

# Criminalisation of Homosexuality

Updated 25 October 2015

	<b>Singapore</b>	
<p><b>National Law:</b> <i>Penal Code (Revised Edition 2008)</i><sup>1</sup></p> <ul style="list-style-type: none"> <li>- <b>S377A:</b> Gross Indecency<sup>2</sup></li> </ul>	<p><b>Maximum Penalties:</b></p> <ul style="list-style-type: none"> <li>- 2 years' imprisonment</li> </ul>	<p><u>Treaty Ratification</u></p> <p style="text-align: center;">CEDAW CRC</p>
The law is applicable only to men.		
<p>Enforcement</p>	<ul style="list-style-type: none"> <li>- During a Parliamentary debate on the repeal of section 377A, Prime Minister Lee had stated that authorities would not actively enforce the statute.<sup>3</sup> Despite this statement by the Prime Minister, in the 2012 case of <b>Tan Eng Hong</b> the Court of Appeal refused to accept that this meant there would be no enforcement of this law: <i>'It may simply mean that the police will not purposely seek out adult males who carry out such activities with a view to charging them, but if they happen to come across such activities being committed or if they receive complaints of such activities, they will then arrest and charge the relevant persons under S377A.'</i><sup>4</sup></li> <li>- Prosecutions under section 377A are rare and there is only one such reported case publicly available. In 2010 Tan Eng Hong and Chin Chee Shyong were charged under section 377A. Those charges were later dropped and brought under another section which both men pleaded guilty to. The Court, however, granted leave to challenge the constitutionality of the original prosecution.<sup>5</sup></li> </ul>	
<p>Statements by Public Figures</p>	<ul style="list-style-type: none"> <li>- <b>4 June 2015:</b> Prime Minister Lee Hsien Loong, during an interview with several journalists from ASEAN, said: <i>'There is space for the gay community but they should not push the agenda too hard because if they push the agenda too hard, there will be a very strong pushback... We do not harass them or discriminate against them.'</i><sup>6</sup></li> <li>- <b>3 May 2014:</b> After a newspaper reported that Goldman Sachs will be hosting a recruitment and networking dinner for LGBT students at its office in Singapore, Minister for Social and Family Development Chan Chun Sing reportedly wrote a Facebook post stating that foreign companies <i>'should not venture into public advocacy for causes that sow discord amongst Singaporeans.'</i><sup>7</sup></li> <li>- <b>15 February 2014:</b> A Pastor in Singapore started an anti-gay petition having referred to gay rights as the <i>'onslaught of the evil one[s]'</i>. The petition came</li> </ul>	

following the release of an online brochure by the Singapore Health Promotion Board which stated that *'homosexuality and bisexuality are not mental illnesses... [and] are not too different from a heterosexual relationship'*.<sup>8</sup>

- **29 January 2014:** Singapore Prime Minister, Lee Hsien Loong, reportedly told students at the Nanyang Technological University, that it was not the government's job to make people believe in gay rights, adding that religious values must be respected. The statement comes after he questioned the need to remove Singapore's anti-gay laws in January 2013: *'Why is that law on the books? Because it's always been there and I think we just leave it.'*<sup>9</sup>
- **28 August 2013:** Vincent Wijesingha, Singapore's first openly gay politician and former leader of the Singapore Democratic Party, resigned from his position in order to concentrate on LGBT issues: *'In a political party, you are involved with a whole spectrum of policy issues... you have to balance the priorities and insights of people from a whole range of demographics, so that may suggest that I can't focus my work on civil liberties and LGBT issues, which I think there is a need for.'*<sup>10</sup>
- **6 May 2011:** At Singapore's first ever Universal Periodical Review, the country's UN delegate reportedly stated: *'What is being criminalised is not gay Singaporeans but homosexual acts between men. An extensive public consultation was held and the matter was considered at the highest political levels. It was not taken lightly and in the end it was decided to leave things be. The Singaporean police have not been proactively enforcing the provision and will continue to take this stance.'*<sup>11</sup>
- **23 October 2007:** Speaking in Parliament the Prime Minister refused to alter Singapore's anti-gay laws: *'...this is not an issue where we can reach happy consensus and abolishing section 377A, were we to do this, is not going to end the argument in Singapore. Among the conservative Singaporeans, the deep concerns over the moral values of society will remain and among the gay rights' activists, abolition is not going to give them what they want because what they want is not just to be freed from section 377A, but more space and full acceptance by other Singaporeans. And they have said so. So, supposing we move on 377A, I think the gay activists would push for more, following the example of other avant garde countries in Europe and America, to change what is taught in the schools, to advocate same-sex marriages and parenting, to ask for, to quote from their letter, '...exactly the same rights as a straight man or woman.' This is quoting from the open letter which the petitioners wrote to me. And when it comes to these issues, the majority of Singaporeans will strenuously oppose these follow-up moves by the gay campaigners and many who are not anti-gay will be against this agenda, and I think for good reason. Therefore, we have decided to keep the status quo on section 377A.'*<sup>12</sup>

<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> <li>- <b>22 May 2015:</b> Singapore's censorship board, the Media Development Authority, reportedly issued a document to all TV and radio stations banning the broadcast of a song based on the true story of a lesbian couple, which it said promoted gay marriage and therefore contravened Singaporean law.<sup>13</sup></li> <li>- <b>4 March 2015:</b> Singapore's High Court fined a prominent dissident blogger and gay rights activist S\$8,000 for making statements that '<i>crossed the legal boundary and constitute scandalising contempt</i>' in an article where he criticised the Court of Appeal for the legal proceedings that resulted in the dismissal of lawsuits seeking to overturn Section 377A of the Penal Code. In October 2013, he had claimed that the hearing dates on the constitutional challenge had been rigged so that the Chief Justice could avoid a conflict of interest.<sup>14</sup></li> <li>- <b>2014:</b> The 2014 US Report on Human Rights Practices in Singapore suggested that the government did not censor international news channels but did censor entertainment programs to remove or edit representations of intimate gay and lesbian relationships.<sup>15</sup></li> <li>- <b>17 July 2014:</b> Singapore's Media Development Authority banned the sale of an Archie comic book for its frank depiction of gay marriage.<sup>16</sup></li> <li>- <b>11 July 2014:</b> The Singapore government ordered the National Library Board to remove from library shelves and destroy three children's books that portray gay, lesbian or 'unconventional' families. One of the books, the multi-award winning <i>And Tango Makes Three</i>, recounts the real life-inspired story of two male penguins raising a baby chick at New York's Central Park Zoo.<sup>17</sup></li> <li>- <b>30 May 2013:</b> Singapore's Media Development Authority announced plans for a new rule which would require websites to apply for a licence should they attract 50,000 or more unique visitors from Singapore within a two month period. Those applying for a licence must conform to existing regulations regarding the promotion of homosexuality. Any article not in conformity with those regulations will be removed within 24 hours, and the publisher issued a large fine.<sup>18</sup></li> <li>- <b>2009:</b> Singapore's Media Development Authority (MDA), in its guidelines for imported publications, prohibits comics and other illustrated material that depict or discuss '<i>alternative lifestyles or deviant sexual practices</i>', listing homosexuality as an example of such (alongside '<i>group sex and sadomasochism</i>'). These guidelines define alternative lifestyle as '<i>unconventional manner of living atypical of the concept of the traditional family e.g. homosexuality and bisexuality</i>'.<sup>19</sup></li> <li>- There are few reported instances of violence against LGBTI people.</li> </ul>
	<ul style="list-style-type: none"> <li>- <b>19 November 2014:</b> The UN General Assembly's Third Committee adopted a</li> </ul>

Legislative News	<p>resolution on Extrajudicial, summary or arbitrary executions in November 2014.<sup>20</sup> This is introduced biennially and urges States to protect the right to life of all people. Significantly, this resolution calls upon States to investigate killings based on discriminatory grounds, including killings that target people based on their sexual orientation or gender identity. Singapore voted in favour of the resolution.<sup>21</sup></p> <ul style="list-style-type: none"> <li>- <b>28 October 2014:</b> Mr Tan Eng Hong mounted a challenge to the constitutionality of section 377A of the Penal Code after he was arrested and charged under that provision in 2010. Mr Lim and Mr Chee, a gay couple, had never been charged but brought a separate challenge in 2012 alleging that the mere existence of the gross indecency law violates their fundamental rights. Both cases were dismissed by the High Court in early 2013, and appeals were lodged with the Court of Appeal, the final appellate court in Singapore. The Court of Appeal dismissed the appeals on 29 October 2014.<sup>22</sup></li> <li>- <b>2011:</b> (UPR) Singapore rejected the recommendations to decriminalise sexual activity between consenting adults of the same sex.<sup>23</sup></li> <li>- <b>2007:</b> The Ministry of Home Affairs began a comprehensive review of the Penal Code and in October 2007, submitted the Penal Code (Amendment) Bill to Parliament which proposed seventy amended provisions and four repealed provisions. One of the changes was to decriminalise oral and anal sex between a male and a female (section 377). However, section 377A which prohibited oral and anal sex between two males was retained.<sup>24</sup> On 22 October 2007, Siew Kum Hong tabled a petition to the Parliament for the repeal of section 377A of the Penal Code. After two days of debate the Parliament opted to keep section 377A and the Bill was passed as such.<sup>25</sup></li> </ul>
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<sup>1</sup> The law is :

<http://statutes.agc.gov.sg/aol/search/display/view.w3p?page=0;query=DocId%3A%22025e7646-947b-462c-b557-60aa55dc7b42%22%20Status%3Ainforce%20Depth%3A0;rec=0>

<sup>2</sup> *Penal Code (Revised Edition 2008)*, s.377A: "Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years."

<sup>3</sup> Hansard, Parliament of Singapore, vol 83 col 2397 (23 October 2007)

<<http://sprs.parl.gov.sg/search/report.jsp?currentPubID=00004748-WA>> accessed on 19 July 2014.

<sup>4</sup> *Tan Eng Hong v Attorney-General* [2012] SGCA 45, para. 180

<sup>5</sup> Asia One News, *Lawyer challenges Section 377A of Penal Code* (Asia One News 27 September 2011)

<<http://news.asiaone.com/News/AsiaOne+News/Singapore/Story/A1Story20110927-301840.html>> accessed on 19 July 2014

<sup>6</sup> Wong Siew Ying, *Singapore not ready for same-sex marriage as society is still conservative: PM Lee* (The Straits Times 5 June 2015) <<http://www.straitstimes.com/singapore/singapore-not-ready-for-same-sex-marriage-as-society-is-still-conservative-pm-lee>> accessed on 9 September 2015

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- <sup>7</sup> Sylvia Tan, 'Respect local culture': Singapore minister rebukes US investment bank for LGBT recruitment drive (Gay Star News 3 May 2014) <<http://www.gaystarnews.com/article/respect-local-culture-singapore-minister-rebukes-us-investment-bank-lgbt-recruitment-drive03/>> accessed on 9 September 2015
- <sup>8</sup> Sylvia Tan, Singapore anti-gay pastor behind petition targeting health ministry (Gay Star News 15 February 2014) <<http://www.gaystarnews.com/article/singapore-anti-gay-pastor-behind-petition-targeting-health-ministry150214>> accessed on 19 July 2014
- <sup>9</sup> See: Andrew Potts, Singapore PM Lee says Government must not lead popular opinion on LGBTI rights (Gay Star News 29 January 2014) <<http://www.gaystarnews.com/article/singapore-pm-lee-says-government-must-not-lead-popular-opinion-lgbti-rights290114>> accessed on 19 July 2014; Global Gayz, Singapore PM criticised for defending anti-gay sex law (Global Gayz 29 January 2013) <<http://archive.globalgayz.com/asia/singapore/singapore-pm-criticised-for-defending-anti-gay-sex-law/>> accessed on 19 July 2014
- <sup>10</sup> Jeanette Tan, Vincent Wijesingha quits Singapore Democratic Party (Yahoo News Singapore 28 August 2013) <<https://sg.news.yahoo.com/vincent-wijesingha-resigns-from-singapore-democratic-party-100944974.html>> accessed on 19 July 2014
- <sup>11</sup> Sylvia Tan, Singapore UN delegate: 'What is being criminalised is not gay Singaporeans but homosexual acts' (Fridae 11 May 2011) <<http://www.fridae.asia/gay-news/2011/05/11/10867.singapore-un-delegate-what-is-being-criminalised-is-not-gay-singaporeans-but-homosexual-acts#sthash.6FGyWSOH.dpuf>> accessed on 4 September 2015
- <sup>12</sup> Hansard, Parliament of Singapore, vol 83 col 2397 (23 October 2007) <<http://sprs.parl.gov.sg/search/report.jsp?currentPubID=00004748-WA>> accessed on 19 July 2014
- <sup>13</sup> Darren Wee, Singapore bans lesbian-themed song by gay icon Jolin Tsai (Gay Star News 22 May 2015) <<http://www.gaystarnews.com/article/singapore-bans-lesbian-themed-song-gay-icon-jolin-tsai220515/>> accessed on 9 September 2015
- <sup>14</sup> Selina Lum, Blogger Alex Au fined \$8,000 for contempt of court (The Straits Times 5 March 2015) <<http://www.straitstimes.com/singapore/courts-crime/blogger-alex-au-fined-8000-for-contempt-of-court>> accessed on 9 September 2015
- <sup>15</sup> Bureau of Democracy, Human Rights and Labor, Country report on human rights practices for 2014:Singapore (US Department of State 25 June 2015) <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236474>> accessed on 9 September 2015
- <sup>16</sup> Nash Jenkins, Singapore Has Banned an Archie Comic for Depicting a Gay Wedding (Time 17 July 2014) <<http://time.com/3000130/singapore-has-banned-an-archie-comic-for-depicting-a-gay-wedding/>> accessed on 9 September 2015
- <sup>17</sup> Charlie Campbell, Singapore Provokes Outrage by Pulping Kids' Books About Gay Families (Time 11 July 2014) <<http://time.com/2975400/singapore-lgbt-gay-family-library-book-and-tango-makes-three-white-swan-express-whos-in-my-family/>> accessed on 9 September 2015
- <sup>18</sup> Anna Leach, New web censorship rule bans gay content in Singapore (Gay Star News 30 May 2013) <<http://www.gaystarnews.com/article/new-web-censorship-rule-bans-gay-content-singapore300513>> accessed on 19 July 2014
- <sup>19</sup> Media Development Authority, Content Guidelines for Imported Publications (2009) <[http://www.mda.gov.sg/RegulationsAndLicensing/ContentStandardsAndClassification/Documents/Publication%20and%20Audio%20Materials/indus\\_publishing\\_Policies%20and%20Legislation\\_imported%20mags%20guidelines.pdf](http://www.mda.gov.sg/RegulationsAndLicensing/ContentStandardsAndClassification/Documents/Publication%20and%20Audio%20Materials/indus_publishing_Policies%20and%20Legislation_imported%20mags%20guidelines.pdf)> accessed on 9 September 2015
- <sup>20</sup> United Nations General Assembly, *Extrajudicial, summary or arbitrary executions* (14 November 2014) A/C.3/69/L.47/Rev.1
- <sup>21</sup> United Nations General Assembly, *Vote name: A/C.3/69/L.47/Rev.1 Extrajudicial, summary or arbitrary executions* (19 November 2014) <[http://www.un.org/en/ga/third/69/docs/voting\\_sheets/L47.Rev1.pdf](http://www.un.org/en/ga/third/69/docs/voting_sheets/L47.Rev1.pdf)> accessed on 9 September 2015
- <sup>22</sup> *Lim Meng Suang and another v Attorney-General and another matter* [2014] SGCA 53
- <sup>23</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Singapore* (11 July 2011) UN Doc A/HRC/18/11

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<sup>24</sup> National Library Board Singapore, *Penal Code section 377A* (Singapore Infopedia)  
<[http://eresources.nlb.gov.sg/infopedia/articles/SIP\\_1639\\_2010-01-31.html](http://eresources.nlb.gov.sg/infopedia/articles/SIP_1639_2010-01-31.html)> accessed on 9 September 2015

<sup>25</sup> Hansard, Parliament of Singapore, vol 83 col 2354 - col 2445 (23 October 2007)  
<<http://sprs.parl.gov.sg/search/report.jsp?currentPubID=00004748-WA>> accessed on 9 September 2015