

STATEMENT by SAYONI
Supported by ASEAN SOGIE CAUCUS
On behalf of the LGBTQ communities in Singapore
UPR Pre-Session, Geneva, 16th December 2015

Dear representatives of the Permanent Missions,

1- Presentation of the Organisation

This statement is delivered on behalf of SAYONI, a queer women's group which works to organise and advocate for the human rights of all LGBTQ persons based in Singapore, and ASEAN SOGIE Caucus a regional network of LGBT groups in ASEAN. Sayoni and ASC submitted two UPR reports to this session. First, together with a coalition of 10 civil society groups named the 'Alliance of Like-minded Civil Society Organisations in Singapore (ALMOS) as a civil society stakeholder to highlight the intersectional discrimination of LGBTQ individuals in the civil and political space. Second, with a coalition of international LGBTQ organisations and national groups to point out the systematic discrimination faced by LGBTQ persons in Singapore

2- National consultations for the drafting of the national report

There were one grassroots open consultation held in January 2015 by Sayoni and about 30 individuals and groups attended. There were two national consultations held by the Ministry of Foreign Affairs which approximately 20 NGOs attended. A third subsequent dialogue session was arranged with Ministry of Foreign Affairs by the civil society coalition I am part of, ALMOS.

3- Plan of the Statement

The statement will address:

- I. Criminalization of consensual sex between men under Section 377A of the Penal Code in Singapore
- II. The right to freedom of expression - Media censorship, disallowing neutral or positive portrayal of LGBTQ persons
- III. The right to freedom of association - To allow legal registration of LGBTIQ organisations with the authorities as a Society or Non-Profit Organisation
- IV. The right to family life for LGBTQ persons
- V. Rights of Transgender people
- VI. Workplace discrimination

4- Statement

I. Section 377A of the Penal Code

A. Follow-up to the first review

In the first cycle of the UPR, France raised the question of the abolishment of the provisions of the Penal Code related to private relations between consenting adults which was noted by the state of Singapore. Similarly, the issues related to sexual orientation was raised by the UK, and in advance by Canada, Ireland and The Netherlands.

B. New developments since the last review

In reply, the state has consistently stated that there are no discrimination towards LGBTQ persons in Singapore and Section 377A has not been proactively enforced. We think that the state is being misleading and ignoring the cascading and intersectional effects of 377A.

Section 377A of the Singapore Penal Code, criminalises "acts of gross indecency" between men, including sodomy, and imposes a term of up to 2 years imprisonment. The section applies specifically to men, and may be applied regardless of whether those acts are committed in public or private spaces. The continuing criminalisation of sexual activity between men, together with legislative and administrative framework of discrimination of LGBT persons, constitute violations by Singapore of a number of rights under international human rights law, including the right to privacy and the right to equality and non-discrimination.

In October 2014, the Singaporean Court of Appeal ruled to uphold the constitutionality of section 377A of the Penal Code. The Office of the High Commissioner for Human Rights, international non-governmental organisations and Singaporean LGBT groups have expressed dissatisfaction at the Court's decision. Despite government claims that 377A will not be enforced, gay men continue to live under the threat of harassment and enforcement of this section. It also influences public policy formulation that discriminate against the entire LGBT community.

C. Recommendations

- Repeal legal provisions criminalising sexual activity between consenting adults of the same sex

II. Right to Freedom of Expression - Media Censorship

A. Follow-up to the first review

There was no recommendation made in the first cycle on this issue.

B. Developments since the first review

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

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

Depictions of LGBT characters in normal or positive light, or any speech that advocates for their dignity and rights are routinely cut out or barred. The result of this stereotypical, negative and skewed depiction is a perpetuation of prejudice and stigma to the public of the LGBT community. Such censorship policy also means that LGBT persons are deprived of positive role models in the media, reinforcing low self-esteem and rendering them accepting of discrimination and rights abuses.

C. Recommendations

We therefore urge that the continued practice of state-sponsored censorship in the media to be raised during the upcoming UPR, and that the following recommendations are made: To:

- Remove all censorship policies/guidelines that allow for the discriminatory treatment of LGBT-related material and viewpoints
- Ratify ICCPR, in which Article 19 protects the right to the freedom of expression.

III. The right to freedom of association. To allow legal registration of LGBTIQ organisations

A. Follow-up to the first review

There was no recommendation made in the first cycle on this issue.

B. New developments since the last review

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

LGBT groups were denied registration by the Registrar of Societies and given reasons like "contrary to the national interest" as response. No elaboration were given on how LGBT interests could be contrary to the national interest. In recent years, LGBT organizations are also not allowed to register as non-profit organizations and given the same reason. Thus, LGBT groups, operate under threat of arrest and prosecution. Even without such clampdowns, the lack of legal status means an inability to self-actualize, organize or raise

funds in any organised way, and denial of access to mainstream media or other public or private services wary of giving legitimacy to unregistered groups.

C. Recommendations

- Allow registration LGBT-related groups under the Societies Act or as non-profit organizations.
- Ratify ICCPR, in which Article 22 protects the right to freedom of association

IV. The right to family life - Section 12(1) of the Women's Charter that defines marriage as between a man and a woman

A. Follow-up to the first review

There was no recommendation made in the first cycle on this issue.

B. New developments since the last review

Neither the law nor the state recognises same-sex relationships. Even marriages contracted in other jurisdictions between same-sex partners are specifically not recognised in Singapore. Under Section 12(1) of the Women's Charter which defines marriage as between a man and a woman, this has been a major cause of discrimination and lack of protection as experienced by same-sex couples and those in transnational same-sex marriages in Singapore. In particular, legally married transnational same-sex couples have not been able to stay in the same country as their legal spouse.

Consequently, many benefits and rights enjoyed by married opposite-sex couples are denied to same-sex couples. These include employee benefits whose scope extend to spouses, medical visitation and next-of-kin rights, rights to purchase subsidised public housing from the state and tax breaks for married couples.

Children born in same-sex families do not enjoy the same rights, benefits or tax breaks as other children since the legal standard is applied to them as a single parent. These children do not enjoy the same legal rights and has no way to be legally cared for and maintained by the non-legal parent, the right to have guaranteed continuity in the event of a separation of the same-sex couple or the death of the legal parent or even to acquire kinship of the non-legal parent.

C. Recommendations

- Amend Section 12(1) of the Women's Charter and permit registration of same-sex marriages.
- Enact general legislation on recognition and protection of rights and duties of same-sex partners
- Enact general legislation on recognition and protection of rights of children from same-sex households.

V. Rights of Transgender people

A. Follow-up to the first review

There was no recommendation made in the first cycle on this issue.

B. New developments since the last review

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

The administrative practice is that a transgender person shall have their sex at birth recorded on the identity card even when the person clearly identifies with and presents themselves as someone of the opposite gender. The "sex" entry on the identity card, and by extension the passport, is not changed unless the individual can prove that he or she has undergone the full scope of sex-reassignment surgery.

For the majority of transgender people, this is neither affordable, practicable, nor wanted. The result is a life lived in contradiction, between their documented sex and lived gender. The state issued identity card thus becomes an instrument by the state and others to inflict social humiliation. Furthermore, while transgender people have been identified as a key affected population by UNAIDS and the WHO, statistics on HIV/AIDS in Singapore are not disaggregated for transgender people. This results in policies and services not being sensitized to the particular needs and behaviours of transgender men and women.

C. Recommendations

- Issue Identity Cards that correctly identify the chosen sex for the transgender person without prove of surgery through an effective and fast administrative procedure.
- Focus on more targeted public health interventions for transgender men and transgender women by first identifying and disaggregating the national HIV data for this specific group.

VI. Workplace discrimination

A. Follow-up to the first review

There was no recommendation made in the first cycle on this issue.

B. New developments since the last review

- Workers face significant widespread employment discrimination on the bases of sex, gender, race, ethnicity, religion, age, sexual orientation, gender identity, marital status and disability. With limited exceptions, there is no legal duty for employers not to discriminate and workers facing discrimination have no legal right to redress.
- The Tripartite Alliance for Fair Employment Practices (TAFEP) and the Ministry of Manpower may receive complaints from workers, but TAFEP has no enforcement powers and the Ministry acts on a purely discretionary basis.

C. Recommendations

- Enact legislation
 - (i) to prohibit employers from discriminating on the basis of sex, gender, race, ethnicity, religion, age, sexual orientation, gender identity, marital status or disability;
 - (ii) to form a specialised employment tribunal to adjudicate complaints arising under this legislation; and
 - (iii) to prescribe that contraventions of this duty of non-discrimination carry civil liability for compensatory damages.

Sayoni

Supported by :

