
Tsun Hang Tey*

ABSTRACT

Singapore’s political leadership has molded a sophisticated press control regime that befits its “pragmatic” political ideology on the primacy of executive leadership and limited freedom of expression. This article—setting Singapore’s constitutional and legal framework and political system as a backdrop—delves into the legal structure that has been constructed, fine-tuned, and consolidated over decades of legislative amendments to explore its essential features and strictures. This article advances the view that the legal framework is reinforced with a non-legal combination of an ideologica construct of a hegemonic culture and consensus politics through strategic political co-optation. The court litigation that was resorted to for vindication also seems to have produced a reinforcing effect. The article also reflects on how the unique press control regime has turned Singapore’s de-constructed Fourth Estate into an established political institution.

I. INTRODUCTION

Singapore’s press control regime has attracted persistent criticisms from international organizations for being suppressive of the press. A simplistic view of the regime accuses it of an anti-liberal tendency in controlling the dissemination of information to the public, serving the Executive’s narrow political interests by repressing political opposition, and suppressing inde-
ependent reporting.¹ Singapore’s press control regime is more complicated, however; it is one that has been molded over decades of very carefully thought-out legislative amendments by its dominant political leadership. It is a regime that is intended to give effect to the heavily paternalistic political ideology of the constrained, yet “constructive,” role of the press—constrained by being subordinate to the primacy and political purposes of the executive leadership and constructive through nation-building.

It is a deconstructed model of the Fourth Estate, a term which refers generally to the press (as opposed to the first Three Estates composed of the clergy, the noblemen, and the commoners). Generally, the press frames political issues and relays the democratic expression of its citizens, which serve as a check and balance in the constitutional system, and therefore requires protection from the Executive. Instead, in the Singaporean model, the Executive is democratically elected and therefore has the primary duty to deliver good governance and must be protected from an unrepresentative press that is capable of obstructing such delivery.

Part II of this article sets out Singapore’s constitutional and legal structure as a backdrop and elaborates on how the political dominance and hegemonic governance obtained in Singapore allowed the political leadership to directly

---

1. Singapore became a separate colony by virtue of the Straits Settlements (Repeal) Act, 1946, 9 & 10 Geo. 6, c. 37 (Eng.) and was given a Constitution by the Singapore Colony Order in Council, 1946, Stat. R. & O. 1946/464 (Eng.). In 1953, a Constitutional Commission headed by Sir George Rendel was set up and charged with review of the Constitution. The British passed the State of Singapore Act on 1 August 1958 (State of Singapore Act, 1958, 6 & 7 Eliz. 2, c. 59). The elections of 1959 saw the emergence of the People’s Action Party (PAP) who won forty-three out of fifty-one seats. The new constitution came into force on 3 June 1959. In 1963, merger was realized and Singapore became a member of the federation of Malaysia on 6 September 1963. A new State Constitution was granted to Singapore by The Subah, Sarawak, and Singapore (State Constitutions) Order-in-Council, 1963, S.I. 1963/1493 (U.K.), as published in the State of Singapore Government Gazette (Sp. No. 51 of 1963). However, the merger was transient. Separation was effected by the Independence of Singapore Agreement signed on 7 August 1965. Singapore ceased to be a state of Malaysia on 9 August 1965 and became a sovereign and independent state.

It has to be left for another occasion to deal with Singapore’s regulatory model and control regime of the broadcast media and the Internet in an in-depth manner.

translate its pragmatic political ideology on the role and function of the press into both a legal structure and a non-legal ideological construct constituting today's elaborate press control regime in Singapore. Part III of the paper shows that the press control regime performs its role not so much by crude, repressive, and illiberal control through political and punitive coercion—the regime is only a deterrent back-up that serves as a potent symbol. Part IV of the article analyzes the press control regime, which performs its task more by an operate-behind-the-scenes, corporate-like legislative framework, adjusted and fine-tuned to achieve calibrated control. Part V of the article reinforces the idea of that framework, showing an inclusionary ideological construct of a hegemonic culture—in which the values of the political leadership are imposed on, and become the “common sense values” of the press itself—and through strategic political co-option. As Part VI of the article shows, the court litigation resorted to also seems to have produced a reinforcing effect. Singapore's sophisticated press control regime has shown its success and effectiveness in performing the task assigned to it, within a political framework of hegemonic governance. The article concludes in Part VII by reflecting on how such a unique press control regime has turned the press into an established political institution in Singapore, playing a role of maintaining the status quo.

II. POLITICAL CONTROL AND PRESS FOR "NATION-BUILDING"

Although the Constitution of the Republic of Singapore (the Constitution) embodies the fundamental principle of separation of powers, it would be overstating the case to suggest that Singapore is constituted as a liberal democracy with extensive civil liberties and effective checks and balances. The political leadership has adopted a pragmatic approach to the Constitution and the Constitution does not expressly provide for the freedom of the press.


3. "From my experience, Constitutions have to be custom-made, tailored to suit the peculiarities of the person wearing the suit. Perhaps, like shoes, the older they are, the
It does not help that various legislative and administrative measures—that
give the Executive vast, extensive, and, in a number of statutes, untrammeled
executive discretion—are in place to regulate speech on racial, religious,
and political issues, and place them within strict confines. It is a political
system that has been labeled as authoritarian to semi-democratic.¹

Singapore has seen no change of government since internal self-govern-
ment was introduced by the colonial British administration in 1959, with
the political leadership maintaining continuous hegemonic governance and
political dominance. In Singapore’s four decades of nationhood, the opposi-
tion parties have not occupied more than a small handful of parliamentary
seats.² Active opposition political parties are few in number, and lead an
almost irrelevant existence. Thus, although Singapore is a parliamentary
system based on the Westminster model, the Executive in Singapore has
had a continuous dominance over the legislative branch for decades; it has
hardly seen any real need to voluntarily limit its power substantially between
parliamentary general elections.³

The Singapore political leadership has consistently rejected a laissez-faire
approach to free speech.⁴ It has instead held firm to its brand of pragmatic

better they fit, stretch them, soften them, re-sole them, repair them. They are always
better than a brand new pair of shoes,” Prime Minister Lee Kuan Yew, quoted in 43 Parl.
Dev. 1717, 1735 (1984) (Sing.) Freedom of the Press arguably, can be afforded similar
protection under Article 14(1)(a) of the Constitution, providing for a qualified freedom
of speech and expression for every citizen in Singapore. Arguably, the Constitution of
Singapore bears much more resemblance to the European Convention on Human Rights
(ECHR) which expressly provides for a qualification to the freedom of expression.

4. A number of administrative measures were inherited from the British colonial admin-
istration. Some of these illiberal laws include the Criminal Law (Temporary Provisions)
Ed., Sing.) which allow for detention without trial. Several laws can be used to impose
penal sanctions in political speech: Penal Code (Cap. 224, 1985 Rev. Ed., Sing.) § 505;
Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184, 1997 Rev. Ed.
Sing.). Clause 70 of the proposed Penal Code (Amendment) Bill 2006 seeks to widen its
coverage to include statements to electronic and other media. See, e.g., Simon S. C. Tay,
Human Rights, Culture, and the Singapore Example, 41 McGill. L.J. 743 (1996); Li-an Thio,
Rule of Law Within a Non-liberal ‘Communitarian’ Democracy, in ASIAN DISCOURSES
OF RULE OF LAW: THEORIES AND IMPLEMENTATION OF RULE OF LAW IN TWELVE ASIAN COUNTRIES, FRANCE

5. J.B. Jeyaretnam became the first opposition member of Parliament in fifteen years (after
1963) when he won a 1981 by-election. Opposition parties won four parliamentary
seats in the 1991 parliamentary general election; that was their best result ever.

6. At the last parliamentary general election in May 2006, the People’s Action Party won
a twelfth consecutive term in office—winning an impressive 66.6 percent of the overall
votes and eighty-two out of a total of eighty-four parliamentary seats—showing neither
sign nor hint of any weakening of its total grip and entrenched hold on political power
in Singapore.

7. See Kevin Y.L. Tan, Fifty Years of the Universal Declaration of Human Rights: A Singapore
or communitarian political ideology on human rights issues, which primarily places the wider interests of the public above individuals’ rights. It is a political ideology that places primacy on constructing a political and legal framework conducive to nation-building, economic progress, and social and political stability in Singapore—of course, of the vision of its political leadership. Yet, it is a dominant political leadership that delivers, and delivers impressively—on economic progress, good governance, political stability, and law and order. Since gaining independence, Singapore has seen its standard


9. See e.g., Effective Leadership, SINGAPORE-STYLE, STRAITS TIMES (Sing.), 19 Oct. 2000; Not Drifting with the Tide but Evolving with Each Step Forward, STRAITS TIMES (Sing.), 7 Oct. 2006. See also Choe, supra note 8.

10. For a small nation with an estimated population of 4.5 million, Singapore’s Gross Domestic Product was ranked forty-fourth by the International Monetary Fund in 2006 and forty-first by the World Bank in 2005. In United States dollars, its GDP per capita was ranked twenty-fourth out of 180 members of the International Monetary Fund at close to US$30,000. At GDP at purchasing power parity per capita, Singapore was ranked seventeenth out of 179 members by the International Monetary Fund in 2006. Singapore’s efficiently run economy and political stability have brought in an impressive amount and array of investments. Government- ed island-wide industrialization has created a modern economy, with electronic and high-value manufacturing and services, finance, and international trade having significant force in its vibrant economy. In a region beset by a series of political turmoil, Singapore has enjoyed uninterrupted political stability since 1965. In contrast, Thailand has suffered a series of coup d’etats in Thailand, the latest of which removed Prime Minister Thaksin in September 2006. Indonesia has faced numerous challenges: the 30 September 1965 incident followed by the violent anti-communist purge and the rise of Suharto’s “New Order” administration; the 1998 financial crisis, followed by the Reforms crisis; and a change of three presidents before the 2004 direct presidential election. The Philippines, too, has faced challenges to its political stability. It has had conflicts with various rebel groups since 1946. Marcos’ authoritarian rule was marred by unmitigated, pervasive corruption, cronyism, and despotism from 1972–1986. More recently, the current Arroyo administration has had to suppress various attempted coups.
of living rise consistently. There has been a very impressive, uninterrupted upward trend in socioeconomic fields since the 1960s. In a region that is beset by problems of rampant corruption, it has consistently been ranked one of the most corruption-free countries in the world. Many international indices testify to this impressive and effective governance. Indeed, it is difficult to find another existing regime that can match Singapore’s continuous record of political stability that also comes with extensive and comprehensive socioeconomic development throughout its four decades of nationhood.

The political leadership of Singapore has consistently been sensitive towards political criticism. It is also a political leadership that has expended much effort articulating a limited and circumscribed raison d’être for the press and assigned to it a subordinate and constrained role, to be subject to the primary and political purposes of the executive leadership. Singapore’s first Prime Minister, and now Minister Mentor, Lee Kuan Yew, has said:

Foreign correspondents are perfectly free to report what they like. There is no censorship but they must not interfere in national affairs. Singapore reporters are free to criticize in Singapore newspapers, but no one is free to use the Singapore press to sabotage or thwart the primary purpose of an elected government. That is the job of a political party, not a newspaper. Singapore newspapers can report criticisms of the government by rival political parties but should not become propaganda sheets for them unless they state they are party papers.

Since Singapore’s independence the government has given primacy to the notion of nation-building, which entails a stronger emphasis on economic, social security, and political stability over civil liberties. Its political leadership has on occasion cited examples of how Singapore has fared extremely well in other aspects of governance to justify its political stance on limited

11. It was ranked fifth in the Transparency International Corruption Perceptions Index 2006. In the same index, Malaysia was ranked forty-fourth, Indonesia 130th, Thailand sixty-third, and the Philippines 121st. It was also ranked fifth in the Transparency International Corruption Perceptions Index 2005. In the same index, Malaysia was ranked thirty-ninth, Indonesia 137th, Thailand fifty-ninth, and the Philippines 117th. See Transparency International, available at http://www.transparency.org/news_room/in_locus/2006/cpi_2006_1.


13. See Lu Kuan Yew, From Third World to First 190 (2000) (“Freedom of the press, freedom of the news media, must be subordinated to the overriding needs of Singapore, and to the primary purpose of an elected government.”).


press freedom—namely, its development of a corruption-free state, economic freedom, and prosperity.\textsuperscript{16}

Singapore has molded a highly sophisticated legal framework that imposes close and strict regulation on the local and foreign press. Yet it is a simplistic view to suggest that Singapore's press has been suppressed by its elaborate press control regime and turned into a blunt tool to serve narrow political interests.\textsuperscript{17} Instead, the political leadership has always had high expectations of the press and has been well aware of its importance in nation-building and the need to turn the press into a political institution that is capable of playing a role in contributing to the economic progress and social and political stability of the nation. As such, the role of the press, in the eyes of the political leadership, is to serve an active, participatory, and "responsible" role of contributing to the ideal of a strong nation-building model in Singapore. The government has always been aware of the "potent influence" the press can wield and hence took the view that only through a "responsible" press will nation-building be successfully realized in Singapore.\textsuperscript{18}

The mission of the press, therefore, is confined to simple journalism and straightforward reporting.\textsuperscript{19} It operates within strict confines in terms of the latitude of journalism. The press must accept the subordinate role given to it by the Executive.\textsuperscript{20} It cannot be controlled by any individuals or corporations. Neither can it exercise its own editorial independence. It is allowed to report mistakes, corruption, and be critical of some policies. It is, however, not allowed to ridicule or lampoon the political leadership. It is not allowed to erode the public respect for elected office holders or the political leadership. Some issues regarded as fundamental by the Executive cannot be contradicted by opinion columns in the press. That is for the political parties and political contests to be carried out within the confined space dictated by the elaborate and restrictive legal structure set up in Singapore for political contestation.

The political leadership recognizes that in order for an island-state and resource-scarce country like Singapore to flourish and prosper, the educated

\textsuperscript{16} See, e.g., How Free Should a Free Press Be?, \textit{STRAIT TIMES} (Sing.), 1 Nov. 2005; Chin, supra note 1.


\textsuperscript{19} See Cherian George, \textit{Newspapers: Freedom from the Press, Paper Presented at the Conference on the Limits of Control: Media and Technology in China, Hong Kong and Singapore, Graduate School of Journalism, North Gate Hall, University of California, Berkeley (2–3 Apr. 1998), available at http://www.singapore-window.org/804102cg.htm.}

\textsuperscript{20} See Chin, supra note 1.
workforce must be supplied with sufficient flow of information and current issues. The press must also play its role as the conduit for marshalling and restructuring the political attitude of the population. It has to be an effective communication tool for the Executive and must be able to engage its readership. Therefore, the press control regime must be calibrated at the right level to ensure that it plays both a constrained, yet constructive, role in nation-building.

III. THE DETERRENT BACK-UP AS A POTENT SYMBOL

Singapore's elaborate press control regime performs its role not so much by crude and illiberal control but through political and punitive coercion. The examination of three of the most illiberal pieces of legislation in Singapore—the Internal Security Act, the Sedition Act, and the Official Secrets Act—and their rare deployment in Singapore, shows that

22. See, e.g., Chua Hian Hou, Press Freedom as Seen from East and West, Straits Times (Sing.), 26 June 2007.
23. The origins of the Internal Security Act can be traced as far back as 1948, during the Malayan Emergency in response to a communist uprising, where a set of emergency regulations were passed to allow arrest without warrant and detention without trial. In 1960, three years after Malaya independence, the Internal Security Act was enacted to retain the power of the emergency regulations after the emergency was declared over.

Historically, Singapore takes racial and social harmony seriously because of its history of racial riots in the 1960s. The Sedition Act (Cap. 290, 1985 Rev. Ed. Sing.)—along with other legislation such as the Maintenance of Religious Harmony Act (Cap. 167A, 2001 Rev. Ed. Sing.)—aims to safeguard the country's religious and racial harmony by proscribing certain behavior that may harm public peace by inciting violence between different racial groups in Singapore.

The Official Secrets Act was also inherited from the British colonial administration (Cap. 213, 1985 Rev. Ed. Sing.). It was first legislated as the Ordinance 25 of 1935. See Adrian Kwong, A Duty to Communicate: The Public Interest Defence to Offences Under Section 5 of the Official Secrets Act, 20 Sing. L. Rev. 177, 178 (1999). Its purpose was to protect the national interests from any detriment arising from any disclosure of official and sensitive information in the public. See 73 Parl. Dbs. 1817, 1934 (2001) (Sing.) ("the Official Secrets Act (OSA) guards against disclosure of official documents and information as this can be detrimental to national and public interest"); 26 Parl. Dbs. 21, 57 (1967) (Sing.) ("The Official Secrets Act is an Act designed to ensure that the official secrets of the nation are not parted with for the benefit of any foreign power.").

Historically, the Internal Security Act has been sparingly invoked by the government against individuals in Singapore. In 1963, a joint Malaysian-Singaporean "Operation Cold Stone" was launched to arrest 115 opposition party and labor union leaders. See Wee Lay Hwee, Electoral Politics in Singapore, in ELECTION POLITICS IN SOUTHEAST AND EAST ASIA
the Executive is aware of the negative political repercussions of a blunt deployment.24

Within a framework where the political leadership's first priority is to win the arguments to gain acceptance and consent, these repressive laws serve more as a deterrent back-up and a potent symbol. The deterrent back-up role of the harsh legislation had been conceded by the government in justifying an amendment made to the Newspaper and Printing Presses Act in 1986.25 At times, the political leadership would reinforce the message that it would be used against elements that could threaten its national security—as a reminder of the continuing presence of the deterrent back-up.

Section 8 of the Internal Security Act provides that the government may order preventive detention of any person acting in any manner prejudicial to the security or public order in Singapore. The initial detention may be for up to two years and may be renewed without limitation for additional periods of up to two years at a time.26 The last occasion in which coercive measures—including invoking the Internal Security Act—had to be taken against the press was in 1971.27 At that time, four executives of a Chinese language newspaper were detained under the Internal Security Act for allegedly veering its editorial policies to promote communism and chauvinism

20. 217 (Aurel Croissant et al. eds., 2002). In 1966, Chia Thye Poh, a Barisan Sosialis (Socialist Front) member, was detained without trial for twenty-three years and placed on an additional nine years of house arrest under the Internal Security Act. In 1987, twenty-two Roman Catholic Church members, social activists, and professionals, suspected to be part of a Marist plot, were arrested and detained under “Operation Spectrum.” More recently, the Internal Security Act has been invoked to arrest and detain suspected terrorists belonging to the Jemaa Ismailiah (JI) militant group. See Damien Choong, Enhancing National Security Through the Rule of Law: Singapore’s Recasting of the Internal Security Act as an Anti-terrorist Legislation, 5 Asia Rights J. 1, 7–13 (2005), available at http://spas.anu.edu.au/asiarightsjournal/Choong.pdf; Chye Soon Juan, Pressing for Openness in Singapore, 12 Democracy 157, 161 (2001); Chia Thye Poh a Free Man, Straits Times (Sing.), 27 Nov. 1998; 49 Parl. Dra. 1427, 1431–1434 (1987) (Sing.); most recently, Sue-Ann Chia, ‘Self-Radicalised’ Law Grad, 4 JI Militants Held, Straits Times (Sing.), 9 June 2007.


Some people said that this amendment is unnecessary. They said that the way to deal with these foreign publications which meddle with our domestic politics is to use the existing laws—like the Undesirable Publications Act, the Sedition Act, the Internal Security Act and the Penal Code. Let there be no illusion that the Government will hesitate to use the appropriate laws to deal with foreign publications when the situation demands. . . . But there is a Chinese saying . . . The English version is: “There is no need to use a sledgehammer to kill a fly.” Therefore, while there are existing laws which can deal with the problem of foreign press interference in Singapore’s politics, they may not be the most appropriate tool.

25. See id.


in the Chinese community. These were considered by the government to be activities that were prejudicial to the peace and security of Singapore, thereby warranting preventive detention. The message was clear: the editorial line of a newspaper could be an issue of national security and be subject to the draconian Internal Security Act. The Internal Security Act also provides for the “gazetting” of any publication by the Minister for being prejudicial to the national interests of Singapore.

It should also be noted that subsequent to the press crisis of 1971, the Newspaper and Printing Presses Act made it mandatory in 1974 for newspaper corporations to be publicly listed and to create management shares—employing a sophisticated idea from corporations law. Management shares—allocated to banks and other establishment figures and have 200 times the voting rights as ordinary shares—served as a critical mechanism for the government to influence a newspaper’s workings without directly interfering with ownership and provided effective control of the board and top editorial positions. It could be surmised that the political leadership was aware of the adverse political fall-out that could result from the deployment of repressive measures such as the Internal Security Act. A better, more subtle, mechanism of press control had to be brought into existence. We shall see, in Part IV, how this came about.

Not invoking the Internal Security Act in the past three and a half decades could point to two arguments—first, the Internal Security Act has been regarded by the political leadership as an extremely powerful deterrent.

30. By virtue of the passing of the Newspaper and Printing Presses Act 1974, No. 12 of 1974 (Sing.).
31. More on this in Part IV. This has been termed a “behind the scenes” approach to tighten the government’s grip on the press in Singapore, rather than “outright government ownership or blatant censorship” of the newspapers. See Singapore Press-Pedia, Newspaper and Printing Presses Act, available at http://presspedia.journalism.sg/doku.php?id=newspaper_and_printing_presses_act.
32. Other than the 1971 detention of four executives of Nanyang Siang Pau, the government has never invoked the Internal Security Act to detain any person in circumstances involving the press. However, the government maintains that the Internal Security Act must remain in force in the laws of Singapore, explaining that, apart from communist threats which are today negligible, “there are also other security threats such as communalism, religious extremism, international terrorism, espionage and subversion from sources other than the communists.” 54 Parl. Deb. 663, 686-87 (1989) (Sing.). See also 63 Parl. Deb. 89, 201 (1994) (Sing.); Cheong, supra note 23.
33. See 48 Parl. Deb. 319, 372 (1986) (Sing.).
piece of legislation, only to be invoked in the most serious of cases. Second, the legislative amendments to the Newspapers and Printing Presses Act that brought in the idea of management shares have worked so well in terms of achieving the desirable level of calibrated control that the political leadership found no reason to resort to using the Internal Security Act.

Another legal instrument through which the government may impose constraints on the freedom of the press is the Official Secrets Act. Although the provisions of the Official Secrets Act do not expressly deal with the press, the Act imposes a deterrent effect against the press in its reporting business. Together with the widely drafted Section 5(f) of the Official Secrets Act, the provisions of the Official Secrets Act have proven to be potent tools. Again, the history of the deployment of the Official Secrets Act shows that it is reserved as a deterrent back-up.

A relevant case is where a journalist was charged under the Official Secrets Act for disclosing estimates on Singapore's economic growth a few days prior to the permitted release of the information. The Information and the Arts Minister explained that the government's strict approach against the release of classified information was to serve as a way of "plugging the leaks"; otherwise, the government would be encouraging others to "put more holes in the can" thereby hurting the national interests of Singapore. Again, this reinforces the deterrent back-up role that the Act plays.

The Sedition Act makes it an offence for an individual to commit any acts that are associated with a seditious tendency. Section 3(1)(d) of the Act is so loosely worded that it provides an overarching catch-all provision. Section 3(1)(d) makes conduct a seditious tendency if there is disaffection or discontent among the citizens of Singapore as a result of the alleged conduct. It is hard to deny that any published information that touches on sensitive political issues, no matter how diplomatic and objective the report-

34. See Official Secrets Act (Cap. 213, 1985 Rev. Ed. Sing.).
35. See id. § 3(1)(c).
36. See also Tan Ooi Boon, What is an Official Secret?—Test is Whether Info is Authorized, Straits Times (Sing.), 25 July 1997.
38. See Peter Seiditz, Sense of Responsibility Must Follow Power of Press, B.G. Yeo, Straits Times (Sing.), 12 Aug. 1993. See also Kwong, supra note 24, at 220-21.
ing, is bound to evoke sentiments of disaffection and discontent among the population. The Sedition Act also makes specific references to seditious publications by referring to the legal consequences that will follow a seditious newspaper report. The Sedition Act was a long-forgotten Act as far as the press was concerned. It should be noted that it has been brought into use recently against young bloggers. The Penal Code, amended by the Penal Code (Amendment) Bill 2006, now has a provision that closely resembles the Sedition Act.

IV. BEHIND-THE-SCENES CALIBRATED CONTROL

The sophisticated press control regime in Singapore performs its task primarily by an operate-behind-the-scenes, corporate-like legislative framework. The main legislation controlling the press, the Newspaper and Printing Presses Act, had been subject to decades of very carefully thought-out and finely tuned legislative amendments.

It should be pointed out that restrictive legislation regulating the local press has always been a part of Singapore's legislative corpus. The press has been regulated under the Printing Presses Ordinance (and later the Printing Presses Act) since 1920. Singapore has since evolved an elaborate system of press ownership as a result of events in which the Executive had taken coercive actions against some newspapers. The licenses of the Singapore Herald and Eastern Sun were revoked in 1971 under the Printing Presses

42. See id. §§ 4(1)(c), 4(1)(d), 9.
Act.47 Both newspapers were alleged to have been funded by foreign sources and to have adopted an anti-government stance.

Subsequent to the press crisis of 1971, the Newspaper and Printing Presses Act went through significant amendments in 1974.48 The 1974 enactment of the Newspaper and Printing Presses Act introduced a statutory framework, in official representations in Parliament, aimed at repelling and excluding foreign intervention and influence from the local reporting press.49 During the 1974 enactment of the Newspaper and Printing Presses Act, the Minister articulated that the primary purpose was to safeguard the nation from “black operations” capable of subverting the social peace and harmony of Singapore.50

The most notable paradigm change in the enactment of the Newspaper and Printing Presses Act was the subtle, yet highly interventionist, stance provided by the Act. While the predecessor Act was confined only to the regulation of the press content and licensing, the current Act is more extensive and provides for the government to intervene and impose exacting constraints on the management affairs of newspaper corporations, as well as determine the composition of their boards of directors.51

Generally, under the Act, no newspaper is allowed to be printed and published in Singapore without permission from the Minister, and the Minister has the discretion to revoke or grant any permit subject to conditions, if any, attached.52 The Minister even has the power to direct the language any newspaper is to be published in.53 The Act also requires that newspaper corporations be publicly listed and creates two classes of shares: management and ordinary.54 Stringent regulatory provisions are placed on the management shares of newspaper corporations. Management shares carry 200 times the voting power that ordinary shares do.55 Only Singapore citizens or corporations approved by the Minister may be issued with management shares.56 No newspaper corporation shall refuse to issue or accept the transfer of management shares to any person granted the approval by the Minister to purchase the shares.57 The executive decision can only be appealed to the President, whose decision is final—thus, judicial review is excluded.58

47. See 33 Pub. Disc. 905, 913–14 (1974) (Sing.).
48. See id.
49. See id. at 913–32.
50. See id. at 914.
53. Id. § 21(3)(a).
54. Id. § 10(1)(b); Newspaper and Printing Presses Act 1974, No. 12 of 1974, § 9(1)(b) (Sing.).
55. Id. § 10(1)(c); id. § 9(2).
56. Id. § 10(1)(c); id. § 9(1)(c).
57. Id. § 10(2); id. § 9(2).
58. Id. § 10(3); id.
Management shares—allocated to banks and other establishment figures—served as a critical mechanism for the political leadership to influence a newspaper's workings without directly interfering with ownership and to provide effective control of the board and top editorial positions.  

The Newspaper and Printing Presses Act currently imposes a maximum of 5 percent interest in voting shares ownership in any newspaper corporation in Singapore by any corporation or individual.  

It first started off with a 3 percent interest limit. The intended result is the prevention of any group of individuals or corporations from having any determinative control over newspaper corporations. A later amendment gave the Minister the executive discretion to grant approval for a person to hold more than 3 percent of the ordinary shares. It allowed the Executive to exercise monopolistic control over the structure of press ownership in Singapore.

Through the enforcement of a whole host of regulatory measures governing the composition of the management board in newspaper corporations, the Executive could exercise control over the editorial policies of the newspapers. The Newspapers and Printing Presses Act has resulted in government-related persons or leaders filling the top management positions of newspaper corporations.

59. See id. § 10(11); id. § 9(8).
60. The shareholding limit was 3 percent prior to the Companies (Amendment) Act, No. 21 of 2005 (Sing.). See also Newspaper and Printing Presses Act (Cap. 206, 2002 Rev. Ed. Sing.), § 11(1). In 2002, the numeral "3 percent" was substituted by the words "substantial shareholder" bearing the same definition under the Companies Act (Cap. 50, 2006 Rev. Ed. Sing.), § 81 and Banking Act (Cap. 19, 2003 Rev. Ed. Sing.), § 2(1). See Newspaper and Printing Presses (Amendment) Act 2002 (Sing.) cl. 1, inserting § 10A(I). See also 75 Pte., Del. 1, 130 (2002) (Sing.).
64. It seems that the 3 percent restriction does not apply to government holding companies such as Temasek Holdings and MND Holdings for reasons grounded in the nation's financial investment interests. See 61 Pte., Del. 660, 680 (1993) (Sing.). Equally unsettling is the fact that although Government-owned companies (GLCs) remain restricted to a holding of not more than 3 percent of the ordinary shares issued by a newspaper company, these are only applied in terms of individual GLCs and not as a whole, thereby creating the possibility that several GLCs may hold a substantial percentage of the ordinary shares of a newspaper company cumulatively, something which is contrary to the monopolistic argument articulated by the government during the enactment of the Newspaper and Printing Presses Act. See 61 Pte., Del. 660, 681 (1993) (Sing.). See Newspaper and Printing Presses (Amendment) Act, No. 20 of 2002 (Sing.) cl. 3, inserting § 10A(3); Newspaper and Printing Presses Act (Cap. 206, 2002 Rev. Ed. Sing.), § 11(3).
Today, the media reporting business in Singapore is very much monopolized by the two leading media corporations: Singapore Press Holdings (SPH) and MediaCorp.\textsuperscript{66} As a result, legitimate political dissent through the press can potentially be quelled to suit the political interests and needs of the ruling political party. SPH and MediaCorp are not independent of executive influence.\textsuperscript{67} The top management posts in SPH have consistently been dominated by persons who were affiliated with the government.\textsuperscript{68}

Arguably, the enactment of the Newspaper and Printing Presses Act in 1974 was a prelude which laid the foundation for the government to develop a much more sophisticated regulatory framework against the press—for beyond the imagination and contemplation of politicians and the citizens in 1974.\textsuperscript{69} This framework has been regarded as a sophisticated regime that administers “effective, near-watertight supervision of the press without either nationalising ownership of the media or brutalising journalists,” constituting a regime “based on behind-the-scenes self-censorship,”\textsuperscript{70} rather than an “out-right government ownership or blatant censorship” of the newspapers.\textsuperscript{71}

The 1974 enactment sought to prevent local newspaper corporations from being manipulated through foreign funding to subvert the peace and stability of Singapore.\textsuperscript{72} For instance, the Act provides that for every newspaper corporation operating in Singapore, all the directors must be citizens of Singapore.\textsuperscript{73} Foreign funding of local newspaper corporations without any prior approval of the Minister is prohibited by the Act, and the only

\begin{itemize}
\item 66. SPH is a publicly-listed company, which has been the dominant publisher of newspapers (in all four official languages) since it was formed by a merger between Times Publishing Bhd, the Straits Times Press group, and SNP. The publication arm of MediaCorp, the main government-owned broadcasting corporation in Singapore, is the MediaCorp Press. It ran the publication of the free newspaper Today in Singapore from 2000 until the newspaper was acquired by SPH in 2004, following merger operations between SPH and MediaCorp. See ARTICLE 19, FREEDOM OF EXPRESSION AND THE MEDIA IN SINGAPORE 8 (2005), available at http://www.article19.org/pdfs/publications/singapore-baseLine-study.pdf. See also Seow Chiang Nee, It's Back to Media Monopoly, MALAYA SNE, 19 Sept. 2004, available at http://www.singapore-window.org/sw04/040919st.htm.
\item 67. See 33 Paar. Dtn. 905, 914 (1974) (Sing.).
\item 69. The Newspaper and Printing Presses Act was subsequently amended several times (discussed above).
\item 71. Singapore Press-People, Newspaper and Printing Presses Act, supra note 31.
\item 72. See 33 Paar. Dtn. 905, 913–14 (1974) (Sing.).
\item 73. Newspaper and Printing Presses Act (Cap. 206, 2002 Rev. Ed. Sing.) § 10(1)(a); Newspaper and Printing Presses Act 1974, No. 12 of 1974, § 9(1)(a) (Sing.).
\end{itemize}
legitimate reason for securing such approval must be based on a genuine commercial interest.\textsuperscript{74}

Soon that was regarded by the Executive to be inadequate for a proper handling of the foreign press. The 1974 enactment did not directly overcome the difficulties of the growing circulation of foreign publications in Singapore which have increasingly reported on several local issues deemed to be domestic political affairs by the government.\textsuperscript{75} To the Executive this was a serious concern. Aware of the “potent influence [the press] can wield”\textsuperscript{76} and that “the sales in Singapore of foreign publications have increased” thereby increasing their impact on the local readership,\textsuperscript{77} newspapers such as the \textit{Asian Wall Street Journal}, \textit{Far Eastern Economic Review}, and \textit{Asia Week} were regarded by the Executive as “almost like... local newspaper[s],”\textsuperscript{78} which had to be managed by a similarly elaborate regime of control. It was disclosed that when the Newspaper and Printing Presses Act 1974 was enacted, “it was not made applicable to foreign newspapers and news magazines whose ownership, management and editorial control are outside the jurisdiction of Singapore.”\textsuperscript{79}

Thus, the exclusion of “undesirable” foreign influence had to be undertaken in a systematic and elaborate manner. The result was the passing of the Newspaper and Printing Presses (Amendment) Act, No. 22 of 1986; Clause 4 provides, \textit{inter alia}, that “[t]he Minister may, by order published in the Gazette, declare any newspaper published outside Singapore to be a newspaper engaging in the domestic politics of Singapore.”\textsuperscript{80} The official parliamentary rationale for such an amendment was to limit the distribution and circulation of foreign publications deemed to be profiting from engaging in the domestic politics of Singapore.\textsuperscript{81} It was meant to hit where it hurts most—the balance sheet bottom-line of the foreign press.\textsuperscript{82}

“Gazetting”—which imposes restrictions on the distribution or circulation of foreign newspapers by declaring them to be engaging in the domestic politics of Singapore—has been employed.\textsuperscript{83} Many foreign publications,
including the *Asian Wall Street Journal*, *Asia Week*, *Far Eastern Economic Review*, *The Economist*, and *Time Magazine* have been "gazetted" by the government for "engaging in the domestic politics" of Singapore.\(^44\)

The Executive also takes the approach that foreign newspapers' entry into Singapore must be made subject to the primacy and political purposes of the Executive leadership.\(^45\) The Executive's position is that the circulation of foreign newspapers in Singapore is a privilege; it is not a right.\(^46\) The Executive justifies its harsh position on unargued assertions of fear of political chaos and adverse economic repercussions that an unrestrained circulation of foreign newspapers might bring.\(^47\)

Prior to 1990, while the Act had been substantially stringent on the registration of local newspapers, there was no similar restriction to the same effect imposed on offshor or foreign newspapers circulated in sizeable numbers locally. Addressing what he called an "anomaly" between the Act's treatment of local newspapers and foreign ones, the then Minister of State for

\(^{44}\) *Asian Wall Street Journal* had its circulation reduced from 5000 copies to 400 copies a day in 1987. See Michael Haas, *The Politics of Singapore in the 1980s*, 19 (Contemp. Asia 48, 52 (1989)). *Asia Week*, in 1987, had its circulation reduced from 10,000 copies to 500 copies a week but was subsequently raised to 7500 copies a week after *Asia Week* repented. In 1995, its circulation was again reduced to 3000 copies a week following publication of a review of a book, which the Singapore government took serious offense, with. See Francis T. Seow, *Newspapers: A Ban Is Not a Ban Unless Restricted*, available at http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN002550.pdf. *Far Eastern Economic Review* had its circulation reduced from nearly 10,000 copies to 500 copies a week in the 1980s. *The Economist*’s circulation was not reduced after it published a letter of reply by the government in full without omissions but was capped at 7500 copies per issue in 1993. See also Wendy Bokhorst-Heng, *Newspapers in Singapore: A Mass Ceremony in the Imagining of the Nation*, 24 Mea., Cultur. & Soc’y 559, 566 (2002). It was later de-gazetted and the cap of 7500 copies per issue lifted in 1994. *Time Magazine* had its circulation reduced from 18,000 copies to 9,000 copies a week in 1986 and subsequently to 2000 copies a week in 1987.

\(^{45}\) But there has been a tendency on the part of a few foreign publications, a very small minority, which try to stir up Singaporean feelings on local issues. \(\text{...}\) I am not talking about these publications writing one or two unbalanced reports. They may have published these reports based on some incomplete information from which mistaken beliefs and conclusions were formed. We would overlook this if the mistake was genuine. But if foreign publications resort to a pattern of reporting which seeks to distort the truth on local issues and to arouse the feelings of our people, then it is a different matter.

48 Parl. Dts. 319, 370-71 (1986) (Sing.). However, it remains unclear what would constitute a "pattern" that would invite government intervention in the circulation of foreign publications in Singapore.

\(^{46}\) "Circulation of foreign publications in Singapore is a privilege granted by the Singapore government on Singapore’s terms. The terms are that they should report us as outsiders for outsiders, i.e. do not become a partisan in our domestic debate. If they do not want to accept these conditions, they do not have to sell in Singapore." Lee Kuan Yew, *Singapore and the Foreign Press*, in *Press Sands at ASEAN Symp 117, 123* (Chadal Mahat ed., 1989). See also 56 Parl. Dts. 365, 403-04 (1990) (Sing.).

Communications and Information moved to rectify this by tightening further the rules on the circulation of foreign newspapers in Singapore through the Newspaper and Printing Presses (Amendment) Act of 1990.\(^8\)

Of significance is the amendment that stipulates that offshore newspapers applying for a permit to circulate must submit themselves to the jurisdiction of Singapore courts, appoint a person within Singapore to accept service of any notice or legal process on behalf of the proprietor or publisher, and furnish a deposit for the purposes of meeting any liability or costs arising out of legal proceedings taken against the foreign newspaper.\(^9\) We see how this ties in with court litigation against the foreign press in Part VI, in the form of defamation actions.

The Act thus seeks to restrict the distribution and circulation of foreign or offshore newspapers in Singapore, which have built up their circulation locally in recent years.\(^10\) “Offshore newspaper” generally means a newspaper that has its contents and editorial policies determined and published outside Singapore.\(^11\)

Under this amendment, an offshore newspaper with a circulation in Singapore of more than 300 copies per issue is required to obtain a permit from the Minister before any distribution and circulation is allowed.\(^12\) Also, the frequency of publication and distribution must not exceed intervals of one week.\(^13\) This is enforced by Section 24 of the Act whereby the Minister may gazette any newspaper engaging in the domestic politics of Singapore, thereby imposing necessary restrictions on the distribution and circulation of such a newspaper.\(^14\)

---

88. 56 Parl. Deb. 365, 402 (1990) (Sing.).
89. In 2006, the Far Eastern Economic Review (FEER) was banned in Singapore after a failure to comply with the payment of $200,000 security bond and appointment of a Singaporean representative under the Newspaper and Printing Presses Act (Cap. 206, 2002 Rev. Ed. Sing.) § 23(3)(c); Newspaper and Printing Presses (Amendment) Act 1990 (Sing.) cl. 4, inserting § 15A. This was proceeded by a defamation action. See Lee Hsien Loong v. Review Publishing Company Ltd and Another and Another Suit, [2007] 2 Sess. L. R. 453 (High Ct.), (2007) SGLHC 24, per Monon J.C. See also Stephen Wright, FEER Misses Deadline for Singapore Representative, Bond, Dow Jones Newswires, available at http://singaporetoday.wordpress.com/2006/09/25/feer-misses-deadline-for-singapore-representative-bond/. Aaron Low, PM and MCI Sue FEER for Defamation, Straits Times (Sing.), 14 Sept. 2006; Aaron Low, Govt Revokes Permit for Circulation, Sale of FEER, Straits Times (Sing.), 29 Sept. 2006; Zakir Hussain, FEER to Appeal Against Court Decision to Proceed with Suit, Straits Times (Sing.), 30 Nov. 2006; Court Rejects FEER’s Final Appeal Against Magazine Ban, Straits Times (Sing.), 4 Aug. 2007; Zakir Hussain, FEER’s Defence Flavoured, Say Lawyers for PM, MM, Straits Times (Sing.), 29 Aug. 2007; 56 Parl. Deb. 365, 403 (1990) (Sing.).
92. Id. §§ 23(7)(a), 23.
93. Id. § 23(7)(a).
94. Id. §§ 24(1)-(4).
Although the Newspaper and Printing Presses Act does not explain what “domestic politics” means, the Court of Appeal in *Dow Jones Publishing Co. (Asia) Inc. v. Attorney General* defined the term extensively:

In the context of Singapore, domestic politics would, in our view, include the political system of Singapore and the political ideology underpinning it, the public institutions that are a manifestation of the system and the policies of the government of the day that give life to the political system. In other words, the domestic politics of Singapore relate to the multitude of issues concerning how Singapore should be governed in the interest and for the welfare of its people. In this broad sense, the political, social and economic policies of the government of the day are part and parcel of the domestic politics in Singapore.

Notice had been given of the very extensive interpretation of “engaging in domestic politics” held by the Executive. This included the foreign press imposing “[its] own ideas of press freedom without the understanding of the nature of our society.”

The process of “gazetting” was itself subject to elaborate fine-tuning in 1988. Under the restraint of “gazetting,” reproduction of gazetted foreign newspapers for sale and distribution in Singapore is only permitted upon approval by the Minister, provided that there is no profiting from the reproduction of materials. This effectively means that reproduced copies of gazetted foreign publications cannot be accompanied with advertisements. Otherwise, the official rhetoric goes, the publisher would be profiting from advertisement revenues at the expense of Singapore’s political affairs. Again, this legislation was meant to hit where it hurts most—the balance sheet bottom-line of the foreign press.

It is worth noting that while the Newspaper and Printing Presses Act empowers the Minister to gazette any foreign publication that is deemed to be engaging in the domestic politics of Singapore, there is no provision that deals with the conditions under which a declared foreign publication may

---

95. *Id.* §§ 2(1), 24(1).  
98. *Id.*  
99. *Id.*  
103. See 49 Parl. Deb. 663, 671 (1987) (Sing.).
be de-gazetted per se, except that "[t]he Minister may grant his approval . . . subject to such conditions as he may impose or may refuse to grant or revoke such approval without assigning any reason." This suggests that the de-gazetting guidelines are subject to executive discretion.

The Executive is also a strong advocate and enforcer of the right of reply to newspapers and news magazines which have published any information deemed to be politically incorrect or different from what the political leadership understands the facts to be. The notion of "engaging in domestic politics" has also been extrapolated to mean a denial of a right of reply by the media. Many foreign newspapers and news magazines hold different views on the right of reply. These views include that idea that the foreign newspapers are not obliged to publish any reply submitted by an aggrieved party reported earlier in their newspapers, and even if the newspaper decides to publish a reply, the newspaper reserves the right to edit the contents of the reply by omitting certain statements made in the reply. Nevertheless, the government has adopted a strict degree of restriction against foreign publications that failed to publish its letters of reply in full.

V. AN INCLUSIONARY IDEOLOGICAL CONSTRUCT—POLITICAL CO-OPTATION AND “RESPONSIBLE JOURNALISM”

The press control regime—while reliant on an elaborate and well-calibrated legal structure—also performs its task with reinforcement by an ideological construct of a hegemonic culture in which the values of the political leadership become—and are constantly channeled, through persuasion and argumentation—the common sense values of the press itself, as well as through strategic political co-optation.


105. See Rules for Broadcasters on Politics Here, supra note 104.

106. Michael Haas argues:

A governmental “right of reply” is indeed odd. The concept of political rights can be traced to 18th century philosophers . . . who argued that government’s primary justification was to guarantee to individuals certain basic rights that would be denied in a condition of either anarchy or autocracy. . . . It is a non sequitur for a government to declare a “right,” especially a government with all the power of the role in Singapore. Governments asserting that a right to restrict information takes precedence over the right of the people to get information are indeed called “totalitarian.”

Haas, supra note 84.

107. See, e.g., How the Press Can Best Serve Singapore, supra note 21; Chin, supra note 1; Not Drifting with the Tide but Evolving with Each Step Forward, supra note 9; Singapore “is an unusual country, we run it our way,” Straits Times (Sing.), 20 Aug. 1997; Chua Mui Hoang, Govt-Media Relations: Aim for Mutual Respect, Straits Times (Sing.), 11 Nov. 2003; Sunanda K. Datta-Ray, Conquer the Enemy Within, Outlive the One Without,
Such a framework has been characteristically identified with the idea of setting out out-of-bounds (OB) markers by the political leadership against the press.108 OB markers in the context of the press demarcate the boundary that any "responsible" reporting agency should not cross in the course of its business of disseminating information to the public in Singapore; this is reflective of the strong political paternalism practiced by the political leadership in Singapore. This engenders a meticulous and intricate conditioning of political dissent and journalism in Singapore. It is not so much the form of published materials that is of concern. The content and the substance of articles sent for publishing and dissemination to the public readers have to be carefully scrutinized to ensure that they fall within the OB markers.109

Contrary to what most critics thought was a straightforward exercise of suppression by the government, the effects of the stringent regulatory framework established have manifested themselves in a culture-morphing phenomenon in the political situation of Singapore. As a result, the attitude of the press has selectively evolved over the decades into a culture of "self-censorship" and "mutual-censorship." This in turn acts as a self-imposed restriction on individuals who wish to air political views in the mainstream media. Singapore has fallen victim to this reversal of roles, with its purported underlying principle of checks-and-balances now turned against the press itself.110 The press, in reporting, must operate under a conscious reminder not to transgress the government-prescribed amorphous boundaries of substantive propriety for fear of the ensuing reprisals that may follow should it fail to be prudent.

For example, the Prime Minister articulated extensively in his 2006 National Day Rally Speech on how Singaporeans should be circumspect in their expressions of creativity through electronic means such as audio recordings as well as internet blogging and podcasts.111 The censuring of a blogger by the Ministry of Information, Communications and the Arts and the resultant suspension from his regular column in TODAY newspaper in 2006 is also an example of how OB markers are set through widely-publicized castigations of reporting behavior in Singapore.112 However, OB markers in

---


112. See Today Paper Suspend Blogger’s Column, STRATTS TIMES (Sing.), 7 July 2006.
the context of the press are by no means easily identified. This further helps maintain a widespread culture of self-censorship in the mainstream press and media.

In line with Singapore's model of political governance that places a special emphasis on economic efficiency and viability, the press is not dependent on the state. It is run commercially, profitably, and efficiently. From that perspective, the press is an institution—though not independent of the influence and close supervision of the Executive. It pays its journalists and staff well. They are highly qualified and are the best paid in the region. Some of them were once high-achieving scholars with the civil service. Singapore Press Holdings, the main local publisher of newspapers and magazines, has co-opted many former civil servants—which close links to the ruling political leadership—as its newspaper editors. The leadership in the press resembles the civil service, with a core group of highly-educated elites executing and enforcing the editorial line. It is a two-way street. Journalists too were co-opted into the top political ranks of Singapore, serving as Members of Parliament and in the Cabinet. The inclusionary ideological construct thus solidifies a press control regime that executes its political control through force and consent. The division is purely conceptual and the two, in reality and on the ground, often overlap.

VI. COURT LITIGATION & REINFORCING EFFECT

To obtain vindication, the press has resorted to litigation. Contempt of court committals have been brought against foreign press reporting on defamation actions. The almost three-decade long jurisprudence of political defamation and contempt of court in Singapore seems to have constrained the margin

113. See also Hoang, supra note 107.
115. See, e.g., 48 Pte. Inds. 385, 407 (1986) (Sing.).
116. See Special Role Media Play in Singapore, New Straits Times (Malay), 30 Sept. 2000, available at http://www.singapore-window.org/sw00000030ms.htm, which quoted Ivan Lim, President of the Singapore Confederation of ASEAN Journalists, as saying, “Newspaper editors are also co-opted to serve in the nation-building political agenda of the ruling People’s Action Party” and “In the context of Singapore’s media, Singapore not only have full-fledged journalists but also former bureaucrats who understand government policies and are very loyal to the government.”
and extent of expression and critical reporting and thus seems to have produced a reinforcing effect. It should be pointed out that the local press has not been subject to the same level of pressure and threat of defamation actions as the foreign press has. In view of the structure of press ownership in Singapore as analyzed above, this is unsurprising. Defamation actions have been brought against foreign press and even online columnists.\(^{119}\) No foreign press publisher has ever successfully defended a defamation action brought by a governing Singapore political leader in the Singapore courts.\(^{120}\)

In terms of jurisprudence, the Singapore judiciary has hardened its position in rejecting the arguments that defamation actions and contempt of court committals could constitute unlawful interference with the fundamental right of free speech under Article 14 of the Constitution.\(^{121}\) In doing so, the Singapore judiciary has refused to carry out a proper balancing exercise between free speech and the protection of individual reputation, and between the protection of its integrity and the freedom of critical reporting.

The United States public figure doctrine,\(^{122}\) which requires that politicians or public figures be more tolerant of criticism to serve the interests of free speech in a democratic society,\(^{123}\) was specifically rejected by the Court of Appeal, resulting in according equal protection to politicians and private citizens alike in Singapore.\(^{124}\)

Other major attributes of Singapore’s defamation law regime include the preclusion of election speeches as privileged discussion under Section

---


14 of the Defamation Act, that the defendant carries the burden of proving the truth of what has been said, and that the intention of the speaker is irrelevant to liability.\textsuperscript{125}

Very large damages have been awarded by the Singapore courts against the foreign press and opposition leaders who were found liable in the defamation actions brought against them. In a number of cases, as a consequence of the failure to pay these crippling damages, enforcement proceedings were undertaken, resulting in highly publicized, successful bankruptcy proceedings against prominent opposition leaders and their inability to contest parliamentary elections.\textsuperscript{126} This has led to persistent criticisms abroad that large damages have a "chilling effect" on the freedom of expression, political debate, and critical reporting in Singapore.\textsuperscript{127} The Singapore judiciary was unmoved by this criticism.\textsuperscript{128}

In 1994, the \textit{International Herald Tribune} was sued by the Deputy Prime Minister, Senior Minister and Prime Minister for publishing an article commenting on the then Deputy Prime Minister's appointments to various posts and alleging that the judiciary was used to bankrupt opposition politicians.\textsuperscript{129} In 2004, \textit{The Economist} was threatened with a defamation lawsuit for publishing a report about government-linked corporation Temasek Holding's expansion and the appointment of family members of the Senior Minister

\begin{itemize}
\item \textsuperscript{126} See \textit{Constitution of the Republic of Singapore} rt. 45(1).
\end{itemize}
to government-linked corporations. The magazine was later reported to have agreed to pay a substantial sum in damages.\textsuperscript{131}

In 1989, in \textit{Lee Kuan Yew v. Davies and Others}, a sum of $S$230,000 was awarded.\textsuperscript{132} In 1995, in \textit{Lee Kuan Yew and Another v. Vinocur and Others and Another Action}, sums of $S$300,000 and $S$350,000 were awarded.\textsuperscript{133} An examination of the defamation judgments and the underlying rationales supporting the crippling damages that were awarded by the Singapore judiciary in cases involving the political leasership reveals the following judicial reasoning.\textsuperscript{134}

First, the reasoning reflects that the vindication of the plaintiff’s reputation—in the eyes of the public before which he was defamed—featured prominently in the determination of the quantum of awards. The Singapore judiciary has placed determinative weight on the public interest of maintaining the public reputation of public men, lest they be deterred, as sensitive and honorable men, from entering politics; the judiciary further sought to ensure that the public’s perception of their leaders’ integrity would remain unaffected so as to promote effective governance.\textsuperscript{135}

Second, the reasoning indicates a belief that politicians have greater reputations to defend. The Singapore judiciary placed a special emphasis on the official political positions occupied by the government leaders in


\textsuperscript{131} [1989] 1 Sing. L. Rr. 1063 (Hig Ct.), [1989] SGHC 111, ¶ 36, 117, per Thean J.

\textsuperscript{132} [1995] 3 Sing. L. Rr. 477, [1995] SGHC 201, ¶ 13, 67, per Goh J. The first and second plaintiffs were awarded $S$300,000 each, and $S$250,000 was awarded to the third plaintiff. Further, the second defendant was made jointly liable with the other defendants for the $S$300,000 award and solely liable to the plaintiff for the additional $S$100,000: Lee Kuan Yew v. Vinocur & Ors., [1996] 2 Sing. L. Rr. 542 (Hig Ct.), [1996] SGHC 73, ¶ 29, per Rajendran J.


defamation actions. This has resulted in the application of a mechanical graduated formula—the higher the official political office or position involved, the higher the quantum of damages awarded.\(^{135}\) It also indicates that damages in political defamation cases are not premised on the notion of depreciation in the value of the plaintiff’s reputation but, rather, are viewed from the perspective of achieving vindication.\(^{136}\)

Third, the reasoning indicates that the issue of disproportionality these crippling defamation awards bear to the awards in personal injury cases is not one that troubles the Singapore judiciary.\(^{137}\)

Fourth, and most disturbingly, the reasoning indicates that while the Singapore judiciary has accorded politicians or public figures equal protection in terms of their reputation interests—vis-à-vis the private citizens—when it comes to the quantum of damages, the “high standing” of certain politicians or public office holders would yield aggravated damages.\(^{138}\)

\(^{135}\) See, e.g., Lee Kuan Yew & Anor. v. Tang Liang Hong & Ors. and Other Actions, [1997] 3 Scc. L. Rv. 91 (High Ct.), [1997] SGHC 138, ¶ 116, per Chao J.; Compare Goh Chok Tong v. Chee Soon Juan (No. 2), [2005] 1 Scc. L. Rv. 573 (High Ct.), [2005] SGHC 2, ¶ 72 (an award of $300,000 [to the Prime Minister] is appropriate in this case. This is higher than the $200,000 awarded in Suit No. 1459 as I took into account Mr. Goh’s office, the number of statements made, the persistence and hostility shown when the statements were made, and the wider republication of the statements.), with Lee Kuan Yew v. Chee Soon Juan (No. 2) [2005] 1 Scc. L. Rv. 552 (High Ct.), [2005] SGHC 2, ¶ 96, per Kan J (awarding $220,000 in damages in a defamation suit against the Minister Mentor). See also Courts Here “Should Protect Political Leaders,” Straits Times (Sing.), 9 May 1997. Compare the awards of $350,000 for the Prime Minister and $300,000 for the Senior Minister and the Deputy Prime Minister in Lee Kuan Yew & Anor. v. Vinocur & Ors. and Another Action, [1995] 3 Scc. L. Rv. 477 (High Ct.), [1995] SGHC 201, ¶ 67, per Goh J. Also notable is the difference between an award of $150,000 to the Deputy Prime Minister and $130,000 to a Cabinet Minister in Tang Liang Hong v. Lee Kuan Yew & Anor. and Other Appeals, [1998] 1 Scc. L. Rv. 97 (Ct. App.), [1997] SGCA 52, ¶ 189, per Thean J. Finally, compare the previous award of $120,000 and $55,000 to an opposition member of Parliament. See Chiam See Tong v. Ling Hwee Hoon & Ors., [1997] 1 Scc. L. Rv. 648 (High Ct.), [1996] SGHC 293, ¶ 90, per Sim Nathuran J.; Chiam See Tong v. Xin Zhang Jiang Restaurant Pte Ltd, [1995] 3 Scc. L. Rv. 196 (High Ct.), [1995] SGHC 105, ¶ 11, per Lai J.


This indicates that the Singapore judiciary has managed to de-construct the public figure doctrine. In effect, the Singapore judiciary has turned the public figure doctrine on its head; rather than protecting free speech and critical reporting, the judiciary protects the reputation of public figures by awarding them a higher quantification of damages. Compared to politicians in jurisdictions ascribing to the public figure doctrine, the Singapore public figure is twice blessed. Under Singapore's political defamation regime, politicians and public office holders enjoy as much protection as private citizens when it comes to defamation liability and critical speech injurious of their individual reputation. At the same time, it allows them to receive much higher damages than private citizens. It receives full marks for the protection of individual reputation but entirely at the expense of the freedom of political speech and critical reporting.

It should also be noted that the Defamation Act has some provisions that relate to defamatory remarks made in the newspapers and the media. Generally, information published in the newspapers enjoys a qualified—not absolute—privilege.139

In Singapore, the press must also be mindful not to publish any material whose contents are injurious to the integrity of the Singapore judiciary; a harsh regime of contempt of court exists in Singapore. The High Court and Court of Appeal of Singapore have the power to punish any individual for contempt of court.140 A remark that is directed at scandalizing the court or damaging the credibility of the judiciary's independence constitutes a contempt of court.141 The foreign press, due to its harsh reporting on defamation actions in Singapore, was the target of many contempt of court charges.

In Attorney-General v. Rang Cheng Lian and Others, two persons and a corporation were charged for contempt of court for the publication of an article in Newsweek accused to have the effect of scandalizing the courts of Singapore.142 The disputed article stated, *inter alia*, that the High Court “did little to dispel the notion that the courts here are little more than extensions of the one-party system” and that “in the courts in Singapore it makes a vital difference whether it is the government or the opposition that is in the dock.”143

The contents of the article were held to suggest that the judiciary in Singapore was biased in its decision in a particular defamation case against

---

140. See Supreme Court of Judicature Act (Cap. 322, 1999 Rev. Ed. Sing.) § 7(1).
143. Id. at 660.
a member of an opposition party. The impact of the judgment was that freelance journalists and reporters could be held liable for contempt of court even where they merely provided inaccurate background information to news publishers, even if they did not ultimately author the offending article.

In Attorney-General v. Wain and Others (No. 1), five parties were convicted for publishing in the Asian Wall Street Journal an article whose contents were held by the court to strongly suggest that the judiciary in Singapore was biased in its decision in a defamation case between the then Prime Minister and the Far Eastern Economic Review. In that case, the court ruled in favor of the former. The High Court in Wain (No. 1) followed Pang Cheng Lian and laid down the strict principles of the law of contempt, which make it relatively easy for an accused to be convicted for contempt. The harsh position taken in Wain (No.1) and Pang Cheng Lian inevitably leads to the undesirable consequence of an uncritical press due to defensive reporting practices. This harsh approach was repeated and affirmed in Attorney-General v. Chee Soon Juan.

In Attorney General v. Lingle and Others, the author of an article published in the International Herald Tribune was convicted, together with four other parties, of contempt for scandalizing the court by suggesting that the judiciary in Singapore was “compliant” to its government. While it was noted in Wain (No.1) that the defense of fair comment was not available in contempt of court proceedings, Lingle held that there was a qualified

146. [1991] 1 SING. L. REP. 383, 387, 399, 400 (High Ct.), per Sinnathuray J.
148. [1991] 1 SING. L. REP. 383, 397 (High Ct.), per Sinnathuray J.;

If it is settled law that any publication which alleges bias, lack of impartiality, impropriety or any wrongdoing concerning a judge in the exercise of his judicial function which has terminated is a contempt of court . . . . If it is sufficient to prove that the words complained of have the inherent tendency to interfere with the administration of justice.

149. [2006] SGHC 54 (High Ct.), [2006] 2 SING. L. REP. 650, ¶ 31, per Lai J.
150. [1995] 1 SING. L. REP. 696, 699, 702, 703, 710 (High Ct.), per Goh J. The contentious paragraph reads:

The intolerant regimes of the region reveal considerable ingenuity in their methods of suppressing dissidents. Techniques range from outright imprisonment, or worse, to relying upon a compliant judiciary to bankrupt opposition politicians or having out enough of the opposition to take control in a “democratic” fashion—not to mention crushing unarmed students with tanks. By contrast, trade unionsists in Europe seldom face such pressures.


151. [1991] 1 SING. L. REP. 383, 398 (High Ct.), per Sinnathuray J. See the reaffirmation of this position in Attorney-General v. Chee Soon Juan, [2006] SGHC 54 (High Ct.) (Sing.), [2006] 2 SING. L. REP. 650, ¶ 44, per Lai J.
defense of fair criticism to a charge of contempt. The court artificially divorced the two by setting an unbearably high standard for the defense of fair criticism to succeed. Notwithstanding that an alleged contemnor was genuine and harbored no malicious intentions, he will still be guilty of contempt as long as “the publication impugns the integrity and impartiality of the court.” Intention is only relevant to the question of punishment. This is ultimately an objective standard most accused would probably fail and is too high a standard. This approach was also repeated and adopted in Attorney-General v. Chee Soon Juan.

The jurisprudence shows that although the Singapore judiciary has molded a strict law of contempt of court against any publication injurious to its integrity, it has failed to appreciate the importance of achieving an appropriate balance between the social interests in preserving its integrity and the freedom of critical reporting. It is arguable that the almost three-decade long jurisprudence of political defamation and contempt of court in Singapore has constrained the margin and extent of the freedom of political expression and critical reporting; thus, it seems to have led to the undesirable consequence of an uncritical press due to defensive reporting practices and has served to reinforce Singapore’s press control regime.

152. See [1992] 1 Scc. L. Rrr. 696, 701 (High Ct.), per Goh J.
156. A range of international bodies have made harsh allegations questioning the integrity of Singapore’s legal system. See, for example, the allegations made by the Bar Association of the City of New York:

What emerges ... is a government that has been willing to designate the rule of law for the benefit of its political interests. Lawyers have been cowed to passivity; judges are kept on a short leash, and the law has been manipulated so that gaping holes exist in the system of constraints on government action toward the individual. Singapore is not a country in which individual rights have significant meaning.

VII. THE DE-CONSTRUCTED FOURTH ESTATE AS A STATE POLITICAL INSTITUTION

Fear of the press becoming a power center for political challenge to Singapore's dominant political leadership is only part of the picture. In line with the pragmatic ideology of political governance in Singapore, the press is also required to—and does—play a politically constructive role. Control, as a political solution, is also only part of the picture. Instead, the sophisticated press control regime in Singapore combines a calibrated combination of crude and illiberal, as well as a soft, operate-behind-the-scenes corporate-like legislative framework, and non-legislative means of consensus politics through inclusionary political co-optation and informal guidance. Court litigation, resorted to for vindication, seems to have produced a reinforcing effect. Singapore's is a sophisticated press control regime that comprises a calibrated combination of persuasion, consent, control, and punishment.

It is also a press control regime that has worked within a political framework of hegemonic governance. In fact, it has shown to be very successful in performing the task assigned to it by the political leadership: playing the role of an establishment political institution and maintaining the status quo. It is a unique de-constructed model of the Fourth Estate, fulfilling the vision of the political leadership for the press within the overall pragmatic political ideology holding sway over Singapore.