later time not being later than 6 months after he attains that age, as the President may approve*' (emphasis added).

The absence of security of tenure causes concern not only when a judge attains the age of 65. Rather, the concern is initiated as of the date of appointment because of the pressure on all judges to side with the government in the hopes that their term will be renewed come the age of 65. As a result, 'the possibility that the extension of their tenure may later be decided at the will of the Prime Minister affects the appearance of all of their decisions'.¹⁶²

This is in obvious violation of the right of a citizen to an independent and impartial judiciary. The security of tenure of a judge may be secured only if the judge holds office for a pre-determined time, removable 'only for cause related to the capacity to perform judicial

¹⁶⁰ Commonwealth (Latimer House) Principles on the Three Branches of Government: Commonwealth Principles on the Accountability of and Relationship between the Three Branches of Government (2003).

¹⁶¹ [1995] CCJAPRes 1 (19 August 1995).

¹⁶² International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 55.

functions'.¹⁶³ Moreover, the cause should be identified by a judicial inquiry, not by a political one. In no respect is giving the Prime Minister full discretion consistent with constitutional and international obligations.

3 *Potential administrative interference by the executive*

The second cause of the violation of Dr Chee's right to an independent and impartial judiciary results from actual and potential executive interference with the administration of the internal workings of the judiciary. Article 111 of the Constitution of Singapore provides that the Legal Service Commission exercises jurisdiction over all public officers in the Singapore Legal Service, including judges.¹⁶⁴ The Legal Service Commission consists of the Chief Justice and the Attorney General, as well as other members appointed by the President.

As a result of this institutional arrangement, judges are ultimately accountable to the Commission rather than to the administration of justice. The Commission may rotate them to different positions under the jurisdiction of the Commission. For example, in 1984 Senior District Judge Michael Khoo was rotated from his post after he acquitted opposition leader Jeyaretnam on some counts of misuse of party funds.¹⁶⁵

The Legal Service Commission 'appears to be an overlap between the executive and judicial branches and a breach of the separation of powers doctrine'.¹⁶⁶ It also constitutes a violation of judicial independence and impartiality insofar as the administration of matters 'bearing directly on the exercise of its judicial function' is within the power of the executive through the Attorney General.¹⁶⁷

This arrangement subjects all judges to the threat of rotation to a less favourable position at the discretion of the Legal Service Commission should they side with a position that is not favoured by the ruling PAP. As such, it constitutes a violation of the right of all citizens to an impartial and independent judiciary.

4 *Reasonable apprehension of bias*

The third cause of the violation of Dr Chee's right to an independent and impartial judiciary results from the constant and repeated victories by PAP members against their political opponents. As reviewed above, defamation court challenges by members of the government against the leaders of the political opposition, including Dr Chee, call into question Singapore's judicial independence. The unlikelihood that a defendant will prevail combined with the extraordinarily high damages awarded to the PAP leadership give rise to the presumption that the judiciary is partial to the government.

¹⁶³ *Valente v The Queen* [1985] 2 SCR 673 at p. 697 (Supreme Court of Canada).

¹⁶⁴ Constitution of Singapore, art. 22.

¹⁶⁵ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 59.

¹⁶⁶ International Bar Association – Human Rights Institute, PROSPERITY VERSUS INDIVIDUAL RIGHTS? (2008), at p. 52.

¹⁶⁷ *Valente v The Queen* [1985] 2 SCR 673, at p. 708 (Supreme Court of Canada).

The recognized standard for evaluating the absence of impartiality in the judiciary is whether an informed person, viewing the matter realistically and practically, has a reasonable apprehension of bias.¹⁶⁸ The chorus of international conclusions that defamation suits by government members against opposition leaders are *fait accompli* testifies to this third basis for concluding a violation of the right of Dr Chee to an independent and impartial judiciary. As concluded by the International Bar Association, 'no PAP leader has ever lost a defamation suit against an opposition figure in court'.¹⁶⁹ The US Department of State's 2008 Human Rights Report concluded that there was 'a perception that the judiciary reflected the views of the ruling party in politically sensitive cases'.¹⁷⁰

This compounds the violation of the right of all citizens to an impartial and independent judiciary and undermines the separate role attributed to the judiciary under Singapore's Constitution.

G Conclusions: Violation of the Right to an Effective Remedy

The foregoing documents how the actions of the government constitute violations of the freedoms of expression and assembly, the right to stand for election, the right to the equal protection of the law, and the right to an independent and impartial judiciary under the Constitution of Singapore and under international law.

While the Government of Singapore has relied in the past on a 'Singapore School of Human Rights' to challenge the universality of human rights in the name of cultural relativism, this argument is ultimately without relevance to the challenges identified above. As has been demonstrated, Singapore's actions amount to the *denial* of the rights guaranteed to its citizens under its Constitution and under international law. The debate is not at the level of the appropriate *extent* of limitations. In no way could one maintain that cultural relativism justifies the government's denial of rights guaranteed by a Singapore's Constitution itself, including the reversal of the presumption in democratic societies that all speech and assembly be free unless there is a compelling and proportionate countervailing interest.

Singapore has not accepted the jurisdiction of most international courts and, in consequence, there are no international tribunals available in which Dr Chee can challenge his treatment. Moreover, domestic courts are closed to or predisposed against Dr Chee, thus depriving him of any remedial course of action.

This state of affairs constitutes a further violation of constitutional and international law: the right to an effective remedy. Article 8 of the Universal Declaration on Human Rights provides to 'everyone . . . the right to an effective remedy by the competent national tribunal'. The ICCPR similarly guarantees at Article 2(3) 'that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the

¹⁶⁸ See *Committee for Justice and Liberty v National Energy Board* [1978] 1 SCR 369, at p. 394 (Supreme Court of Canada).

¹⁶⁹ International Bar Association – Human Rights Institute, *PROSPERITY VERSUS INDIVIDUAL RIGHTS?* (2008), at p. 30.

¹⁷⁰ US Department of State, 2008 HUMAN RIGHTS REPORT: SINGAPORE (2009).

violation has been committed by persons acting in an official capacity'. Similar provisions 'affording the individual a substantive right to an effective remedy can be found in all major human rights instruments'.¹⁷¹ Indeed, 'a substantive right to a remedy appears as a necessary element of the normative framework of human rights'.¹⁷²

In the light of the continuing and important repression of political freedoms, the best course of action is to pressure the Government of Singapore to recognize Dr Chee's political freedoms. Singapore's global stature as an international trading hub could be undermined if sufficient attention were paid to the human rights abuses of Dr Chee and other political opposition members. For this reason, every statement in support of Dr Chee is of critical importance.

This White Paper calls upon foreign governments, international organizations, NGOs, and the media to pressure for reform in the name of Singapore's absent political freedoms.

¹⁷¹ René Provost, *INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW* (Cambridge: Cambridge University Press, 2002), at p. 43.

¹⁷² René Provost, *INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW* (Cambridge: Cambridge University Press, 2002), at p. 44.

V

CONCLUSIONS

This White Paper has sought to place the case of Dr Chee in the context of the systemic political repression of Singapore. This side of Singapore is well hidden behind the glitter of the city-state's financial and high tech success. The uncompromising power of the government is combined with a compliant judiciary. Together, they have created a culture where the press is muted and in which the repression of freedom of speech and political opposition is facilitated.

Unconstitutional domestic laws and arbitrary enforcement mechanisms support the arrest, imprisonment, bankrupting and even exile of voices of dissent or criticism. As reviewed above, the foreign press has been charged with defamation and libel suits by government officials. These actions have been undertaken with the intent to silence, suppress, and intimidate all opposition. There has been and continues to be a clear pattern of other opposition party candidates suffering the fate of defamation suits, bankrupting damages, disbarment, disqualification from standing for election, jailing and even exile.

A The Experience of other Members of the Political Opposition

The harassment that Dr Chee has experienced is part of a systemic campaign by the government to co-opt Singapore's legal system as a tool of control and repression to prevent the opposition and the people of Singapore from speaking.

1 *The case of Joshua B Jeyaretnam*

Joshua B Jeyaretnam was Singapore's first opposition candidate elected to Parliament. Representing the Workers Party of Singapore, he served from 1981 to 1986 and again from 1997 to 2001. A former judge, Jeyaretnam was disbarred, bankrupted, jailed, and prevented from taking part in elections by a series of politically-motivated charges and fines.

Immediately following his 1984 re-election to Parliament, Jeyaretnam was charged with and found guilty of misstating his party accounts. After the 1988 election, from which Jeyaretnam was banned due to the previous conviction, he was sued for slander for statements made at an election rally. In 1995, Jeyaretnam was twice sued for libel.

In 1997, after Jeyaretnam's return to Parliament, eleven defamation suits were filed against him for saying the following at an election rally: 'Mr Tang Liang Hong has just placed before me two reports he has made to the police against, you know, Mr. Goh Chok Tong and his people'. Prime Minister Goh Chok Tong alleged that his 'reputation, moral authority and leadership standing have been gravely injured both local and internationally' by those simple words.

2 *The case of Tang Liang Hong*

A successful corporate lawyer and an opposition candidate for the Workers' Party in the 1997 elections, Tang Liang Hong was sued for defamation for remarks he made about PAP leaders during a public rally. After the election, Tang Liang Hong faced thirteen defamation suits from PAP ministers and members of Parliament, including the Senior Minister, the Prime Minister, and his two deputies.

After receiving death threats, Tang fled Singapore. His wife's passport was confiscated and she was made a co-defendant in the lawsuit. Tang and his wife's assets were seized. Months later, a high court judge awarded the eleven PAP plaintiffs US\$4.7 million, later reduced to US\$2.1 million. Tang was subsequently declared bankrupt. He and his wife lost everything they owned in Singapore. During his exile, the government charged him with 33 counts of tax evasion and there is presently an outstanding warrant for his arrest.

3 *The case of Devan Nair*

The third president of Singapore was Devan Nair. While living in exile in Canada, he remarked in a 1999 interview with Canadian newspaper *The Globe and Mail* that Lee's technique of suing his opponents into bankruptcy or oblivion was an abrogation of political rights. He also remarked that Lee is 'an increasingly self-righteous know-all', surrounded by 'department store dummies'. In response to these remarks, Lee sued Devan Nair in a Canadian court. Nair died in Canada in 2005.

4 *The case of Gopalan Nair*

In September 2008, another Singapore exile, Gopalan Nair, now a US citizen, California lawyer, and author of the blog *Singapore Dissident*, was sentenced to three months in jail. Nair had accused Judge Belinda Ang of the high court of 'prostituting herself' during a hearing in a successful defamation suit filed by the Lees.¹⁷³

When Nair was first detained for these comments in May 2008, the Committee to Protect Journalists observed that 'Singapore's detention of Gopalan Nair for public comments about such a highly politicized case is completely unwarranted . . . Freedom to criticize the judiciary is fundamental to a modern society. This case illustrates the Singapore government's ongoing commitment to silencing opposition voices both in print and online.'¹⁷⁴

5 *Other cases*

A sampling of other Singaporeans who have been subject to harassment and arrest include:

- Francis T. Seow, former solicitor general detained as prisoner of conscience;

¹⁷³ Committee to Protect Journalists, 'Critics of Singapore's Judiciary Face Reprisal' (19 September 2008).

¹⁷⁴ Committee to Protect Journalists, 'Singapore Detains U.S. Blogger Over Libel Commentary' (3 June 2008).

- Gandhi Ambalan, jailed for speaking in public, refused to pay S\$3000, sentenced to three weeks in jail;¹⁷⁵
- Yap Keng Ho, jailed for ten days after refusing to pay a S\$2000 fine;¹⁷⁶ and
- Monica Kumar, subject to S\$23,500 in legal costs after challenging the move by police to disperse a peaceful protest.

B The Immediate Impact on the Political Freedoms of Singaporeans

This White Paper has documented how the Singaporean government co-opts the law to silence and repress political opposition leaders. However, this should not overshadow the fact that the government also limits the freedoms of other Singaporeans through similar strategies.

In August 2004, four activists conducting a silent protest to call for transparency and openness in Singapore were met by the riot police and ordered to disperse or be arrested. Under Singaporean law, at the time, the gathering of four persons – short of the prohibited five person assembly – should not have been illegal. (The 2009 *Public Order Act* now defines ‘assembly’ to include a single person.) The protesters complied with the police order and dispersed. They subsequently took legal action against the government for overstepping the boundaries of power. The judge ruled that the protesters’ message was ‘incendiary’ and that Singaporeans cannot ‘picket public institutions’ because to do so would be to ‘question [their] integrity and cast a slur on their reputation’.¹⁷⁷

During the World Bank-IMF meeting held in Singapore in September 2006, the Singapore government banned all outdoor protests, deporting twelve activists and banning an additional twenty-eight who had accreditation with the World Bank.

In March 2008, eighteen activists conducting a protest against rising costs of living were arrested and subsequently prosecuted for participating in a procession and assembly without a permit.

In December 2008, three activists were charged for contempt of court and jailed between one and two weeks for wearing t-shirts that carried a picture of a kangaroo wearing a judge’s gown outside the Supreme Court in Singapore.

In January 2009, two protestors were arrested for standing outside a government building to protest against the deportation of a group of Burmese nationals who had staged a protest in Singapore against visiting Burmese military rulers.

¹⁷⁵ Amnesty International, ‘Singapore: Government misusing the law to muzzle critics’ (14 December 2006).

¹⁷⁶ Amnesty International, ‘Singapore: Government misusing the law to muzzle critics’ (14 December 2006).

¹⁷⁷ *Fo Chee Siok Chin and Others v Minister for Home Affairs and Another* (2005), available at: http://uy.http3.net/CPFB_OM/CPFB_OM_VK_RAJAH.pdf.

This is but a sampling of the cycle of the repression of political freedoms in Singapore.

C Call for Change

In the context of systemic and systematic repression, the treatment of Dr Chee stands out as particularly egregious. This White Paper has detailed the seventeen-year chronology of charges, litigation, damages and imprisonments Dr Chee has endured as he pursues non-violent civil disobedience to change the status of political freedoms in Singapore.

Were there an independent and impartial judiciary in Singapore or an international tribunal charged with his defence, Dr Chee's innocence would be vindicated in the light of the clear evidence of the human rights abuses by the ruling PAP dynasty.

This story does not end here. There is a seemingly endless stream of on-going trials, appeals, and charges against Dr Chee. Beyond Dr Chee, any voice of dissent and all political opposition face similar harassment. There are actions that the international community can take to support Dr Chee and cast light on Singapore's shadow.

This White Paper concludes with a call for change.

ANNEX A

STRATEGIES FOR POLITICAL FREEDOM IN SINGAPORE

- *Call on APEC leaders to arrange November meetings in Singapore*

The Asia-Pacific Economic Cooperation (APEC) will hold a series of ministerial meetings in Singapore in November 2009. APEC must not be seen to give credence to Singapore's economic success without calling for the respect of political freedoms within its borders. Many of APEC's most enviable economics have succeeded by understanding that business and human rights are not opposed but rather twin components of sustainable development.

APEC's leaders should arrange to meet with representatives of the Civil Society and Dr. Chee on behalf of the Singapore Democratic Party. APEC should also condition the holding of its ministerial meetings in Singapore on action by the Government of Singapore; in particular, it should require that the ruling PAP recognize and implement political freedoms so as to signal to Singapore that it may not rest on economic success as a cover for political repression.

- *Call on ASEAN to establish a viable Human Rights Commission*

The Association of South Asian Nations (ASEAN) is an intergovernmental association devoted to accelerating economic growth, social progress, and cultural development and to promoting peace and stability by adhering to the rule of law and the principles of the UN Charter. Despite these important commitments, ASEAN has not yet developed an independent and effective intergovernmental human rights mechanism, making it one of the largest areas in the world without a devoted intergovernmental human rights commission.

The Intergovernmental Commission on Human Rights established by ASEAN in October 2009 provides no promise for human rights in the region. It is a consultative body that reaches decisions by consensus, effectively awarding a veto to each member. Its membership is determined by the national governments, who are expressly empowered to remove their representative at will. The Commission will provide no redress for human rights abuses in the region.

ASEAN should implement its dual commitment to economic growth and social progress in accordance with the rule of law by committing all governments to an international process that allows human rights claims to be heard and determined by members of the regional community.

- *Call for charges against Dr Chee and other members of the political opposition to be dropped*

Persuade the Government of Singapore to drop all charges against Dr Chee and other human rights defenders and lift the ban on Dr Chee's travels. This would signal a genuine opening up of the political process in line with the Prime Minister's existing commitment to allow demonstrations at a designated area, albeit under strict conditions.

Although this recent openness to change was undertaken to manage and deflect criticisms of the denial of political freedoms, it indicates that negative publicity, generated both domestically and internationally, has pressured Singaporean authorities to change.

- *Campaign for an independent and impartial judiciary*

Singapore must maintain the facade of a system based on the rule of law in order to attract corporate investments.

The international legal community must continue to question the independence and impartiality of the judiciary to challenge assumptions on the rule of law in Singapore. The complicity of legal and judicial systems in the suppression of political freedoms must be highlighted.

Within the UK, the appointment of the Chief Justice of Singapore, Mr. Chan Sek Keong, as Honorary Bencher by the Society of Lincoln's Inn should be revoked if the judiciary continues to develop the common law in contravention of Commonwealth and international human rights standards.

- *Focus on the corporate sector*

The World Bank, The International Bar Association, Transparency International, and the World Economic Forum, in addition to other international organizations, must play a more active role in developing the rule of law in Singapore.

When the International Bar Association held its 2007 annual conference in Singapore, the Government used the conference as testimony of the legitimacy of its legal system. However, when the International Bar Association published a report criticising Singapore for the lack of judicial independence and the suppression of political freedoms, the international press embarrassed the government.

This led the Prime Minister to announce that protests would be allowed in a designated area. Similar publicity will focus attention on Singapore's undemocratic character. This will be crucial in urging political reforms in the city-state.

- *Meet with Singaporean democracy advocates*

International visitors to Singapore should meet with Dr Chee and other human rights activists and spread international knowledge of political repression in the country.

Whenever opportunities arise, international visitors should bring up the importance of encouraging the rule of law in Singapore. In addition, Singaporean rule of law advocates should be invited to international conferences to discuss an agenda of reform and change.

International attention will pressure the government to respect the rule of law and political freedoms and will embolden Singapore's civil society.

- *Work through governments and governmental bodies*

The United Nations, the Commonwealth of Nations, the Community of Democracies, and democratic governments around the world should pressure the government and judiciary in Singapore to adhere to the rule of law.

- *Highlight money-laundering*

The corporate sector should review money-laundering in Singapore.

As a result of the lack of a checks and balance system, the government has amended banking laws to enhance the secrecy of its financial institutions. This is done primarily to attract illicit funds from Indonesia and China as well as tax evaders from all over the world. In a 2000 report, the US State Department determined that Singapore's system 'provided opportunities for money launderers to conduct a wide range of illicit transactions'.

As an initial step, Singapore should be pressed to ratify the UN's International Covenant for Civil and Political Rights. This and other measures can be achieved through resolutions, letters, parliamentary questions, and statements by elected officials. The democratic world must be reminded of the dangers posed by the Singaporean regime, which is being viewed as an alternative model to democracy by governments such as the ones in Russia, China, Burma and Vietnam.

ANNEX B

SUMMARY CHRONOLOGY OF DR CHEE'S
CONVICTIONS AND ACCUSATIONS1 *Chronology of Convictions*

date	charge	punishment
1993	defamation	ordered to pay US\$350,000 in damages
1996	contempt of Parliament	fined US\$17,000 by Parliament
1999	speaking in public without a permit	jailed 7 days
1999	speaking in public without a permit	jailed 12 days
1999	selling books	fined US\$400
2002	attempting to hold a rally on May Day	jailed 5 weeks
2003	speaking on Muslim schoolgirls' head scarves	fined US\$2,000
2006	defamation	ordered to pay US\$350,000 in damages
2006	contempt of court	jailed 8 days
2006	attempting to leave country without permit	jailed 3 weeks
2007	speaking without a permit	jailed 5 weeks
2008	defamation	ordered to pay US\$400,000 in damages
2008	contempt of court	jailed 12 days

2 *On-going trials*

charge	legal authority
participating in the assembly with 18 others outside Parliament House on 15 March 2008	Miscellaneous Offences Act s. 5(4)(b), ch. 184
participating in a procession with 18 others outside Funan Centre on 15 March 2008	Miscellaneous Offences Act s. 5(4)(b), ch. 184
attempting to participate in a procession at Speakers' Corner during the WB-IMF meeting on 16 September 2006	Miscellaneous Offences Act Rule 5, s. 5(1), ch. 184
speaking in public without a permit during SDP's newspaper sale at Blk 269 Queens Street on 12 April 2006	Public Entertainments and Meetings Act s. 19(1)(a)
speaking in public without a permit during SDP's newspaper sale at Blk 269 Queens Street on 16 November 2005	Public Entertainments and Meetings Act s. 19(1)(a)
participating in an assembly without permit at the entrance of City Hall MRT, Raffles City Shopping Centre on 10 September 2006	Miscellaneous Offences Act Rule 4(1)(a), s. 34

3 Awaiting trial or appeal

charge	legal authority
speaking in public without a permit during SDP's newspaper sale at Blk 105 Yishun Ring Road on 16 April 2006	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)
speaking in public without a permit during SDP's newspaper sale at Blk 260 Bangkit Road on 15 April 2006	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)
speaking in public without a permit during SDP's newspaper sale at Blk 19 Marsiling Lane on 9 April 2006	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)
speaking in public without a permit during SDP's newspaper sale at Blk 494 Jurong West Street 42 on 13 November 2005	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a)

4 Current police investigations

subject matter of investigation	legal authority
distributing flyers at Toa Payoh Central on National Day; assembly without a permit on 9 August 2008	<i>Miscellaneous Offences Act</i> s. 5(4)(b), para. 2
holding a vigil outside of Central Police Station at Cantonment Road; Participating in an assembly without a permit on 3 June 2008	<i>Miscellaneous Offences Act</i> s. 5(4)(b), para. 2
holding a one-man protest against Burma at the Istana Park; providing public entertainment without a license on 15 October 2007	<i>Public Entertainments and Meetings Act</i> s. 19(1)(a), ch. 257
participating in a protest against Burma outside the Istana; public assembly without a permit; public procession without a permit on 8 October 2007	<i>Miscellaneous Offences Act</i> s. 5(4)(b), ch. 184
participating in the Burma petition-signing campaign outside the Burmese Embassy; holding an assembly without a permit on 30 September 2007	<i>Miscellaneous Offences Act</i> Rule 5
distributing flyers at Orchard Road outside Takashimaya Shopping Centre; participating in an assembly without permit on 31 March 2007	<i>Miscellaneous Offences Act</i> Rule 5