

Control, Co-Optation and Co-Operation: Managing Religious Harmony in Singapore's Multi-Ethnic, Quasi-Secular State

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State and Religion: The Imperative of Managing a Multi-Religious Society

...a nation based on one race, one language and one religion,
when its people are multi-racial, is one doomed for destruction¹
- Law Minister E. W. Barker, 1965

The governors of a multi-ethnic, multi-religious state which is based on political authority derived from secular laws, rather than theocratic mandate, are aware of the paradoxical quality of Religion as a force for peace and conflict. Indeed, the root word *re* (to bind) *legare* (what is broken) suggests that Religion is something which is redemptive in its healing quality. However, pragmatism informed by history reveals the need to maintain ethnic and religious cohesion as religious conflicts can tear plural societies apart. Religion is too potent a force to disregard or attempt to coercively eliminate, in a manner reminiscent of totalitarian states where the Hegelian or Communist state deifies itself as the source of ultimate authority and demands allegiance from citizens. Religion or irreligion is a strong source of identity and given the mutual exclusivity of theistic and anti-theistic worldviews, every society grapples with the question of how to agree to disagree and live together in peace in this lifetime.

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1. 24 *Singapore Parliamentary Debates* 22 December 1965 at 429.

What norms, institutions and ethos best secure the pacific co-existence of distinct religious and ethnic groups within a society which is committed to democratic pluralism?

This article seeks to investigate this question within the context of the experiment undertaken by Singapore to manage religious freedom and preserve social harmony within a multi-ethnic secular state which practices a 'managed' or 'soft authoritarian' form of corporatist democracy.² As a cautionary tale, former Prime Minister Goh Chok Tong drew an interesting parallel between Singapore and the former Yugoslavia to underscore the fragility of state cohesion in the face of separatist pulls fuelled by religious and ethnic differences. He noted that "Singapore is not yet a nation, it is only a state, a sovereign entity. . . We do not all speak the same language. Nor do we share the same religion and customs. We have different ancestors."³ Similarly, he noted of the Yugoslavia "cobbled together"⁴ by Tito after World War Two that, "There was never a Yugoslavia nation. The break-up of the former Yugoslavia illustrates that a nation is not just a collection of peoples under a common constitutional framework."⁵

Thus, in non-homogenous nations like Singapore and Yugoslavia, preserving social cohesion is central to state survivability as Yugoslavia imploded after only 45 years as "Belgrade could not hold the different tribes together."⁶ Singapore, which has been an independent republic for 40 years, was "too small to break up into two or three separate countries. But racial riots can tear the country apart."⁷ The official state policy towards managing the multi-cultural composition of Singapore is that it will never be a melting pot, as the different ethnic groups want to preserve their distinct traits in terms of customs, culture, language, and in some cases where ethnicity and religion are closely correlated, faith. Singapore's strategy to "create the Singapore tribe"⁸ has been, some argue artificially, to construct a unifying national identity, through an emphasis on a common

2. See generally Li-ann Thio, 'Lex Rex or Rex Lex: Competing Conceptions of the Rule of Law in Singapore' 20 *UCLA Pacific Basin L.J.* 1 (2002).

3. Speech by Prime Minister Goh Chok Tong on Singapore 21 Debate in Parliament on 5 May 1999, archived at <http://www.singapore21.org.sg/speeches.html> <visited 1 June 2005>.

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

citizenship and through promulgating a set of “shared values.”⁹ Furthermore, there has been an attempt to manage ethnic relations by recognizing a “common area” where all ethnic groups interacted, with English as the common language in a setting with equal opportunities for all. Outside this, each community has a “separate area”¹⁰ wherein to retain and speak its own language and express its cultural identity, noting that this “practical approach of nation-building whereby every community has two playing fields has given us multi-racial harmony.”¹¹ Although ethnic and religious tensions persist, the relative peace (or absence of overt religious disharmony) that Singapore has enjoyed since Independence has earned it the title of being the “Switzerland of the East.”¹²

This article focuses on 3 themes oriented towards examining how Caesar relates to God: through state attempts to control, co-opt and co-operate with Religion. In so doing, it demonstrates the ambivalent attitude of the state towards Religion and the contours of religious freedom, pluralism and harmony within the Singapore model. Part I sets out the historical background and constitutional framework which establishes Singapore’s model of accommodative secularism and religious pluralism. Part II engages the themes of the extent to which the state seeks to control, co-opt and co-operate with Religion and the religious communities, contextualizing the discussion with specific illustrative examples. It first discusses the state’s perception of religion as ‘constructive’ to the extent that the state seeks to co-opt and co-operate with religions or religious groups. In relation to co-optation, this theme is explored through examining the botched religious studies scheme which the government introduced to public schools in an attempt to shore up national values in the 1980s. With respect to co-operation, it examines what the state envisages to be the

9. Shared Values White Paper (Singapore National Printers: Cmd 1 of 1991). This paper, a statement of national values, has been criticized by some as a top-down imposition of Neo-Confucianist communitarian values which emphasis political stability, racial and religious harmony and respect rather than distrust for authorities, which tends to buttress the status quo. The five declared values are: (i) nation before community and society above self; (ii) family as the basic unit of society; (iii) regard and community support for the individual; (iv) consensus instead of contention and (v) racial and religious harmony. See generally *In Search of Singapore’s National Values*, Jon TS Quah ed. (Singapore: Times Academic Press, for Institute of Policy Studies, 1990).

10. *Id.*

11. Speech by Prime Minister Goh Chok Tong on Singapore 21, 5 May 1999, *supra*, note 3.

12. ‘Geneva latest European city to attract S’pore investors’, *Straits Times* (Singapore) 22 Oct 1993 at 44.

permissible realms of religious activity in the public sphere. It considers which matters the state will enter into co-operative ventures with, *vis-a-vis* religious groups. The discussion then turns to state perceptions of religion as negative or threatening and attempts to control religious activity and expression. The perceived and actual threats to social order posed by Religion and the formal legal and informal control mechanisms employed by the State are examined. These threats include fears with respect to religious extremism and terrorism, aggressive proselytization and government insecurity towards perceived religious challenges to its political authority or controversial national policies. The conflictive dimension of Religion must be balanced against the crucial role it plays in buttressing the peace architecture of the state, particularly with respect to its socializing function within faith communities. Religion is also foundational to maintaining a democratic society and protecting group and individual autonomy which sustains civil society and curbs the undue expansion of state power. Notably, the state ‘privatizes’ Religion to some extent through the recognition of communal religious authority and exempts the application of general laws to certain religious and personal laws. This is examined in light of the Administration of Muslim Law Act¹³, which imports a degree of limited legal pluralism into the common law framework, a legacy of British colonialism. Part III draws conclusions from these case studies and seeks to provide insights into the role of religion in public life and how ‘religion’ and ‘politics’ is differentiated and treated within the secular political order in Singapore.

I. Background and Context to the Singapore Model of “Accommodative Secularism”

A. The Social Context, Religious/Race Riots and the Psychic Scars of a Secular State with a Religious Society’

- (i) **Grappling with Religious and Ethnic Diversity:
A Multi Religious Society within a Quasi Secular State**

Religious and ethnic diversity is a fact in Singapore, an island city-state centrally situated in the Malay Archipelago where surrounding countries like Malaysia, Indonesia and Brunei have

13. Administration of Muslim Act, (Cap 3), 1999 Revised Edition.

Muslim-majority populations. Indeed, a former Indonesian President derogatorily called Chinese-majority Singapore “a red dot in a sea of green,”¹⁴ given its central location within a Malay region.

Singapore was founded and colonised in 1819 as a British Free Port and seceded from the Federation of Malaya on August 9, 1965 to become an independent republic, organized along the lines of the Westminster model of parliamentary government. During the period of colonial tutelage, it attracted Chinese immigrants and other ethnic groups including the Arabs, Parsees and Armenians, and imported Indian labour. These ethnic groups were segregated by residence and language during the colonial era, although in 1956, the educational policy was modified to require bilingualism in the various language schools, where students were taught their mother tongue and English, which remains the *lingua franca* today.¹⁵

Today, all major world religions are represented in Singapore among Singapore’s population which numbers around 4.2 million.¹⁶ These include Buddhism, Taoism, Islam, Hinduism, Sikhism and various Catholic and Protestant Christian denominations. Despite increasing urbanisation and industrialisation which tends to signal the decline of religion, Clammer has noted an unconventional trend of growing levels of religious piety,¹⁷ with some 86% of Singaporeans professing a religious faith.¹⁸ The religious breakdown of the population has been reported as the following: Buddhists & Taoists (51%); Muslims (15%); Christians (15%); Hindus (4%); No Religion (13%) and Other Religions (2%).¹⁹

14. Former Indonesian President BJ Habibie made this derogatory reference: ‘President unhappy with Singapore, says AWSJ’, *Straits Time* (Singapore), 5 Aug 1998 at 16.

15. Art 153A of the Republic of Singapore Constitution [“Singapore Constitution”] provides that Malay, Mandarin, Tamil and English shall be the 4 official languages in Singapore and clause 2 states: “The national language shall be the Malay language and shall be in the Roman script”. Full text of the constitution is available online at <http://statutes.agc.gov.sg/>

16. Singapore Statistics, Mid Year Population Estimate (2004): available online at <http://www.singstat.gov.sg/keystats/annual/indicators.html>.

17. John Clammer, ‘Religion and Society in Singapore: Ethnicity, Identity and Social Change’ in *Society, Culture and Patterns of Behaviour*, Seyschab, Sievers & Szykiewicz eds (Germany: Horleman Verlag Unkel / Rhein und Bad Honnef, 1990) 157-182 at 180.

18. Lydia Lim & Aaron Lowe, ‘Nation of believers: Modernisation and economic development have done little to dent Singaporeans’ faith in God, according to a key finding of a recent Straits Times survey’, *Straits Times* (Singapore) 16 July 2005, Saturday Special Report (available on LEXIS).

19. Population Census (2000), David Chan, *Attitude on Race and Religion in Singapore*: (MCDS, 2003) 19. Population Census (2000), David Chan, *Attitude on Race and*

To some extent, there is a close identification of ethnic culture and religious affiliation within this multi-ethnic city state. The ethnic composition of the Singapore population is about 77% Chinese, 14% Malay, 7.4% Indian, the remaining citizenry being classified as “others.”²⁰ The Constitution recognises the “special position” of the Malays as the indigenous people. While they do not enjoy constitutionally guaranteed group rights, the government is obliged to promote and protect their interests, including their religion.²¹ While 99.4% of Malays are Muslims (mainly of the *Shafii* school)²² the stereotypical image is that the Chinese practise Buddhism and Taoism and that Indians are Hindu, unless otherwise stated. Christianity alone transcends the ethnic boundary. Given that the identity of certain groups is shaped by a conflation of religious and ethnic identity, inter-group conflict can be precipitated by both religious and racial factors.²³

This has been historically borne out by the racial riots between the Chinese and Malays in the 1950s and 1960s.²⁴ These bore religious overtones, even if their chief impetus was ethnic chauvinism, and have scarred the national psyche since their occurrence in the early

Religion in Singapore: (MCDS, 2003) <http://www.mcds.gov.sg/MCDSFiles/download/SAS02RR.pdf>.

20. See Andreas Ackermann, ‘They Give us Categories and We Fill Ourselves In’: Ethnic Thinking in Singapore’ 4 *International Journal on Minority and Group Rights* 451-467 (1997).

21. On the Malay problem in Singapore, see Lily Zubaidah Rahim, *The Singapore Dilemma: The Political and Educational Marginality of the Malay community* (Malaysia: Kuala Lumpur, Oxford University Press, 1998).

22. There are Indian Muslims belonging to the Hanafi School of Law and some Shites in Singapore.

23. See Trevor Ling, ‘Religion’ in *Management of Success: The Moulding of Modern Singapore* KS Sandhu & Paul Wheatley eds., (Singapore: Institute of Southeast Asian Studies, 1989) at 692-709.

24. The riots of the 1950s were related to a child custody case concerning a Dutch girl brought up by a Muslim woman whose Catholic parents sought custody after the World War II: *Re Maria Huberdina Hertorgh* [1951] 1 *Malayan Law Journal* (MLJ) 164. In 1964, riots broke out between Malays and Chinese during a procession celebrating Prophet Muhammed’s birthday, and again in 1969. Since then, there have been no ethnic / religious riots on Singapore soil: For details on the race riots, see Mark Hong, ‘Singapore’s Success in Creating Racial and Religious Harmony’, at 24. The riots of the 1950s were related to a child custody case concerning a Dutch girl brought up by a Muslim woman whose Catholic parents sought custody after the World War II: *Re Maria Huberdina Hertorgh* [1951] 1 *Malayan Law Journal* (MLJ) 164. In 1964, riots broke out between Malays and Chinese during a procession celebrating Prophet Muhammed’s birthday, and again in 1969. Since then, there have been no ethnic / religious riots on Singapore soil: For details on the race riots, see Mark Hong, ‘Singapore’s Success in Creating Racial and Religious Harmony’, at http://sam11.moe.gov.sg/racialharmony/download/Racial_Religious_Harmony_final.pdf

years of Independence. Consequently, the experiential encounter with the volatile quality of race and religion has resulted in permanently entrenching the need to preserve religious harmony as a dominant motif in political discourse. Indeed, it has been expressly linked as foundational to a “peaceful, prosperous Singapore.”²⁵ This statist imperative is presented as one of several “essential conditions for our survival as one nation.”²⁶ The fragility of religious harmony and the need for eternal vigilance is underscored by frequent reference to the originating myth of the precarious state threatened by ethnic chauvinism, religious conflict and social divisiveness. The government thus seeks to apply an integrationist approach towards such matters as education²⁷ and housing policy,²⁸ to promote inter-racial mixing and prevent isolationism.

B. The Constitutional Establishment of Singapore’s Model of Quasi or Accommodative Secularism

Alone in Southeast Asia, we are a state without an established church

- Prime Minister Lee Kuan Yew, 1967²⁹

‘No single religion can be said to be the dominant religion, nor is any religion an official religion of the State because Singapore is strictly secular’:

- Home Affairs Minister S Jayakumar³⁰

25. Prime Minister Goh Chok Tong: “I consider the racial and religious harmony as the most important bedrock of our society. If there is no harmony, there will be no peaceful, prosperous Singapore – as simple as that”: *Straits Times*, 24 Feb 1990, quoted in Vineeta Sinha, ‘Theorising ‘Talk’ about ‘Religious Pluralism’ and ‘Religious Harmony’ in Singapore’ Vol. 20 No. 1, *Journal of Contemporary Religion* 25-40 at 28 (2005).

26. Maintenance of Religious Harmony (MRHA) White Paper, (Singapore National Printers, Cmd 21 of 1989), para 4. [hereafter, MRHA white paper].

27. Inter-Racial Mixing in Schools, 76 *Singapore Parliament Reports*, 15 Aug 2003 col. 2465 at cols 2467, 2476.

28. Since 1989, a racial quota which reflects the current racial balance was adopted in public housing policy. This served to break up ethnic enclaves in Housing Development Board (HDB) estates, where 80% of Singaporeans live in, by setting specific limits on the proportion of residents of each race allowed to buy flats in specific neighborhoods. See Ooi Giok Ling, Sharon Siddique & Soh Kay Cheng, *The Management of Ethnic Relations in Public Housing* (Singapore: Times Academic Press for Institute of Policy Studies, 1993).

29. Prime Minister Lee Kuan Yew, addressing a Buddhist Convention: “No dominance by religious group over others – Lee” *Straits Times* (Singapore), 5 Jan 1967 at 6.

30. 54 *Singapore Parliamentary Report*, 22 Feb 1990, Maintenance of Religious Harmony Bill, col. 1047.

This section examines the legal framework, constitutional history and political culture which shape the evolution of Singapore's model of "accommodative secularism."³¹

(i) Genesis and Exodus: Departure from the Malaysian Model of Religious Pluralism

An immigrant "nation by accident,"³² Singapore was never meant to be an independent state: the British colonial authorities planned to situate the island within the Malaysian Federation, fearing it was too small to survive on its own.³³ From 1963-1965, Singapore was part of the Federation of Malaysia. This merger failed because of Malay nationalism and Malay demands for special privileges as *bumiputras*, or indigenous peoples, which jarred with the demand by Singapore governors for a 'Malaysian' Malaysia, meritocracy and equal treatment for all. While the Malays in Peninsula Malaysia feared that Singapore, a predominantly Chinese city-state would fall prey to Communism and become a Cuba south of Malaysia's border, their fear of Chinese economic dominance ultimately doomed the short-lived merger.

After peacefully seceding from the Federation of Malaysia in 1965, the issue of nation-building and economic survival was uppermost in the minds of the ruling People's Action Party (PAP), which has been in continuous hegemonic control of Singapore since Independence, currently controlling 82 of 84 elected parliamentary seats. Consequently, there is a tendency to conflate state and society and, it must be noted, ministerial statements are accorded quasi-legislative weight.³⁴ The economic and social development of Singapore was threatened by communism and communalism. Thus, an authoritarian method of political control was established, through the heavy centralisation of state power, which rendered diminutive

31. As described by the Court of Appeal in *Peter Williams Nappalli v Institute of Technical Education* [1999] 2 Singapore Law Reports (SLR) 569 at 576, para 29.

32. Beatrice S. Frank et al., *The Decline of the Rule of Law in Malaysia and Singapore Part II - Singapore*, A Report of the Committee on International Human Rights of the Association of the Bar of the City of New York, 46 *The Record* 7 (1991), quoting Minister S. Jayakumar at 25.

33. Janadas Devan, 'Britain wanted a Malaysia since WWII' *Straits Times* (Singapore), June 19 2005 at 24-25.

34. It has been argued that policy papers enjoy quasi-constitutional status insofar as they conclusively inform constitutional adjudication: Benedict Sheehy, 'Singapore, "Shared Values" and Law: Non East versus West Constitutional' 34 *Hong Kong L.J.* 67 (2004).

the space for civil society, including religious groups, where social discipline was prioritized over democracy as a prerequisite for attracting foreign investment. Through restrictive legislation and policy, the trade unions were emasculated,³⁵ dissident politicians silenced through onerous preventive detention laws, and the media regulated to the point it became a national partner in state-building, rather than a critical watchdog or 'fourth estate' after the American model of journalism.³⁶ The ethnic management policy adopted combined institutionalised multi-racialism³⁷ with meritocracy, in an attempt to downplay the early perception of Singapore as a 'Third China.' Nevertheless Singapore's economic growth from a third to a first world state in just 40 years has conferred economic and political legitimacy upon the PAP government.

Singapore's Independence Constitution, which borrowed heavily from the Malaysian constitution³⁸ departed from the Malaysian model of religious pluralism in various important respects in seeking to establish a secular rather than a 'confessional' state. Three important modifications are noteworthy.

First, it omits any confessional statement similar to that embodied in article 3 of the 1957 Malaysian constitution that "Islam is the religion of the Federation but other religions may be practiced in peace and harmony in any part of the Federation."³⁹ Thus, it has no official religion, although multi-religiosity is advocated insofar as the government strives to deal with religions in an equal-handed manner. While there is no constitutional principle explicitly embracing secularity, this is apparent from the 1966 Wee Constitutional

35. Anthony Woodiwiss, 'Singapore and the Possibility of Enforceable Benevolence' in *Globalisation, Human Rights and Labour Law in Pacific Asia* (UK: Cambridge University Press, 1998) at 216.

36. For further analysis, see Thio Li-ann, "Pragmatism and Realism do not mean abdication": A Critical Inquiry into Singapore's Engagement with International Human Rights Law: 8 *Singapore Yearbook of International Law (SYBIL)* 41-91 (2004).

37. For example, in the composition of the Group Representation Constituency (GRC) under article 39A of the Constitution, a team of 4-6 persons run for an electoral ward, and each team must have a member belonging to a stipulated minority group to guarantee minority representation. See Thio Li-ann, 'Choosing Representatives: Singapore does it Her Way' in *The People's Representatives: Electoral Systems in the Asia-Pacific Region*, Graham Hassall & Cheryl Saunders eds., (Allen & Unwin, 1997) at 38-59.

38. This was incorporated through the 1965 Republic of Singapore Independence Act, with modifications. See Kevin YL Tan, *The Evolution of Singapore's Modern Constitution: Developments from 1945 to the Present Day*, 1 *Singapore Academy of Law Journal* 1, 6-17 (1989).

39. Text of the 1957 Federal Constitution of Malaysia available online at <http://confinder.richmond.edu/local_malaysia.html>..

Commission report⁴⁰ which describes Singapore as a “multi-racial secular society” and a “democratic secular state.”⁴¹ The juridically non-binding Declaration of Religious Harmony, adopted in 2003, recently affirmed “the secular nature of our State.”⁴² However, it did not expand on what secularism, a protean term, entails, as it may connote many things, from a benevolent to malevolent attitude towards Religion

However, clearly the understanding of the secular state in the Singapore context does not connote state hostility towards Religion of the kind manifested by Communist states.⁴³ Rather, a respectful attitude towards Religion is preserved as it is considered a “positive factor” as a source of spiritual strength and moral guidance.⁴⁴ Further, “the Government should not be antagonistic to the religious beliefs of the population.”⁴⁵ Thus secularity does not connote anti-theism as “Singapore’s government is secular, but it is certainly not atheistic. It is neutral. This is an important principle because all the major religions of the world are represented here.”⁴⁶ Thus, within the context of Singapore, ‘secularism’ is pragmatic, rather than dogmatic or doctrinaire, and religious liberty is enjoyed, subject to statist imperatives. A secular basis for the state was embraced “precisely because Singaporeans belong to varied and strongly-held religious faiths.”⁴⁷ This pragmatic, sensible accommodating approach is evident in that when it comes to official national meetings such as those relating to commemorating national disasters like the 1997 Silkair airplane crash in Sumatra⁴⁸ or the December 2004 Tsunami

40. Appendix D, Kevin YL Tan & Thio Li-ann, *Constitutional Law in Malaysia and Singapore* (Asia: Butterworths 1997)

41. See Chapter I, Wee Constitutional Commission report, para 38, *id.*

42. Feedback Unit, Policy Digest, Issue 12/03 at <http://app.feedback.gov.sg/asp/pol/pol01d1.asp?id=402> . For an analysis, see Thio Li-ann, ‘Constitutional ‘Soft’ Law and the Management of Religious Liberty and Order: The 2003 Declaration on Religious Harmony’, *Singapore Journal of Legal Studies* 414-443 (2004).

43. During the drafting of the Declaration on Religious Harmony, the original phrase “acknowledging that we are a secular society” attracted strong objections as it falsely connoted that “we have no religion at all, like the communists”: Canon James Wong, quoted in “Religious code goes beyond keeping peace”, *Straits Times* (Singapore), 16 Oct 2002 at H2.

44. Para 6, MRHA white paper, *supra*, note 26.

45. Para 5, MRHA, White Paper, *supra*, note 26.

46. “Government is secular: not atheistic: BG Yeo” *Straits Time* (Singapore), 8 Oct 1992 at 2.

47. Minister S. Jayakumar 54 *Singapore Parliament Reports*, 6 Oct 1989 at col 637.

48. Zuraidah Ibrahim, ‘The nation mourns’, *Straits Times* (Singapore), 31 Dec 1997 at

disaster,⁴⁹ religious and political leaders stand shoulder to shoulder. This might be contrasted with the Canadian government's decision to eliminate all mention of faith and holy words at a national service for 9-11 victims,⁵⁰ which would be considered an exemplar of religious intolerance in Singapore.

Thus, the Singapore polity is secular insofar as the Constitution and legal framework provides that the legitimacy to govern is derived from democratic elections as "ultimate political authority" rather than "any divine or ecclesiastical sanction."⁵¹ As evidence of this secularity, Singapore courts such as the Military Court of Appeal will not entertain 'divine law' arguments as a basis for invalidating secular laws regulating mandatory military service, as was challenged by a member of the Jehovah's Witnesses in *Pte Chai Tshun Chieh v Chief Military Prosecutor*.⁵²

Second, the Singapore Constitution has adopted a more liberal or expansive definition of religious liberty in article 15(1) which provides that "Every person has the right to profess and practice his religion and to propagate it."⁵³ This is distinct from the Malaysian article 11 which provides that state law may restrict propagation of other faiths to persons professing Islam.⁵⁴ However, such an anti-

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49. Tracy Sua & Sharlene Tan, 'Thousands gather to pray for tsunami victims', *Straits Times* (Singapore) 31 Jan 2005 (available on LEXIS).

50. 2001-JAN-3: 'Canada: Anglican Primate concerned about role of religion'. Requests to the federal government for an appropriate protocol for a 'prayerful interfaith response to the terrorist attacks' were ignored when the government decided to exclude any religious participation in the memorial service for the 9-11 terrorist attack on Parliament Hill in Ottawa: available at http://www.religioustolerance.org/news_02jan.htm <visited 25 May 2005>.

51. Para 5, MRHA white paper, *supra*, note 26. Notably, a proposed sixth value, "Belief in God", was discarded from the shared values white paper, a statement of the government's preferred 'communitarian' national ideology as Singapore was a "secular state"; thus the white paper should be a "secular document" and exclude "religious values": Shared Values White Paper, *supra*, note 9 at para. 46.

52. One of the grounds put forward was "that the Bible was a higher law than any man-made laws and in disobeying the officer's order, he was only obeying the higher of the two conflicting laws." *Pte Chai Tshun Chieh v Chief Military Prosecutor* [1998] SGMCA 3 at para. 13

53. Constitution of the Republic of Singapore (1999) Revised Edition [hereafter, 'Singapore Constitution'], full text available online at <http://statutes.agc.gov.sg/>

54. Notably, Lee Kuan Yew made a 1963 ministerial statement before the legislative assembly that after Singapore entered the Federation, it would continue the policy of religious tolerance and allow the freedom of all religions in Singapore; he declared his government did not intend "to introduce legislation to control or restrict the propagation of any religious doctrine or belief..." Statement by the Prime Minister, 'Religious

propagation clause “singling out a particular religion for special treatment”⁵⁵ would be “inappropriate”⁵⁶ and “inconsistent”⁵⁷ in the Singapore context, as noted by the 1966 Constitutional Commission whose mandate was to recommend constitutional safeguards for the “rights of racial, linguistic and religious minorities.”⁵⁸

Thirdly, building on this, the Singapore Constitution does not conflate religious with ethnic identity as is done by article 160 of the Malaysian constitution. This defines “Malay” as “a person who professes the religion of Islam, habitually speaks the Malay language, [and] conforms to Malay custom.” This has compounded the problem of *murtads* or apostates who wish to leave the Muslim faith in Malaysia, but cannot as the *syariah* or Islamic religious law prohibits this and makes apostates liable for fines, imprisonment or detention in faith rehabilitation centres.⁵⁹ Indeed, the Malaysian High Court has declared that “A Malay under art 160(2) remains in the Islamic faith until his or her dying days.”⁶⁰ Conversely, in Singapore, the government recognises that its duty lies in ensuring that “every citizen is free to choose his own religion.”⁶¹ To erect an anti-propagation clause in favour of one religion is to privilege that religion, an approach that is contrary to what I have previously described as Singapore’s model of “accommodative secularism”

Freedom in Singapore After Malaysia’, *Singapore Parliament Report* 29 July 1963, col. 261 at 262.

55. Para 38, Wee Commission Report, *supra*, note 40.

56. *Id.*

57. *Id.*

58. Terms of Reference spelt out by Law Minister EW Barker, *Singapore Parliament Reports*, 22 Dec 1965.

59. Ioannis Gatsiounis, ‘Malaysia’s Muslims have ‘no way out’, *The Washington Times*, 20 Aug 2004, available at <<http://www.washtimes.com/world/20040819-111615-8930r.htm>>. While the Malaysian Constitution does not expressly prohibit apostasy from Islam, apostates face a range of penalties under state law. For example, section 13 of the Administration of Islamic Law Enactment of Perak provides that apostasy committed by a Muslim is an offence punishable with either a RM2000 fine or imprisonment for a term of up to two years. Apostates may also be required to appear at the Kadi’s court every month for 3 years to repent (*melafazkan taubat*), flogged or detained in faith rehabilitation centres. See generally Mohamad Imam, ‘Freedom of Religion under Federal Constitution of Malaysia – A Reappraisal [1994] 2 Current Law Journal (CLJ) lvii at page lxxix.

60. Thamby Chik J, *Lina Joy v Majlis Agama Islam Wilayah* [2004] 2 Malayan Law Journal (MLJ) 119 at 143, para. 58.

61. Para 5, MRHA white paper, *supra*, note 26. Also, this is a principle of the 2003 Declaration on Religious Harmony: ‘Respect each other’s freedom of religion.’ Text of Declaration available at the Ministry for Community Development, Youth and Sports website at <http://www.mcys.gov.sg>.

which seeks to maintain “a sense of equity among religious groups.”⁶² The Court of Appeal has affirmed that “accommodative secularism”⁶³ relates to the Constitution’s protection of freedom of religion being premised upon “removing restrictions to one’s choice of religious belief.”⁶⁴ Individual religious choice acts in tandem with treating religious faiths equally under this model. Thus, religious tolerance and pluralism requires that the state be agnostic about the veracity of religious truth claims, confining itself to providing and sustaining a legal framework within which distinct religious groups can co-exist. ‘Secularism’ connotes the equal treatment of all religions.

(ii) Principles Underlying the Singapore Model of Religious Liberty

Thus, Singapore adopts a more ‘laissez-faire’ attitude towards religious choice and propagation than Malaysia’s more protectionist approach which accords privileges to Islam, by not officially recognizing any religion and by appreciating that article 15 of the Constitution protects religious affiliation as a matter of personal choice. Following upon that, one is not compelled to pay religious tax other than for one’s own religion: article 15(2).⁶⁵ Furthermore, the autonomy of religious institutions in managing their own affairs, establishing religious or charitable institutions and holding property is constitutionally guaranteed: article 15(3).⁶⁶

However, religious freedom is not an absolute right and the courts have declared that article 15(1) be read with article 15(4) which does not authorize “any act contrary to any general law relating to public order, public health or morality.” Thus, the state has resorted to legislation to regulate threats to the public order posed by religious expression. Notably, the courts applying a pro-communitarian

62. Thio Li-ann, ‘The Secular Trumps the Sacred: Constitutional Issues Arising out of *Colin Chan v PP*’ (1995) *Singapore Law Review* 26 at 36.

63. *Nappalli Peter Williams v Institute of Technical Education* [1999] 2 SLR 569 at 576G (Court of Appeal).

64. *Id.*

65. Art 15(2), Singapore Constitution provides: “(2) No person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.”

66. Art 15(3), Singapore Constitution provides that “Every religious group has the right (a) to manage its own religious affairs; (b) to establish and maintain institutions for religious or charitable purposes; and (c) to acquire and own property and hold and administer it in accordance with law.”

approach towards the constitutional adjudication of liberties have tended to accord great weightage to the state interests. This is evident from in the High Court decision of *Colin Chan v PP*⁶⁷ a case where the Court upheld administrative orders de-registering the Jehovah's Witnesses (JWS) and banning their publications as their pacifist beliefs were considered a threat to the cornerstone of public order, the compulsory military service scheme. Chief Justice Yong noted:

The sovereignty, integrity and unity of Singapore are undoubtedly the paramount mandate of the Constitution and anything, including religious beliefs and practices, which tend to run counter to these objectives must be restrained.⁶⁸

Thus, rights are not trumps in the Dworkinian sense of categorically overriding social interests and responsibilities.⁶⁹ Restrictions to liberties tend to be construed broadly.⁷⁰

(iii) State-Religion Relations: The Government as 'Manager' and Arbiter of the Boundaries between 'Religion' and 'Politics'

Singapore may be described as a secular state with a religious society. The relationship between State and Religion in Singapore is somewhat ambivalent, given that both exert competing demands for loyalty to Caesar and God. While religion is officially recognised as a "constructive social force,"⁷¹ its destabilizing capacity in precipitating religious polarisation and conflict within a multi-ethnic, multi-religious state is recognized. Thus the State views Religion as something that has to be consciously "managed"⁷² and does not give

67. (1994) 3 SLR 662.

68. (1993) 3 SLR 662 at 684.

69. Ronald Dworkin defines individual rights as "political trumps" whereby "a collective goal is not sufficient justification for denying them what they wish, as individuals, to have or to do, or not a sufficient justification for imposing some loss or injury upon them": *Taking Rights Seriously* (Great Britain: Duckworth, 1977) at xi.

70. See Thio Li-ann, "An i for an I: Singapore's Communitarian Model of Constitutional Adjudication" 27 *Hong Kong Law Journal* Part 2 152-186 (1997) and 'Trends in Constitutional Interpretation: Oppugning Ong, Awakening Arumugam' *Singapore Journal of Legal Studies* 240-290 (1997).

71. Shared Values white paper, *supra*, note 9 at para. 45.

72. "We. . . cannot assume that religious harmony will persist indefinitely. . . Conscious efforts are necessary to maintain it. . ." para 13, MRHA white paper, *supra*, note 23. The Shared Values white paper (1991), *supra* note 9 at para 17 notes: "We have enjoyed racial

full rein to the 'free market' approach towards Religion so as to allow it to "flourish according to the zeal of its adherents and the appeal of its dogma."⁷³ Thus, the government has regularly taken pains to remind religionists of their responsibilities to the wider community and to urge religious leaders to practice their faith in a manner beneficial to the public good.⁷⁴ Given the mutual exclusivity of religious beliefs, Minister Lee Hsien Loong in 1990 noted "We have to find some way to compromise practically what is impossible to reconcile theologically."⁷⁵

The State regulates Religion through both formal legislative measures like the 1989 Maintenance of Religious Harmony Act ("MRHA"),⁷⁶ and informal persuasive means exemplified by the adoption of a non-binding set of guidelines for religious interaction embodied in the 2003 Declaration on Religious Harmony ("DRH").⁷⁷ This seeks to persuade and exhorts self-policing and the exercise of common-sense, rather than coerced norms of behaviour. Ultimately, the State through the arm of the government views itself as the manager of racial-religious differences, tasked with ensuring the peaceful co-existence of distinct ethno-cultural groups by pre-empting inter-group tensions, acting as the final arbiter on associated disputes.

Although no bright lines exist between 'religion' and 'politics', the state nevertheless assumes the right to define the boundary line. On this point, it is important to note that in the absence of a

and religious harmony since Independence. This does not prove that our social fabric is inherently stronger than other multi-racial societies, or that we are immune to the serious problems which have afflicted so many of them. It only shows the amount of care which has gone into tending it and strengthening it." Notably BG Lee stated that religious harmony is not something that occurs as a matter of course but must be maintained: "Religious peace must be maintained: Otherwise things will never be the same if conflict breaks out: BG Lee", *Straits Times* (Singapore) 20 May 1996 at 3.

73. *Zorach v Clauson*, 343 U.S. at 313 (US Supreme Court)

74. In a 1966 address to the Tamil Muslim Union, Prime Minister Lee Kuan Yew said he hoped Muslim community leaders "would always interpret Islamic doctrine in a way that would be to the benefit of its followers and the general good of the community. Raj Vasil, cited in Trevor Ling, *supra*, note 23 at 94.

75. *Straits Times*, 31 January 1990, quoted in Vineeta Sinha, *supra*, note 25 at 28.

76. (Cap 167A), 2001 Revised Edition. For a comment, see Valentine S. Winslow, 'The Separation of Religion and Politics: The Maintenance of Religious Harmony Act' (1990) 32 *Malaya Law Review* 327; Kuah Khun Eng, 'Maintaining Ethno-Religious Harmony in Singapore' *Journal of Contemporary Asia*, 3 Jan 1998.

77. Ministry of Community Development and Sports Press Release, 'Declaration on Religious Harmony' 9 July 2003, text of Declaration annexed at <http://www.mcys.gov.sg/MCDSFiles/Press/Articles/press-release-9Jun-final.html> <visited 1 Oct 2005>.

constitutional definition, the Court of Appeal adopted a restrictive definition of 'Religion' in the leading case of *Nappalli Peter Williams v Institute of Technical Education*⁷⁸ where it rejected as "wholly misplaced" the approach taken in other jurisdictions where any belief or thought "potentially holds religious value" especially and ironically, irreligious beliefs held with religious fervour. 'Religion', as judicially defined for the purposes of article 15, relates to "a citizen's faith in a personal God, sometimes described as a belief in a supernatural being."⁷⁹ Yong CJ rejected the view that Religion encompassed a system of belief in one's own country, noting that "The State commands no supernatural existence in a citizen's personal belief system."⁸⁰ Yong CJ noted that "the secular tenet of our art 15 is reflected in the secular tone of the pledge and national anthem", which were practices lacking "religious significance."⁸¹ Thus, the Court distinguished between religious beliefs warranting article 15 protection and philosophical beliefs which fell beyond its ambit.⁸² If it were otherwise and Singapore adopted a broad view towards defining religion, as the American courts have in including secular humanism as a "sincere and meaningful belief" within its ambit,⁸³ it might be accused of establishing or imposing Neo-Confucianism as a 'religion,' given its proclamation as the preferred

78. [1999] 2 SLR 569. Approving the trial judge who opined that the school National Pledge taking and National Anthem ceremony "is obviously not a religious ceremony". This eroded any claim that article 16(3) which safeguards a person from being compelled to take part in any religious ceremony other than his own, was violated: *Peter Williams Nappalli v Institute of Technical Education* [1998] SGHC 351, High Court Decision of 22 Oct 1998 at para. 52. Thus, there was no coerced participation in a religious ceremony. If not, as Yong CJ for the Court of Appeal rhetorically posed at [1999] 2 SLR 569, 577A-B "How can the same Constitution guarantee religious freedom if by asking citizens to pledge their allegiance to country it is coercing participation in a religious ceremony? This excruciatingly absurd interpretation cannot have been what was envisaged by the authors of the Constitution."

79. *Nappalli Peter Williams v Institute of Technical Education* [1999] 2 SLR 569 at 576C-D.

80. *Nappalli Peter Williams, id.* at 576C-D. Here, a Jehovah's Witnesses schoolteacher who was dismissed for not saying the national pledge during school flag-raising ceremonies challenged his dismissal by arguing that saluting the national flag was a form of religious worship which the state could not coerce.

81. *Nappalli Peter Williams, id.* at 576B.

82. Yong CJ characterized the appellant's interpretation of the pledge and anthem ceremony as being religious in nature as 'a distortion of secular fact into religious belief.' This was 'a philosophical choice' not entitled to article 15 protection: *Nappalli Peter Williams, id.*, at 576H-I.

83. *US v Seeger* 380 U.S. 163 (1965).

national orthodoxy in the 1990 shared values white paper⁸⁴ which the government characterised as a secular document.⁸⁵

The Courts have indirectly defined ‘politics’⁸⁶ broadly as “the multitude of issues concerning how Singapore should be governed in the interest and for the welfare of its people”, including political and social-economic government policies.⁸⁷ The problem of course is, as the government has acknowledged, certain religions like Christianity and Islam are holistic or espouse comprehensive worldviews insofar as they do not see a strict separation between the public and private, the sacred and secular.⁸⁸ Indeed, the government has singled out three examples involving a clash between political and religious views: abortion and Christianity, national service and the Jehovah’s Witnesses and the viewing of radical social action as integral to the faith of certain sects.⁸⁹ In relation to abortion, which is regulated in Singapore under the Termination of Pregnancy Act⁹⁰, this is characterized as a “privatized” choice and an issue of conscience for personal determination, although on such issues “religious groups may and do properly take positions and preach to their followers.”⁹¹ However, the other two examples are viewed as posing threats to the public order by constituting criminal conduct and having the potential to heighten political and religious tensions, and so are subject to legal regulation.

Notably, the government has stated that the reason for separating religion from politics is not to determine the validity of any belief system which may have socio-political implications; rather it is “to establish working rules by which many faiths can accept fundamental differences between them and co-exist peacefully in

84. The Shared Values white paper, *supra*, note 9, has been characterized as Neo Confucianist although it expressly disavows this: paras. 39-40, and even notes that certain Confucian practices which have given rise to undesirable mindsets like patriarchy or nepotism were ill-suited to Singapore’s modern conditions.

85. Para. 46, Shared Values white paper, *id.*

86. In the context of defining “engaging in domestic politics” under the terms of the Newspaper Printing Presses Act (NPPA) (Cap 206), 2002 Revised Edition.

87. *Dow Jones Publishing v AG*[0] [1989] 2 MLJ 385

88. “Some religions explicitly deny the possibility of this separation, because to their followers the faith encompasses all aspects of life. This is notably so of Islam and it is also true for most Christians”: para 25. MRHA white paper, *supra*, note 26.

89. Para 26, MRHA white paper, *id.*

90. (Cap 324), Revised Edition 1985.

91. Para 26(a) MRHA white paper, *id.*

Singapore.”⁹² Muslims in Singapore⁹³ who do not accept a sacred/secular divide comprehend secularism in practical terms as a form of “non-partisan (neutral) government that does not take the side of any religion in order to ensure inter-racial harmony.”⁹⁴ That is, limits on religious freedom are instrumental to the overriding objective of state objectives which prioritize social order, of which racial and religious harmony is integral.

(iv) Quasi-Secularism, Communal Autonomy and Religious Laws

The Singapore polity may more accurately be described as quasi-secular owing to the constitutional obligation under article 152(1) of the Government “constantly to care for the interests of the racial and religious minorities in Singapore.”⁹⁵ Furthermore, in recognizing the “special position of the Malays” as the “indigenous people of Singapore,” the government is obliged under article 152(2) to promote and foster “their political, educational, religious, economic, social and cultural interests and the Malay language.”⁹⁶ This is consistent with the Singapore (Constitution) Order in Council 1958 with respect to the government’s responsibility to protect Malay interests, although this does not translate into justiciable minority rights⁹⁷ or constitutionally mandated privileges.⁹⁸ An example of accommodating cultural diversity might be the maintenance of separate kitchens for feeding Muslim soldiers in the Singapore Armed Forces, giving Muslims pilgrimage leave, allowing Muslim

92. Para 27, MRHA white paper, *id.*

93. Mafoot Simon, ‘Soul-searching continues for Muslims in S’pore’, *Straits Times* (Singapore), 2 Oct 2004 at 30; reviewing “Moderation in Islam in the Context of Muslim Community in Singapore” – reject how Government has tried to define them – reject comparisons with abangan (nominal muslims of indonesia) or Kamalists – secular ideology of Turkey’s leader Kamal Attartuk

94. Ustaz Mohd Murat Md Aris, Executive Director, Pergas ‘Law that governs Muslims’ lives dynamic and realistic’, *Straits Times*(Singapore) 11 Oct 2004 at 14.

95. Art 152(1), Singapore Constitution.

96. Art 152(2), Singapore Constitution.

97. The individualist assumptions underlying Part IV (Fundamental Liberties) is that group interests will be safeguarded where the individual rights of group members are secured, for example, by the equality and non-discrimination clause embodied in article 12. Nevertheless, Malays in Singapore enjoy some degree of minority protection as a matter of government policy.

98. Under Art 153 of the Federal Constitution of Malaysia, federal law may reserve public service positions, scholarships, trade and businesses licenses for Malays and other indigenous peoples.

civil servants time off for Friday prayers and allowing Muslim prisoners to observe the fast of Ramadan.⁹⁹ As a trade-off in relation to the daily Muslim call to prayer, in return for having loudspeakers placed only within mosques for sermons as a matter of controlling sound levels, state television broadcasts this call five times a day.¹⁰⁰

Article 153 mandates that the legislature make laws to regulate Muslim religious affairs and to constitute a Council to advise the President in matters relating to the Muslim religion.¹⁰¹ Thus, the Administration of Muslim Law Act (AMLA)¹⁰² which introduces a degree of limited pluralism into this common law jurisdiction regulates Muslim religious affairs. This safeguards cultural autonomy for the Muslim community in matters relating to personal laws like marriage, divorce and testamentary disposition. Thus, religious and personal laws are given effect through norms and institutions.

Singapore has separate civil and religious courts, with the AMLA establishing Sharia courts which have jurisdiction over these personal law matters of persons professing Islam, and whose decisions are generally immune from judicial review.¹⁰³ Part IX lists Muslim-specific offences such as cohabitation outside marriage,¹⁰⁴ and enticing an unmarried woman from the *wali* or lawful guardian.¹⁰⁵ Thus this Act recognises that Muslim personal affairs are 'private' insofar as they should be subject to community regulation, though the state is not entirely absent insofar as it is state machinery that establishes these dispute settlement mechanisms. It creates a regime of exception in such areas as monogamous marriages as regulated under the Women's Charter (Cap 353), as the AMLA permits polygamous marriages although statistics indicate that this is not the norm among Muslim men.¹⁰⁶

99. Attorney-General Chan Sek Keong, 'Cultural Issues and Crime', 12 Singapore Academy of Law Journal 1-25 at 16 (2000).

100. Mark Hong, *supra*, note 24 at para 2

101. Art 153, Singapore Constitution provides: "The Legislature shall by law make provision for regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion."

102. (Cap 3), 1999 Revised Edition.

103. Part III, AMLA (Cap 3) regulates the Syariah court, its jurisdiction and powers.

104. Section 134, AMLA

105. Section 135, AMLA

106. Para. 17.14, Singapore's Initial Report to the UN CEDAW Committee (Ministry of Community Development, 2000) available at http://www.mcys.gov.sg/MCDSFiles/download/CEDAW_initial_report.pdf. In 1997, less than 1% of Muslim marriages solemnized involved polygamy. A disapproving first wife may seek a divorce from the Syariah court if she is unhappy about her husband's second

To preserve this limited degree of Muslim communal autonomy, Singapore appended reservations to the UN Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) which it acceded to in 1995.¹⁰⁷ The effect of attaching reservations to articles 2 and 6 (modification or abolition of laws and customs that discriminate against women) “where compliance with these provisions would be contrary to their religious or personal laws”¹⁰⁸ significantly limits CEDAW’s potential reach in eliminating gender-biased stereotypes. Thus, the reservations allow the continued operation of gender biased *sharia*-derived rules relating to marriage, divorce, citizenship and property disposition. For example, Islamic inheritance law stipulates that a male should receive double the share of a female.¹⁰⁹

The AMLA establishes other Muslim specific institutions like the Majlis Ugama Islam or MUIS (Islamic Religious Council of Singapore), a statutory body that advises the President on Islamic matters.¹¹⁰ Conducting *in camera* meetings, its principal functions include collecting tithes (*zakat*),¹¹¹ administering the Mosque Building Fund,¹¹² *halal* certification¹¹³ and Mecca pilgrimages (*haj*).¹¹⁴ It oversees Islamic religious education and privately funded religious

marriage. Polygamy is permitted by the Holy Quran at 4:3 which restricts the right of a man to only marry up to 4 women at one time: Muhammad Sharif Chaudhry, Chapter 11: ‘Woman and Polygamy’ in *Women’s Rights in Islam*, 1991 ed (S. Sajid Ali for Adam Publishers & Distributors) at 83.

107. On Singapore’s reservations to CEDAW, see Thio Li-ann, ‘The Impact of Internationalisation on Domestic Governance: The Transformative Potential of CEDAW’ in 1 *Singapore Journal of International & Comparative Law* (Sing JICL) 248 at 299-305 (1997).

108. The text of Singapore’s reservations to CEDAW and objections to these may be found at the website of the UN Department for the Advancement of Women, at <<http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>>.

109. Part VII of AMLA regulates property and section 114 lists a set of authoritative Islamic texts regarding questions of succession and inheritance. Section 117(1) AMLA provides that when a wife dies intestate with her own property, preference is given first to her male children over 21, followed by her husband and then other relatives in this order: daughters, father, mother, brothers, sisters, uncles, aunts, nephews and nieces of the intestate. This demonstrates preference for male over female relationship in inheritance matters. On the Sunnite Law of Inheritance, see Asaf Iyze, *Outlines of Muhammadan Law*, 4th ed, 1974, XIII at 390, 448.

110. The website of MUIS is at <http://www.muis.gov.sg>.

111. Section 3(2)(d), AMLA.

112. Sections 3(2)(c), 76, AMLA.

113. Sections 3(2)(b), 88(A) AMLA.

114. Section 88(B), (C), AMLA.

schools (*madrasahs*)¹¹⁵ and maintains a registry of converts.¹¹⁶ Muslim societies select Majlis members, but the state is involved as the Singapore President, advised by the Cabinet, issues these appointments and can terminate them in the public interest.¹¹⁷ The Singapore President must consult the Majlis before appointing the Singapore Mufti (highest religious leader).¹¹⁸ The Majlis Legal Committee is empowered to issue *fatwas* or rulings on Muslim law,¹¹⁹ presumptively based on the *Shafi'i* school of law,¹²⁰ with acceptable sources listed in section 114.¹²¹ Notably, sectors of the Muslim community have voiced views that MUIS as a statutory board under the care and budget of the Ministry of Community Development primarily serves the state rather than the Muslim community.¹²² PAP MPs have asserted that the role of MUIS demonstrates that “Singapore is not anti-religion”¹²³ as religion is “allowed to play its role in forging a harmonious and cohesive society.”¹²⁴ Thus, this is another strand of Singapore’s ‘unique’ brand of secularism which has been termed “secularism with a soul.”¹²⁵

In displaying sensitivity towards Muslim concerns, there are instances where the Muslim community is exempt from general laws. For example, *madrasahs* or Islamic religious education schools, which are an important source of cultural identity and future religious

115. Section 87, AMLA.

116. Sections 126-128, AMLA.

117. Sections 7, 10, AMLA.

118. Section 30, AMLA.

119. Section 32, AMLA.

120. Section 33, AMLA (Cap 3), 1999 Revised Edition.

121. These include (a) The English translation of the *Quaran*, by A. Yusuf Ali or Marmaduke Pickthall;

(b) *Mohammedan Law*, by Syed Ameer Ali; (c) *Minhaj et Talibin* by Nawawi, translated by E. C. Howard from the French translation of Van den Berg; (d) *Digest of Moohummudan Law*, by Neil B. E. Baillie; (e) *Anglo-Muhammadan Law*, by Sir Roland Knyvet Wilson, 6th Edition Revised by A. Yusuf Ali; (f) *Outlines of Muhammadan Law*, by A. A. Fyzee; (g) *Muhammadan Law*, by F. B. Tyabji. Section 114(2) provides that “The Minister may on the advice of the Majlis by notification in the *Gazette* vary or add to the list of books set out in subsection (1).”

122. Suzaina Kadir, “The Role of Education in Ethnic/Religious Conflict Management: The Singapore Case (2005) International Center for Islam and Pluralism (ICIP) Journal Vol 2(1) January 1 at 17 (2005).

123. Zainul Abidin Rasheed, 74 *Singapore Parliament Debates* 23 May 2002

124. *Id.*

125. *Id.*

leaders, are not subject to the Compulsory Education Act (Cap 51),¹²⁶ although the state requires that these attain minimal educational standards and that their students are prepared for national primary school examinations.¹²⁷ This was in response to accusations that “the state was intent on eliminating the last bastion of autonomous Islamic activity in Singapore” voiced by PERGAS (Islamic Scholars Association).¹²⁸

During the urgent Severe Acute Respiratory Syndrome (SARs) health crisis in mid-2003, Muslims were granted an exception to SARs control measures of cremating victims by being allowed immediate burial in two sealed body bags.¹²⁹ In protecting the interests of the Muslim community, Muslims are given privileged treatment through policies such as the government sponsored “one mosque per town” program¹³⁰ and the availability of government machinery to facilitate Islamic tithe collection.¹³¹

Notably, these linkages between state and religious institutions are not precluded by a ‘establishment’ clause, as Yong CJ in *Colin Chan v PP* noted the “the Singapore Constitution does not prohibit the ‘establishment’ of any religion,” which relates to providing financial or non-pecuniary support for a religion, as the Singapore

126. (Cap 51), Revised Edition, 2001.

127. Para. 6.10, Singapore, Second Report Periodic Report to the UN Committee on CEDAW (Ministry of Community Development: Singapore, 2001) at http://www.mcys.gov.sg/MCDSFiles/download/CEDAW_second_report.pdf (Second CEDAW Report)

128. Suzaina Kadir, *supra*, note 122 at 14.

129. ‘No wakes for suspected SARs deaths’, *Straits Times* (Singapore), 24 April 2003, H4.

130. Statement, Minister for Social Affairs Othman bin Wok, 37 *Singapore Parliament Reports* 29 June 1977, (Mosque Building Fund Scheme), col. 62-63: “The Majlis Ugama Islam Singapura supports the policy of the Government in building one new mosque in each new town where the Muslim population is sufficiently large and agrees that this is the most practical way to meet the religious needs of the Muslims as they are resettled in the new towns.” This is funded through the Mosque Building Fund Scheme whereby employers are required to pay a small contribution per Muslim employee per month to the fund and recover this from their Muslim employee wages.

131. Compulsory Muslim contributions towards the Mosque Building Fund are collected through the Central Provident Fund system pursuant to sections 78 AMLA (Cap 3), with this concession being recognized as a “special one” which would “not be a precedent for other religious or ethnic groups.” It was not thought necessary to introduce legislation to allow donations to the Hindu Endowments Board to be collected through the CPF Board as “it would be no less convenient for Hindus to make their regular contributions. . .through the POSB.” Dr Ahmad Matter, 42 *Singapore Parliament Report*, 3 Dec 1982 (Contributions from Hindus for Temples etc and Monies from Muslims for Mosques etc) col. 309-311.

government does in relation to Islam.¹³²

II. State Engagement with Religion

A. State Co-Optation of Religion: The State and Religious Education

Singapore does not practice a strict, militant secularism akin to that of France which bans religious instruction from school; it adopts a posture more akin to the more accommodative British approach, where the Court of Appeal declared the United Kingdom was “not a secular state” as statutes provide for religious education and worship in schools.¹³³ Nevertheless, article 16(3) of the Constitution provides that: “No person shall be required to receive instruction in or to take part in any ceremony or act of worship of a religion other than his own.”¹³⁴ Within Singapore, there are religious mission schools and a limited number of madrasahs (Islamic religious schools) which predate Independence and are allowed to operate, although the state maintains an interest in ensuring that minimal standards are reached and non-religious subjects like science and information technology are taught to ensure the employability of madrasah graduates.¹³⁵

The clearest example of state co-optation of Religion, or at least of certain Religions, was the government initiative to introduce a religious knowledge component in schools in 1984 in an attempt to bolster moral education.¹³⁶ This course covered the major world religions, excluding Judaism, with Confucianism, a humanist philosophy, introduced as an option for Chinese students, although this proved unpopular.¹³⁷ The religious knowledge program thus represented a departure from the prior ethics-based civics education, where religious studies, which were conducted in certain mission schools, were marginalised as extra-curricular, non-examinable courses.

132. [1994] 3 SLR 662 at 681G.

133. *R v Governors of Denbigh High School* [2005] All ER (D) 32. For a comment, see Li-ann Thio ‘School Dress Codes, Religious Freedom and Human Rights (2005) 121 *Law Quarterly Review* 572-576.

134. Singapore Constitution, 1999 Revised Edition.

135. Paragraph 6.10, Second CEDAW Report, *supra*, note 127.

136. Joseph Tamney, Chapter 2, ‘The Religious Studies Experiment’ in *The Struggle over Singapore’s Soul: Western Modernisation and Asian Culture* (Walter de Gruyter: Berlin & New York, 1996) at 25.

137. Aline K Wong: Only 17.8% of the Chinese community took Confucian ethics as compared to 44.4% who took Buddhist Studies: *Singapore Parliament Reports*, 6 Oct 1989 at col 603.

Effectively, the state was engaged in defining which religions were acceptable or at least “rehabilitated to become part of the state’s endeavour to secure a heightened degree of social control.”¹³⁸ Chinese folk religions were notably absent from the course; this was unsurprising as the selected religions were expected to service the needs of state-defined modernity – what might be called the “rationalization” of religion in Singapore.¹³⁹ This program had the effect of bolstering the power of mainstream religious organizations which cooperated with the state and indeed, linkages were later drawn between the popularity of a religion like Buddhism and its systematic teaching in schools.¹⁴⁰

This Religious Knowledge component was to be made a compulsory subject, taught by specialised teachers recognised by the mainline religious institutions and not “members of fundamentalist sects (which have a record of evangelical excesses).”¹⁴¹ However, to alleviate incipient fears that classes would become a forum for religious conversion, it would only be taught to students professing the faith, with non-religionists having Confucian ethics as an option. Furthermore, parents would choose the religion they wanted their children to learn.¹⁴² The subject would focus on “knowledge,”¹⁴³

138. Michael Hill, ‘The Rehabilitation and Regulation of Religion in Singapore’ in *Regulating Religion: Case Studies from Around the Globe*, James T Richardson ed., (Kluwer / Plenum Publishers, 2004) 343 at 346.

139. Tong Chee Kiong, ‘The Rationalisation of Religion in Singapore’ in *Imagining Singapore*, Ban Kah Choon, Anne Pakir and Tong Chee Kiong (Singapore, 1992) at 276-298. See also Andreas Ackermann, ‘The Social Engineering of Culture and Religion in Singapore’ DISKUS Vol 5 (1999), web edition available at 139.Tong Chee Kiong, ‘The Rationalisation of Religion in Singapore’ in *Imagining Singapore*, Ban Kah Choon, Anne Pakir and Tong Chee Kiong (Singapore, 1992) at 276-298. See also Andreas Ackermann, ‘The Social Engineering of Culture and Religion in Singapore’ DISKUS Vol 5 (1999), web edition available at <http://www.uni-marburg.de/religionswissenschaft/journal/diskus/ackermann.html>

140. Eddie CY Kuo, Jon ST Quah and Tong Chee Kiong, National University of Singapore, *Religion and Religious Revivalism in Singapore*, Report prepared for the Ministry of Community Development (Oct 1988).[Religious Revivalism report].

141. Dr. Tay Eng Soon, ‘Religious Education in Schools’ 41 *Singapore Parliament Reports*, 3 March 1982 col. 373. Thus, Christians would be selected from ‘established churches’, teachers of Islam would be approved by MUIS, and Buddhist and Hindu teachers accepted by the Singapore Buddhist Federation and Hindu Advisory Board.

142. There was a choice from 7 options: Bible Knowledge in English (Roman Catholic and Protestant), Buddhist studies in English / Chinese; Hindu studies in English, Islamic Religious Knowledge in Malay, Sikh studies in English and Civics and Current Affairs: ‘Religious Knowledge: Parents to Chose’, *Straits Times* (Singapore) 4 Aug 1983 at 78.

143. Dr. Tay Eng Soon, ‘Religious Education in Schools’ 41 *Singapore Parliament Reports*, 3 March 1982 col. 373-374.

rather than rituals and was designed “not to produce converts,”¹⁴⁴ with the government giving assurances to monitor the teaching of these subjects “to ensure that no teacher makes use of such classes for conversion purposes.”¹⁴⁵ Furthermore, to minimize religious differences, the curriculum was constructed to exclude references to historical or contemporary religious conflicts; it refrained from criticizing other religions to avoid offending religious sensibilities which breeds inter-communal tensions.¹⁴⁶ Indeed, the devotional aspects of Buddhism were downplayed and portrayed negatively in the textbook written by the Curriculum Development Institute of Singapore, which redefined Buddhist values “to suit the secular context.”¹⁴⁷ Thus, these efforts through religious education were an attempt to regulate or “domesticate” religion as an instrument for securing social control as a “sustainer of social values”¹⁴⁸ or more accurately, state ideology.

However, there was a complete policy reversal by decade’s end when the subject was made non-compulsory. This is because it had the troubling side-effect of promoting proselytizing among students of different faiths and had conveyed the impression that certain religions were given “preferential status” by being taught,¹⁴⁹ compared to religions like Taoism and the Baha’i faith, which were excluded from the range of religious subjects taught. The introduction of the religious knowledge component into public schools heightened religious differences, inter-group tensions and the dread spectre of religious conflicts, with the government citing a commissioned academic report to justify this.¹⁵⁰ In an age of growing religious consciousness and fervency in propagating religious beliefs, a “fundamental change”¹⁵¹ had taken place rendering invalid the 1982 decision of the government to have schools play a major role in

144. *Id.*

145. *Id.*

146. Joseph Tamney, ‘Religion and the State in Singapore’ 30 *Journal of Church and State* No. 1 109-128 at 121 (1988).

147. KE Kuah, ‘State and religion: Buddhism and nation-building in Singapore’ *Pacific Viewpoint*, 32 at 34, quoted in Michael Hill, *supra*, note 139 at 348.

148. Michael Hill, *id.*, at 348.

149. Tony Tan (Minister for Education), 54 *Singapore Parliament Reports*, 6 Oct 1989 (Teaching of Religious Knowledge in Schools), col. 575.

150. Tony Tan, *id.*, at col. 575, citing the National University of Singapore’s Sociology Department report on *Religions and Religious Revivalism in Singapore*.

151. 54 *Singapore Parliament Reports*, 22 Feb 1990, col. 1040.

teaching religious knowledge to children. Thus, the education ministry decided in 1989 to terminate the teaching of religious knowledge as part of the upper secondary school curriculum and to replace this with a secular course on civics/moral education meant to inculcate shared values which would support nation-building.¹⁵² This marked a shift towards keeping public schools secular, downplaying or removing religious associations from this sector of the public realm. This declared objective was to preserve “the present climate of religious tolerance.”¹⁵³ The Minister for Education stated that the teaching of religious beliefs should fall within “the province of the home” and not schools as state institutions; in affirming the “enormous contribution” religious groups and mission schools¹⁵⁴ towards the cause of education in Singapore, he stressed that the Government should be seen as “scrupulously neutral and even-handed” in handling religious matters. However, while not leaning in favour of any particular religion, he stressed “the phrase does not mean that Government is against religion.”¹⁵⁵

What must be appreciated is that this represented an attempt by the government to utilize religious education to support its state ideology, which is oriented towards support of the economy through social discipline and a coherent national identity. The chief ministerial architects of this moral education program, Lee Kuan Yew and Goh Keng Swee, appeared to ground it on their belief that world religions shared common core ethical values which would combat negative “hippy” values, “a libertine pre-occupation with self-gratification, the cult of living for today and for myself and to hell with others.”¹⁵⁶ Goh stated that “Exposure to the moral teachings of a religion would enable pupils to imbibe universal moral values like honesty, selflessness, a sense of duty, industry and concern for others.”¹⁵⁷ To the extent that hippyism “constitutes a total rejection

152. *Id.*

153. Tony Tan, *supra* note 151, col. 575 at 578.

154. He affirmed that schools established by religious groups had their “own distinctive identities” and should maintain it, subject to following the guideline of non-interference in the faith of a student not professing that school’s belief unless his parents indicate otherwise: Tony Tan, *supra* note 151 at col. 632. 632. Furthermore, the policy of allowing religious groups and societies in tertiary institutions to use institutional facilities would continue: col 634.

155. Tony Tan, *supra*, note 151 at col.578.

156. Quoting the *Straits Times*, 3 Dec 1982, Joseph Tamney, *supra*, note 128 at 26.

157. ‘Warning: We’ll be a nation of thieves if. . .’ *Straits Times* (Singapore), 1 Nov 1982 at 8.

of the Protestant work ethic which is something we can't afford" and elevated consumption over production values, effort was needed to curb this threat.¹⁵⁸ The program rationale was to address the concern "that younger Singaporeans have become so westernized as to lose the sense of their cultural roots" and thus, the goal was "to transmit cultural values rather than to teach religious beliefs"¹⁵⁹ and to reinforce moral values which, for most power, were founded on the teachings of major religions.¹⁶⁰ Notably, in the 1970s, government leaders expressed concern about moral problems such as lapses in business ethics, declining work ethic, drug and theft problems in the military, sending aged parents to welfare homes and elite school snobbery.¹⁶¹

Thus, teaching and the internalization of a common moral code would promote state ideology which espoused hard work, social discipline, group cooperation, team effort and social obligations, with the goal being to promote the creation of material wealth. In effect, religious ideologies had to be modified to ensure consistency with state ideology and to have the attributes of "support of capitalism, tolerance of other creeds, compatibility with democratic and universalistic norms, and a modern view of women."¹⁶² Nevertheless, the failed religious studies experiment demonstrated that Religion was not a power that could be leashed by the state, and was of limited utility as a tool of social discipline. Thus, the state resorted to the attempt to construct a secular 'civil religion' in the form of the communitarian and neo-Confucian shared values white paper which would be free of religious content, insofar as Confucianism is not deemed a religion.¹⁶³

158. Joseph Tamney, 'Religion and the State in Singapore' (1988) 30(1) *Journal of Church and State* 109-128, quoting Lee Kuan Yew at 112.

159. Aline Wong, 54 *Singapore Parliament Reports*, 6 Oct 1989, col 602.

160. Dr Tay Eng Soon (Senior Minister of State for Education), 54 *Singapore Parliament Reports*, 6 Oct 1989 at col. 623: "religious faith [has] always been the undergirding foundation behind the moral values of most societies and most cultures."

161. HL Lim, 'The Goh Keng Swee Interview: Day Three', *Straits Times* (Singapore) 30 Dec 1982, 1.

162. Joseph Tamney, *supra*, note 137 at 120.

163. See Neil A. Englehart, 'Rights and Culture in the Asian Values Argument: The Rise and Fall of Confucian Ethics in Singapore' 22 *Hum. Rts. Q.* 548-568 (2000).

B. State Co-Operation with Religion

(i) Government Definition of the Sphere of Permissible Social Involvement by Religious Groups

The government draws a line between acceptable and unacceptable social or public activities which religious groups may engage in. The white paper for the Maintenance of Religious Harmony Bill described "acceptable" activities thus:

...Many religious groups are engaged in educational, community and social work, running schools, helping the aged and the handicapped and operating crèches for children. Their potential future contributions to Singapore in these areas are even greater.¹⁶⁴

1. Legitimate Activities of Religious Groups

Religious groups are viewed as a positive factor where they keep out of politics and focus their energies on social welfare work. The government encourages these activities as they represent the privatization of compassion, which is consonant with the government's anti-welfarism policy,¹⁶⁵ or provide a resource for the government to utilize. For example, the government has no problems cooperating with religious groups for educational purposes, as when the Ministry of Education requested¹⁶⁶ that the Inter-Religious Council of Singapore (IRC),¹⁶⁷ formed in 1949 at the suggestion of a Muslim theologian, stage a seminar on Religion in Singapore for visiting American teachers in 1966.¹⁶⁸ The IRC also helped the

164. MRHA white paper, *supra*, note 26 at para. 6.

165. On Singapore welfare policy, see Thio Li-ann, *supra*, note 36 at 81-83.

166. *The Inter-Religious Organisation 1949-1989: IRO-40: 40th Anniversary Commemorative Book* (Singapore: Inter-Religious Organisation, 1990) at 36.

167. In 1966, Dato Al-Syed Ibrahim bin Omar Alsagoff, President of the Inter-Religious Organisation stated at page 2: "The object of the Inter-Religious Organisation is to establish co-operation between leaders of religions on matters agreed upon by all religions, such as the support of justice and welfare, the prosecuting of adultery and gambling, the resisting of anti-moral actions in films and publications and the preaching of tolerance, charity and kindness to all God's creatures, be they human beings or animals. Its object is also to tolerate and not to attack each other on matters which are in dispute among followers of religion'. Today, it seeks to promote religious harmony and 'the tolerance of the informed not the tolerance of the indifferent'. From the preface, *The Inter-Religious Organisation 1949-1989*, *supra*, note 126.

168. See Religions in Singapore, Speeches Delivered during Seminar held at the Conference Hall, Singapore, 10th August 1966 at 1. In 1966, there were IRO Councillors

Ministry of Education to promote its moral education and religious knowledge school programs helping MOE.¹⁶⁹

The government has provided funding for the secular programs of voluntary welfare organizations such as Focus on the Family in relation to its Family Life Education program which is held in schools, which includes modules on encouraging abstinence and 'Parenting with Confidence', as this complements the Ministry of Community Development's own strong family values policies.¹⁷⁰

2. Religion and Public Policy

In relation to the issue of consulting the public on major policy issues, compared to the previous top-down approach towards governance, the government seems to be actively soliciting views on controversial issues such as the debate in 2005 over whether or not to have a casino in Singapore.¹⁷¹ This elicited divided views and strong opposition from both secular¹⁷² and religious voices,¹⁷³ prompting some debate in the newspapers as to whether religious perspectives should be heard with respect to public policy.¹⁷⁴ Clearly, it would be

who were Muslim, Buddhist, Christian, Hindu, Jew, Sikh and Zoroastrian.

169. Ministry of Communications and Information, 1988, 22, at 33, *Religious Revivalism Report, supra*, note 141.

170. Anti-religionists have voiced insensible protests that support for these programmes were an imposition of religion but the government funds secular programmes of groups (not the groups themselves) which is a health instance of co-operation with civil society: 'Ministry funds only VWOs' secular programmes', *Straits Times (Singapore)* 3 Dec 2003, Forum, available on LEXIS.

171. 'Minister: Expect early open consultation on divisive issues' *Straits Times (Singapore)* 1 July 2005, H14

172. 'Opposition gives red light to casino plan', Agence France Presse, 7 April 2005, archived at <http://www.singapore-window.org/sw05/050407af.htm>, <visited 1 Oct 2005> ; 'Wrong buzz route', *Straits Times (Singapore)*, 21 April 2005; 'Casino: Not fruitful to keep arguing, says PM' *Straits Times*, 27 April 2005, available on LEXIS.

173. 'Muis against having a casino', *Straits Times (Singapore)* 11 Feb 2005 at H7; 'Churches council speaks out against casino idea', *Straits Times (Singapore)* 15 July 2004; The anti-Casino lobby included the Singapore Buddhist Federation, the Hindu Endowments Board and the National Council of Churches Singapore, in addition to MUIS who voiced objections on religious and social grounds. There is a feeling in some quarters that the solicitation of public views was mainly a cosmetic exercise: Chua Mui Hoong, 'Don't give up battle, even if casino gets nod', *Straits Times (Singapore)*, 9 March 2005, available on LEXIS.

174. 'Catholic Church opposed to casino here', *Straits Times (Singapore)*, 4 Sept 2004; Manjit Singh Sree Govind Menon, 'Don't bring religion into casino debate', *Straits Times (Singapore)*, Forum, 8 April 2005, Thio Li-ann, 'Hearing out religion in public debate' *Straits Times (Singapore)*, Review, 15 Dec 2004; Lim Eng Cheng, 'Religious groups should speak with louder voice' *Straits Times (Singapore)*, Forum, 6 Dec 2004; Lydia Lim, 'Emerging role of religion in politics' *Straits Times (Singapore)*, 23 April 2005; 'Review-

ensorship and undemocratic to exclude religiously-based perspectives and to privilege 'secular' perspectives, insofar as these ideologies are distinct as they are not necessarily mutually exclusive.¹⁷⁵ Certainly, the government has shown some solicitude for religious concerns in broadly consulting religious groups on public issues such as living wills, compulsory education and whether to have a casino.¹⁷⁶ The government has declared its appreciation for views voiced by religious groups, where these are framed in accessible, rational and clear terms, in a responsible fashion.¹⁷⁷

Nevertheless, the government justifies its decisions in terms of economic rationality and national progress, and retains the final say over political objections and alternative perspectives, whether religious or non-religious. The government after making a decision to have two integrated resorts with casinos urged Singaporeans to rally behind their decisions as continued debate would "harden views for and against"¹⁷⁸ and "polarize our multiracial, multi-religious society"¹⁷⁹; it noted that "religious and moral arguments against the casino"¹⁸⁰

Insight: the role of religion in politics'. *Straits Times* (Singapore) 30 April 2005; Aaron Low, '6 in 10 want religious input in policy-making', *Straits Times* (Singapore) 16 July 2005; available on LEXIS

175. See generally Thio Li-ann, 'In a democracy, all have a right to be heard', *Straits Times (Singapore)*, Forum, 22 Feb 2005, H6; 'State, Religion and the Public Square', *Straits Times, (Singapore)*, Forum, 11 Dec 2003, available on LEXIS.

176. Various religious groups including MUIS, Singapore Buddhist Federation, Hindu Endowments Board, National Council of Churches of Singapore have spoken out against having a casino. MUIS expressed its opposition on 2 grounds first, on religious grounds, Islam totally rejects gambling and social harm it bring. Further, Islam enjoins that a living be earned through hard work and not chance or luck; on social grounds, MUIS research indicated negative social costs in the form of the addictive behaviour of those lower income groups, youths and drug addicts which would be exacerbated by enlarging the sphere of legal gambling: 'Muis against having a Casino', *Straits Times, (Singapore)*, 11 Feb 2005 at H7. An online petition against having a casino was also initiated, but to no avail: 'Man behind casino petition' *Straits Times* (Singapore) 25 April 2005, available on LEXIS.

177. Former Prime Minister Goh Chok Tong commended social conservatives and religious community members for "clearly and responsibly" expressing their concerns against a further liberalisation of the militant homosexual agenda, as this would erode other civil liberties and undermine public health and morality. He did not "encourage or endorse a gay lifestyle" despite relaxing policy to allow homosexuals to be hired for key civil service positions, subject to disclosure: PM Goh Chok Tong, "From the Valley to the Highlands", (National Day Rally Speech, 17 August 2003), online: Sing. Govt. Press Release <<http://www.gov.sg/nd/ND03.htm>>.

178. 'Casino: Not fruitful to keep arguing, says PM; It's time to move on and make resorts a success, instead of risking rift in society', *Straits Times* (Singapore) 27 April 2005, available on LEXIS.

179. *Id.*

represented a “strand of strict, moralist thinking”¹⁸¹ integral to “our social immune system,”¹⁸² but nevertheless appealed to secularism and pragmatism to justify what remains a contentious decision and to cloak it with a mythical air of neutrality.¹⁸³ In seeking to get Singaporeans to close ranks and support the casino initiative, the Prime Minister welcomed the offer of many social welfare and religious groups who opposed having a casino to help tackle social problems related to this project, that is, excessive gambling and associated evils.¹⁸⁴ He noted, “Religious and social work groups will also have a role to play, to exhort their followers to live upright lives, to have this social network so you’ll know who is in trouble, who is . . . wandering too far, and to counsel and help those who will get into trouble. So I hope that those who oppose the IR on moral or religious grounds will continue to engage themselves and exert a positive force on society.”¹⁸⁵ Thus, the state retains the final say on policy decisions and religionists are either disregarded or co-opted to serve state interests.¹⁸⁶

C. State Control of Religion

(i) State Control over Religion

The state employs both formal legislative and informal methods of controlling religion where it is viewed as posing a threat in terms of

180. *Id.*

181. *Id.*

182. *Id.*

183. *Id.*

184. ‘They are anti-casino, but ready to help’, *Straits Times* (Singapore) 22 April 2005. PM Lee noted: “We are very grateful for the understanding of these religious leaders and we will make full use of their resources, networks and sense of mission to tackle the side effects of problem gambling.”

185. ‘They are anti-casino, but ready to help’, *id.*

186. In justifying the decision to have 2 Integrated Resorts with casinos, Prime Minister Lee stated that the Government adopted a “secular and pragmatic approach” and could not “enforce the choices of one group on others”. He characterised the aim to have “a decent and wholesome society” but “not a puritanical or hypocritical one.” He noted the religious objections of Buddhists, Hindus, Muslims and Christians. He affirmed that “Religious faith is a powerful force motivating Singaporeans to help their fellow citizens” and hoped that religious groups “will work together with the Government to help to build strong families, which are the basic units of a resilient and stable society.” Statement by the Prime Minister and Minister of Finance, Proposal to Develop Integrated Resorts, 80 *Singapore Parliament Reports* 18 May 2005, available at <<http://app.sprinter.gov.sg/data/pr/2005041803.htm>>.

undermining political authority or stirring inter-religious friction. While freedom of conscience is absolute, what is circumscribed is the manner in which religion is practiced and propagated. As Prakash J noted in *Colin Chan v Minister for Information and the Arts*,

The necessity for such a limitation on religious freedom can be easily understood in the modern world where everyday there are examples of conflicts arising from religious differences since, unfortunately, what to one person is a self-evident religious truth can to another be either rank heresy or dangerous fanaticism.¹⁸⁷

This section outlines the methods of control and then identifies and examines how particular threats are managed by the state.

1. Informal Methods of Control

In terms of informal methods of control, one recent development has been the adoption of the non-legally binding government-initiated Declaration on Religious Harmony,¹⁸⁸ which was drafted in consultation with religious leaders, headed by an agnostic Minister of State and adopted in 2003. By laying down a set of guidelines, it seeks to pre-empt religious conflict and radicalism and promote pacific co-existence among religious groups.¹⁸⁹ The government has also consistently exhorted religious leaders to urge moderation and toleration amongst their flock and, more recently, to self-regulate and weed out religious extremists through community policing.¹⁹⁰

187. [1995] 3 SLR 644 at 654B.

188. Neo Hui Min 'More than words, a S'pore way of life' *Straits Times* (Singapore), 10 June 2003, available on LEXIS.

189. The principles stated are (i) Recognise the secular nature of our State; (ii) Promote cohesion within our society; (iii) Respect each other's freedom of religion; (iv) Grow our common space while respecting our diversity; (v) Foster inter-religious communications. Text available at http://www.mcys.gov.sg/MCDSFiles/download/Dec_relig_harmony.doc

190. "The government recognises that in its efforts to identify and neutralise radical teachers and foreign terrorist operatives, it must not disrupt the legitimate practices and peaceful activities of the local Muslim community. With the support of the Government, the Muslim community will need to propose and implement measures to prevent dangerous foreign influences, such as the distorted teachings of foreign preachers. . .from infiltrating Singapore and influencing Muslims here. For a start, the Muslim community must develop a comprehensive, self-regulatory system to monitor religious education. Such a system will help the Muslim community to detect dangerous extremist teachings. . .All Singaporeans, and not just Muslims, must exercise vigilance against extremist religious teachings and suspicious or clandestine activities": *The Jemaah Islamiyah Arrests and the Threat of Terrorism*, white paper (Cmd. 2 of 2003, Singapore Ministry of Home Affairs) at 22, available at Ministry for Home Affairs website at <http://www2.mha.gov.sg/mha/index.jsp>.

(ii) Formal Legislation: General and Specific Regulations

1. General Law

The government has available a range of general laws which seek to regulate religiously related conflict or unrest. For example, Chapter XV of the Penal Code (Cap 224) contains a section on 'Offences relating to religion' which includes disturbing a religious assembly, injuring a place of worship with intent to insult a religion or uttering words with deliberate intent to wound the religious feelings of a person, punishable by fine and/or imprisonment.¹⁹¹ Clearly, religious sensitivities also inform the scope of free speech. This is evident in the regulations governing the Speakers Corner,¹⁹² which is a small city park, modelled after the one in London's Hyde Park, and is exempted from the general requirement that a licence is needed for public speaking. However, the substantive scope of speech is limited insofar as the speaker cannot deal with any matter which relates to "any religious belief or to religion generally" or which may "cause feelings of enmity, hatred, ill-will or hostility between different racial or religious groups in Singapore".¹⁹³ Furthermore, no licenses are needed for indoor talks in a recent liberalization of speech controls, unless the topics "touch on sensitive issues like race and religion."¹⁹⁴

The government also has recourse to general laws within the administrative framework which enable it to preventively detain persons using religion in a manner so as to prejudice the security of Singapore¹⁹⁵ to issue prohibition orders banning religious literature¹⁹⁶

191. Section 295-298 Penal Code (Cap 224), 1985 Revised Edition.

192. See Li-ann Thio, 'Speakers Cornered? Managing Political Speech in Singapore and the Commitment 'To Build a Democratic Society'', 3 *International Journal of Constitutional Law* 516-524 (2003).

193. Section 3(1)(c) Public Entertainments and Meetings Act (Cap 257, Section 16) 2001 Revised Edition; Public Entertainments and Meetings (Speakers' Corner) (Exemption) Order.

194. PM Lee Hsien Loong, 2004 National Day Rally Speech, <http://app.sprinter.gov.sg/data/pr/2004083101.htm> 6/20/2005 Notably, Lee mentioned that as evidence of a progressive opening up in Singapore in terms of public debate after the events of 9-11, that "we were able to discuss openly and maturely gut issues of race and religion, and how we could build trust between Muslims and non-Muslims." Speech by Deputy Prime Minister Lee Hsien Loong at the Harvard Club of Singapore's 35th Anniversary Dinner—Building A Civic Society, available at <http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN015426.pdf>

195. Internal Security Act, (Cap 143), [0]1985 Revised Edition.

196. Undesirable Publications Act, (Cap 338), 1998 Revised Edition. [0]

and to de-register religious associations.¹⁹⁷

State control over various religious groups has been exerted through the technique of de-registering groups under the terms of the Societies Act,¹⁹⁸ which are considered to be threats to social order by opposing national policies like military service (Jehovah's Witnesses), who utilize religious institutions for political involvement (Christian conference of Asia) and who brainwash and destroy families (Unification Church).¹⁹⁹ The Jehovah's Witnesses brought a series of constitutional challenges to both the de-registration order issued under the Societies Act and the prohibition order banning watchtower literature under the Undesirable Publications Act²⁰⁰, which the courts upheld as reasonable restrictions to religious freedom in service of public order claims. The reasoning was that any religious belief that undermines the state's national military policy was considered to undermine public order. As Chief Justice Yong noted:

The basis for the de-registration clearly flowed from the danger of allowing absolute freedom of religion which might create a complete denial of a government's authority and ability to govern individuals or groups asserting a religious affiliation. The Jehovah's Witnesses were not mere conscientious objectors to national service but were engaging in conduct which was prejudicial to national security.²⁰¹

Religious groups are also subject to the general law of the land. For example, in relation to cults,²⁰² the government has stated that as

197. Societies Act (Cap 311), 1985 Revised Edition.

198. Cap 311, 1985 Revised Edition.

199. 'Three religious groups banned in Singapore', *Straits Times* (Singapore), 19 Jan 1996 at 29. See also Report of the Special Rapporteur Mr. Abdelfattah Amor, *Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief*, E/CN.4/1997/91, 39 Dec 1996, para. 17; 65 *Singapore Parliament Reports*, 18 Jan 1996 (Religious / Quasi-Religious Organisations: Ban), cols. 430-432.

200. (Cap 338), 1998 Revised Edition.

201. *Chan Hiang Leng Colin v Public Prosecutor* [1994] 3 SLR 662 at 688. Notably, the Jehovah's Witnesses arrived in Singapore in 1940 and was registered in 1962 as the Singapore Congregation of the Jehovah's Witnesses, which was prior to the military conscription policy introduced in 1967.

202. For a judicial discussion of the term 'cult' in the Singapore context, see *Central Christian Church & Anor v Chen Cheng & Ors* [1997] SGHC 292; *Chen Cheng and Another v Central Christian Church* [1999] 1 SLR 94; [1998] SGCA 51

a “secular body”²⁰³ it is not concerned with “issues of religious doctrinal purity or deviance.”²⁰⁴ Thus, all legally registered groups, such as the Falun Gong are not acted against because they are labelled as ‘cults’ but only insofar as they act unlawfully,²⁰⁵ such as staging an assembly without a permit.²⁰⁶

2. The Maintenance of Religious Harmony Act (Cap 167A)

He also noted that although the Maintenance of Religious Harmony Act had not been invoked, its existence reminded Singaporeans of the fragility of religious harmony, as seen in countries like Bosnia, Sri Lanka and Northern Ireland.

- Deputy Prime Minister Lee Hsien Loong, 1996²⁰⁷

The Maintenance of Religious Harmony Act (MRHA)²⁰⁸ was adopted in 1990 as a partial response to the perceived threat of conversions stemming from aggressive evangelization by certain groups and that of subversion, in relation to the dangers of mixing religion with politics. The government considered that this legislation was necessary owing to the retrogression in inter-religious group relations, although it was something introduced “more in sorrow than with joy,”²⁰⁹ designed to “prevent us from sliding backward”²¹⁰ and

203. 71 *Singapore Parliament Reports*, 6 March 2000, (Cults) col. 1141.

204. *Id.*

205. *Id.*

206. There was some debate within Parliament as to whether the government could provide assurances it would not “take orders from Beijing”, in relation to an alleged direction sent by the Chairman of the People’s Associations to community centres to withdraw facilities (where these had been previously granted) after China started its crackdown on Falungong: 72 *Singapore Parliament Reports* 12 Jan 2001, (Falungong Members) Col. 1275-1278. The Falungong Human Rights Working Group issued a complaint before the United Nations in April 2005: 206. There was some debate within Parliament as to whether the government could provide assurances it would not “take orders from Beijing”, in relation to an alleged direction sent by the Chairman of the People’s Associations to community centres to withdraw facilities (where these had been previously granted) after China started its crackdown on Falungong: 72 *Singapore Parliament Reports* 12 Jan 2001, (Falungong Members) Col. 1275-1278. The Falungong Human Rights Working Group issued a complaint before the United Nations in April 2005: <http://www.clearharmony.net/articles/200505/26354p.html>

207. Straits Times Report of Comments of DPM Lee: “Religious peace must be maintained”: Otherwise things will never be the same if conflict breaks out: BG Lee, *Straits Times* (Singapore) 20 May 1996 at 3.

208. (Cap 167A), 2001 Revised Edition.

209. DPM Goh Chok Tong, 51 *Singapore Parliament Reports*, col. 1148 at 1159 (23

“not something we are very proud of.”²¹¹ Tamney observed that the clear targets of this piece of legislation which sought to separate religious from state authority were leftist Christianity which apparently informed the so-called Marxist conspiracy of the late 1980s and Islamic fundamentalism.²¹²

Under the Act, the Minister is empowered to issue non-justiciable ‘restraining orders’ on religionists or opportunists where the Minister is satisfied that such a person is or is attempting to commit acts

- (a) causing feelings of enmity, hatred, ill-will or hostility between different religious groups;
- (b) carrying out activities to promote a political cause, or a cause of any political party while, or under the guise of, propagating or practising any religious belief;
- (c) carrying out subversive activities under the guise of propagating or practising any religious belief; or
- (d) exciting disaffection against the President or the Government while, or under the guise of, propagating or practising any religious belief.²¹³

These orders may restrain a person from addressing a group, publishing materials or holding office in relation to a religious publication, without the Minister’s prior permission.²¹⁴ This order seeks to operate pre-emptively and promptly, avoiding the publicity of a court case for a person persecuted for stirring up religious ill-will and prosecuted under the terms of the Penal Code²¹⁵ or Sedition Act.²¹⁶ Thus, it was meant to be cautionary and preventive, with deterrence rather than punishment as its goal. Unlike the Internal Security Act, the MRHA addresses the misuse of religion, for example, to promote political causes, rather than subversion.²¹⁷ Failure to comply with these orders is an offence and those in breach

Feb. 1990).

210. *Id.*

211. *Id.*

212. Joseph Tamney, *supra*, note 137 at 36-37.

213. Section 8(1)(a)-(d), MRHA (Cap 167A), 2001 Revised Edition.

214. Section 8(2)(a)-(c), *id.*

215. Penal Code (Cap 224), 1985 Revised Edition.

216. Sedition Act (Cap 290), 1985 Revised Edition.

217. Although a ground for issuing a MRHA restraining order is the “carrying out subversive activities under the guise of propagating or practising any religious belief”: Section 8(1)(c), MRHA (Cap 167A), 2001 Revised Edition.

may be subject to a fine (up to \$20,000) or maximal 3 year term of imprisonment.²¹⁸

The broadly drafted terms justifying the issue of a restraining order gives considerable discretion to the Minister who is empowered to determine the ambit of ‘religion’ and ‘politics,’ distinguishing the promotion of religion as the basis for shared moral values from that of religion in its subversive and divisive capacity.²¹⁹ In so doing the state arrogated to itself the right to define the parameters of the permissible in terms of Religion in the public sphere, giving it a tool to control the religious institutions as intermediate civil society actors. It exemplifies a “rationalized, institutionalized mechanism for managing religious diversity.”²²⁰

It was feared that the MRHA might be used to quell legitimate political dissent and check political opposition through the intrusion of politics into religion.²²¹ A limited check is available in the form of the Presidential Council of Religious Harmony (PCRH), which the MRHA established as a body composing both lay and religious representatives.²²² If the PCRH disagrees with the view of the Cabinet government about the issuing of the restraining order, the elected president under article 22I of the Constitution may cancel such restraining orders.²²³ Thus, in the composition of the PCRH, the government has co-opted leaders of the main religions, rendering them accountable both for their own conduct as leaders and for that of their followers.

Since its inception, the workings of the MRHA has been almost invisible to the public eye, as it does not involve the public setting of a

218. Section 16, MRHA (Cap 167A), 2001 Revised Edition.

219. The MRHA white paper, *supra*, note 26 describes both positive religious activities (para.6) and subversive ones: page 7, section 26b; Annex, ‘Religious Trends – A Security Perspective’ Annex MRHA White Paper at para 1.

220. Vineeta Sinha, *supra*, note 25 at 26.

221. Dr Lee Siew Choh, 54 *Singapore Parliament Report*, 22 Feb 1990 (Maintenance of Religious Harmony Bill), cols 1102-1110

222. Section 3 of the Maintenance of Religious Harmony Act (Cap 167A), 2001 Revised Edition provides for this Council which is to have between 6 and 15 members, not less than two-thirds of whom shall be “representatives of the major religions in Singapore”. The other members “shall be persons who, in the opinion of the Presidential Council for Minority Rights, have distinguished themselves in public service or community relations in Singapore.”

223. Art 22I of the Singapore Constitution provides: “The President, acting in his discretion, may cancel, vary, confirm or refuse to confirm a restraining order made under the Maintenance of Religious Harmony Act (Cap. 167A) where the advice of the Cabinet is contrary to the recommendation of the Presidential Council for Religious Harmony.”

court nor do the relevant government bodies publish any reports in this respect. In a newspaper report, the Home Affairs Minister Wong Kan Seng enumerated 3 instances where it was almost invoked, stating that it was useful as a deterrent in cautioning religious leaders. One instance related to mixing religion and politics as when an Islamic leader had urged Muslims to vote for Muslim candidates during the 1991 General Elections. The other two related to occasions where one religious leader had criticised other faiths. In 1992, a Christian pastor was warned to refrain from criticising other faiths like Buddhism, Taoism and Catholicism through the pulpit and through publications, and in 1995, an Islamic religious leader was admonished for criticising a widespread Hindu belief that statues of their deity, Ganesha, could drink milk offerings, which the leader had labelled not a miracle but the work of the devil.²²⁴

(iii) Perceived Threats Posed by Religion

State ambivalence towards religion is evident insofar as the state not only views it as a constructive but also, a destructive social force. There are various ways that Religion is considered to threaten the State since its inception and also, in light of the trend towards religious revivalism evident from the late 1970s to 1980s. These threats are in some instances complicated and made volatile by their implication of ethnicity where closely correlated with religion, as for the Muslim community.

Briefly, major issues related to religious conflict include the apparent conspiracy to erect a Marxist state with the conspirators allegedly infiltrating Catholic organizations²²⁵ and the questioning of loyalty of Malay Muslim soldiers in the late 1980s²²⁶, the religious freedom litigation brought primarily by the Jehovah's Witnesses in the 1990s²²⁷ and the uncovering of the bomb plot by self-proclaimed

224. 'Govt reins in religious leaders', *Straits Times* (Singapore), 12 May 2001 at 1.

225. See generally *Chng Suan Tze v Minister of Home Affairs* 2 [1989] 1 MLJ 69; *Teo Soh Lung v Minister of Home Affairs* [1989] 2 MLJ 449; *Vincent Cheng v Minister of Home Affairs* [1990] 1 MLJ 449. On the parliamentary debates in relation to the 'Marxist Conspiracy': 51 Sing. Parl. Rep., May 31, 1988, at col 238. See generally Francis Seow, *To Catch a Tartar: A Dissident in Lee Kuan Yew's Prison* (1994); 'The conspiracy theory' *Far Eastern Economic Review* (22 October 1987).

226. '100 Malays for dialogue with SM today' *Straits Times* (Singapore) 2 March 2001, 3; 'Integration has brought benefits to all': SM's Dialogue with the Malay Community' *Straits Times*, (Singapore) 4 March 2001, H34.

227. The leading case is *Colin Chan v PP* [1994] 3 SLR 662. Other cases include *Dennis Kok v. P.P.* [1997] 1 SLR 123; *Chan Cheow Kiang v. P.P.* [1996] 3 SLR 271;

fundamentalist Islamic terrorist group *Jemaah Islamiyah*²²⁸ in December 2001. In a post 9-11 political landscape, this plummeted ethnic relations to an all-time low. This was exacerbated by the ‘tudung controversy’ in January-February 2002, which some viewed as an assertive attempt by members of the Muslim community, through demands to wear religious dress in schools, to underscore expressions of religious identity in public spaces.²²⁹ This resonated with growing concerns that Muslims were becoming more insular and isolationist, owing to their ‘Arabicisation’²³⁰ in terms of dress, diet and social interaction. This manifested in the adoption of stricter forms of religious dress in the push for a more stringent, holistic practice of Islam that brooks no distinction between the sacred and the secular.²³¹

1. Aggressive Proselytization and Disrupting the Religious Equilibrium

...in a multi-religious society, if any of the religions develop too rapidly, it would naturally result in reactions or response from other religious groups in self-defence²³²

In managing religious harmony, there appears to be an

Nappalli v. ITE [1999] 2 SLR 569; *David Quak v. P.P.* [1999] 1 SLR 533; *Pte. Chai Tshun Chieh v. Chief Military Prosecutor*, Military Court of Appeal No. 1 of 1989.

228. “Security, harmony, the main worry now” *Straits Times* (Singapore) (11 February 2002) at 4; “The Case Against the Jemaah Islamiah”, *Straits Times* (Singapore), 31 May 2002, at H2.

229. “By barring religious garb, Singapore dress code alienates Muslims” *New York Times* (2 March 2002) at A6 column 1. See also “In placid Singapore, civil disobedience simmers” *The Christian Science Monitor* (5 February 2002) at 7; “PM firm on tudung issue” *Straits Times*(Singapore) (3 Feb 2002) at 1.

230. The 1988 Report noted the growing influence of Islamic fundamentalism in Singapore manifest in the insistence of some Malays on following orthodox Islamic precepts and the wearing of jilbab or purdah by some women. The Report distinguished between Muslim fundamentalism (fidelity to orthodoxy) and Islamic radicalism (politicisation) and noted that the latter did not then pose a real threat to Singapore: *Religious Revivalism Report*, supra, note 141 at 42-43.

231. Government leaders urge Muslims to be pragmatic within a multi-racial, multi-religious society. Given that Islam bans gambling, in response to the disappointing decision to have a casino in Singapore, a Muslim Minister Yaacob Ibrahim called for Muslims to respect the difference between public and private morality. He noted that “We understand that in our multi-ethnic and multi-religious society, it is not tenable for government policies to be dictated by the views of any one group or groups.” Furthermore, religious objections had not led to the banning of abortion or the use of contraceptives. He urged that: “What we believe is good and right for society” should be shared graciously and respectfully “through dialogue and education, without imposing on others”: Azhar Ghani, ‘Muslims urged to view decision with pragmatism’, *Straits Times* (Singapore), 19 April 2005, available on LEXIS.

232. Ow Chin Hock, 54 *Singapore Parliament Reports*, 6 Oct 1989, col 619

assumption that equilibrium should be preserved in maintaining a certain religious composition of the population, given the disruptive effects of communal tensions which religious conversions engender. This delicacy of this balance was threatened by increased religious fervour and evangelism activities. Thus, the Ministry of Community Development (MCD) commissioned an academic study to assess trends in relation to Religion within the context of Singapore's changing social environment, entitled *Religion and Religious Revivalism in Singapore* in 1988.²³³ The growth of Christianity and Islam and the demonstrated increase in interests amongst their followers to engage in religious activities caused official concern and partly motivated the abrupt termination of the Religious Knowledge school education program after only 4 years.²³⁴

The Report cautioned that the increasing number of members joining faiths like Christianity at the expense of other religious groups made insecure by diminishing numbers "may threaten to disrupt the subtle and delicate equilibrium which has characterized the religious scene in Singapore for decades."²³⁵ Notably one of the major objectives of the commissioned MCD Project was "To describe the characteristics of those persons who have been attracted to Christianity, and to find out, among the new converts, the reasons for and the process of their conversion"²³⁶ There was especial concern that Christians were wielding an influence disproportionate to their numbers as most Christians "are of relatively higher socio-economic status (in education, occupation and income)," which might incorporate a social class dimension into religious conflict.²³⁷ Furthermore, it opined that the "rapid growth in Christianity"²³⁸

233. *Religious Revivalism Report*, *supra* note 141.

234. The Report, *id.*, noted that aside from the substantial growth in Christians since 1950, largely in part to charismatic churches attracting English educated Chinese, the number of atheists/agnosticists was also increasing: at 5. Furthermore, while there was a considerable decline in traditional Chinese religions since the 1980s, there was a revival in Buddhism in part spurred by "the teaching of Buddhism as a moral/religious education course has drawn attention to it, and this has facilitated its promotion in Singapore": at 6. Compare to Taoism which was perceived as irrational and superstitious, the teaching of Buddhism in schools made it appear "more logical, systematic and relevant": at 25, 28. It also postulated that the introduction of Bible Knowledge as part of the religious Knowledge programme "may have the indirect function of promoting Christian conversion": at 15.

235. *Religious Revivalism report*, *supra*, note 141 at 2.

236. *Id.*, at 3.

237. *Id.*, at 11.

238. *Id.* at 31.

particularly had implications for the “long-term delicate equilibrium”²³⁹ of all religions” as its “evangelist activities are often perceived by members of other faiths to be aggressive and showing little sensitivity to their feelings.”²⁴⁰ The conversion of Muslims and Hindus to Christians was considered to pose “a threat to the Hindu community”²⁴¹ and with respect to Muslims, “even a few isolated cases of conversion may cause great concern among the community”.²⁴²

The MRHA white paper which was laid before Parliament in 1989, in discussing the need for legislation to maintain religious harmony, noted a shift in social attitudes from the “relaxed tolerant acceptance of and coexistence with other faiths” towards “strongly held exclusive beliefs”.²⁴³ Annexed to the MRHA white paper was a report compiled by the Internal Security Department detailing threats to security and religious harmony and thereby underscoring “the delicacy of Singapore’s multi-religious balance.”²⁴⁴ These security threats were listed under 3 categories: “Aggressive and Insensitive Proselytisation,” “Mixing Religion and Politics” and “Religion and Subversion.”²⁴⁵

2. Aggressive and Insensitive Proselytization

Proselytization is a constitutionally guaranteed aspect of religious liberty in Singapore. However, the government has urged that this must be exercised sensitively, by drawing a distinction between interested persons and attempts to convert people out of their faith by denigrating his religion, which could cause great offense.

239. *Id.* at 31.

240. *Id.* at 31.

241. *Id.*, at 8. Notably, the Hindus welcomed the MRHA seeing it as a tool to protect their small community from aggressive conversion tactics. In the submission (Paper 47) of the Hindu Endowments Board in respect of the proposed legislation, it states in para. 1: “As a minority community and as one whose underlying religious beliefs are liberal and broad-based, we are of the view that the dangers of strong proselytisation are real. The actual conversion of Hindus to other religions is of concern to us. The process and manner in which they have attempted to do so is of graver concern.” Hinduism was painted as a weaker religion in terms of influence, one lacking a ‘dogmatic religious militancy’ and thus vulnerable to strong influences stemming from other “more predominant” religions. Report of the Select Committee on the Maintenance of Religious Harmony Bill (Bill No. 14/0), Part. 7. of 1990 (Presented to Parliament on 29th Oct, 1990) Minutes of Evidence, 20 Sept 1990, 13-20.

242. *Religious Revivalism report*, supra note 141 at 7.

243. MRHA White Paper, supra, note 26 at para 10.

244. ‘Religious Trends – A Security Perspective’ Annex MRHA White Paper, *id.*, para 1.

245. *Id.*

As such, the government has always been alert to Muslim sensitivities towards Christian evangelism.

From the inception of the new nation, Prime Minister Lee Kuan Yew took steps to address religious leaders in 1965 on techniques of religious evangelism which he likened to Communist ‘agit-prop’ whereby propaganda was used to agitate workers to embark upon rampages disruptive to the social order.²⁴⁶ He cited as an example of “religious agit-prop” an “active vicious campaign” alleging that Catholics sought to convert Muslim boys by “ply(ing) him with a beautiful female Christian and with \$500 and the promise of a job”, as reported in the Malay language newspaper, *Utusan Melayu*.²⁴⁷ He speculated that a political object could be to excite the Muslim community outside Singapore in South-east Asia “into a very bellicose frame of mind”²⁴⁸ consequently reducing non-Muslims in the region “to a state of mild and submissive docility.”²⁴⁹ In the interests of averting religious conflict, Mr. Lee noted:

I have assured the Christians that Singapore has many people with no religious guidance whatsoever, no religious beliefs whatsoever. . . I would say more than 70 per cent are either vaguely agnostic or iconoclasts. . . . And there is a very wide field of operation. I see no need for going around looking for the 12 per cent Muslims to try and convert them because I think there are 60 to 70 per cent of people who are in need of some form of religious and moral guidance.²⁵⁰

Thus, the government has from the outset demonstrated especial regard for Muslim sensitivities, not least because it is surrounded by Muslim-majority nations like Malaysia, Indonesia, Brunei, who have expressed concern for their kin in Singapore. This flows from the centrality of Islam as a focal point for Malay nationalism.

In the 1970s and 1980s, there was change in Singapore’s religious composition. This gave rise to the fear that what was considered a disproportionately large number of converts to Christianity, who left “other religious communities,”²⁵¹ would become a serious cause of

246. Transcript of the Prime Minister’s Statement to Religious Representatives and Members of the Inter-Religious Council, 30th September 1965.

247. *Id.*

248. *Id.*

249. *Id.*

250. *Id.*

251. Ministry of Community Development Report, cited in para 12, MRHA white

agitation. Thus, frequent interaction among citizens gave opportunity for a “dominant” (in terms of influence) religion to encroach upon the territory of a “weaker” religion, thus posing a threat to the latter. The traditionally accepted “boundaries”²⁵² of respective religions thus “have become ambiguous and are shifting”.²⁵³ Religious harmony would be imperilled, were religious groups to denigrate other faiths or “insensitively trying to convert those belonging to other religions.”²⁵⁴

This suggests that political stability “is premised on a particular formulaic configuration of religious communities.”²⁵⁵ Indeed, the MRHA white paper reiterated the caution that “if any religious group in Singapore seeks to increase the number of its converts drastically at the expense of the other faiths. . .it will be strenuously resisted by the other groups.”²⁵⁶ Indeed, certain groups like the Buddhists,²⁵⁷ who are the larger religious group in Singapore, and Taoists have demonstrated such insecurity in complaining to the government about aggressive proselytization,²⁵⁸ with some going to the extent of suggesting that this should be banned, contrary to the constitutional guarantee of propagation and free speech.

The Annex to the MRHA white paper detailed instances both between and within religious denominations relating to aggressive proselytization. Orthodox Muslims who consider the Ahmadis a deviant sect protested when the Ahmadis called their building a mosque.²⁵⁹ Catholics were riled by Protestant publications describing the Pope as a Communist or even the anti-Christ.²⁶⁰ The Annex

paper, *supra*, note 26.

252. Ministry of Community Development Report, cited in para 12, MRHA white paper, *supra*, note 26.

253. *Id.*

254. Para 13, MRHA white paper, *supra*, note 26.

255. Vineeta Sinha, ‘Scrutinizing the Themes of “Sameness” and “Difference” in the Discourse on Multireligiosity and Religious Encounters in Singapore’ in Alatas, Lim & Kuroda eds., *Asian Interfaith Dialogue: Perspectives on Religion, Education and Social Cohesion* (Centre for Research on Islamic and Malay Affairs RIMA and The World Bank, 2003) 203 at 213.

256. Para 17, MRHA white paper, *supra*, note 26

257. Reportedly, the Chinese Buddhist population in the 1990s increased from 40 to 54%, with Chinese Taoists declining from 28 to 11%. Jason Leow, ‘Christianity popular among Chinese here’ *The Straits Times* (Singapore) (18 Nov 2000) at 7.

258. “Religious code goes beyond keeping peace”, *Straits Times* (Singapore) 16 Oct 2002 at H2.

259. Annex, MRHA white paper, *supra*, note 26 at para 9.

260. *Id.*, at para 11.

particularly singled out disputes between Christians and Muslims because “Muslims are extremely sensitive to any attempt to convert them to other faiths”²⁶¹ and have responded by holding talks in mosques on “the danger posed by Christian evangelist”²⁶² taking steps to put up notices in mosques of Muslim converts to Christianity and warning other Muslims to avoid them.²⁶³ Furthermore, it reported that in 1986, the Internal Security Department had called up 11 Christian leaders who had been evangelizing Muslims, advising them “to avoid activities which could cause misunderstanding or conflict.”²⁶⁴

3. Mixing Religion and Politics

Religion is seen as a socially disruptive threat where it is mixed with politics and used to mobilize political support against the government to promote a political agenda or worse, to subvert the state. For example, the government threatened to unleash the Internal Security Act on Malay opposition politician Jufrie Mahmood who had invoked terms while campaigning during the 1988 General Elections like *Insyallah* (God willing) and *Alhamdulillah* (all praise to God).²⁶⁵ PAP MPs criticized this as an attempt to stir up the Malay ground and to radicalise politics.²⁶⁶ Prime Minister Goh also noted two members of Pertubohan Kebangsaan Melayu Singapura (PKMS), a Malay-based political party, had mixed religion with politics at a rally when they said Muslims should choose leaders of the same faith.²⁶⁷ This hard-line stance against invoking religious loyalties in political rallies stems from the realization of the potential of Religion for political mobilization. Nevertheless, government ministers and parliamentarians are not above attending and delivering speeches at religious events.

The government has also expressed concern that if one religious

261. *Id.*, at para. 5.

262. *Id.*, at para 6.

263. *Id.*, at paras. 5-8.

264. The Annex singled out the “fiery sermon” of one Rick Seaward of Calvary Charismatic Church who in August 1987 stated that “the greatest threat to Christianity. . .to all mankind today is not Communism but Islam”: *id.*, para 7.

265. Bilveer Singh, *Whither PAP's Dominance? An Analysis of Singapore's 1991 General Elections* (Malaysia: Pelanduk Publications, 1992) at 82; Sue-Ann Chia, ‘SDP: No appeals to race, religion’, *Straits Times* (Singapore) 10 Oct 2001 at H2.

266. ‘Kan Seng: Jufrie used Islamic phrases to stir Muslim sentiments’ *Straits Times* (Singapore), 6 Sept 1991 at 394.

267. Jufrie used Islamic terms to gain political support: PM’, *Straits Times* (Singapore) 14 Sept 1991 at 1

groups ventures into politics, others will follow suit and political parties will curry religious favour, causing social disharmony.²⁶⁸ It advocated that religious groups and their leaders not promote a politician or political cause under the cloak of religion, although democratic participation was permissible in their capacity as individual citizens.²⁶⁹ It differentiated Singapore, which has no established church, from countries with an established religion where religious leaders play more active political roles, *e.g.* the Buddhist *Sangha* in Sri Lanka and Thailand. Being more heterogeneous in religious composition, the government considers that “mutual abstention from competitive political influence” was integral to religious harmony.²⁷⁰

As exemplars of mixing religion and politics, the Internal Security Department (ISD) Security Trends paper enumerated various examples where Catholic priests had ventured into “social action.”²⁷¹ This included publishing political booklets criticizing the government on secular issues such as the role of multi-national corporations in Singapore, the emasculation of worker’s rights and trade unions, amendments to citizenship laws and stringent media laws.²⁷² Several Catholic priests in response to the May 1987 detention of the so-called Marxist Conspirators “issued inflammatory statements” and “misrepresented the arrests as an attack on the Church,”²⁷³ requiring the intervention of the Prime Minister to defuse the ensuing tension, by getting the Archbishop to publicly state the arrests were unrelated to the Church.²⁷⁴ What constitutes a political issue in a sermon includes preaching that the ISA detainees were “victims of injustice, lies and untruths,”²⁷⁵ were wrongfully detained and that the relevant government officials “would face God’s

268. “Religious groups must not get themselves involved in the political process. Conversely, no group can be allowed to exploit religious issues or manipulate religious organisations, whether to excite disaffection or to win political support. It does not matter if the purpose of these actions is to achieve religious ideals or to promote secular objectives. In a multi-religious society, if one group violates this taboo, others will follow suit, and the outcome will be militancy and conflict.” President’s Address, Opening of Parliament, 9 January 1989, MRHA white paper, *supra*, note 26 at para. 2.

269. MRHA white paper, *supra*, note 26 at paras. 19-22.

270. MRHA, white paper, *supra*, note 26 at para. 28.

271. Annex, MRHA white paper, *id.*, at para. 13.

272. Annex, MRHA white paper, *id.*, at paras. 13-14.

273. Annex, MRHA white paper, *id.*, at para. 15.

274. Annex, MRHA white Paper *id* at para. 15.

275. Annex, MRHA white Paper, *id.*, at paras. 16-18.

punishment.”²⁷⁶ Foreign Muslim theologians who have incited local Malay Muslims against the government have been banned from Singapore. Their talks related to the lack of unity among Muslims which resulted in the demolition of mosques and the need for Muslims to be more militant and united in their stand against the majority Chinese race. They have asserted “that Singapore belonged to the Malays as they were natives of the island”,²⁷⁷ chiding the passivity of Malays in failing to convert Chinese immigrants “so that the Chinese had taken over power from the Muslims.”²⁷⁸

4. Religion and Subversion

The government also considered the so-called Marxist conspiracy of the late 1980s an attempt to subvert the state through radical social activism, in part through alleged infiltration of Catholic organizations. Some 22 people were arrested under the Internal Security Act which authorizes preventive detention for a renewable period of 2 years.²⁷⁹ The basis for the detention order was the alleged involvement of these social activists in what was characterized as a clandestine, communist subversive network designed to overthrow the state. Close connections with the Catholic Church were identified and one lay worker, Vincent Cheng, was accused of being the principal conspirator²⁸⁰ in Singapore, acting according to the activist tenets of a Liberation Theology which originated in South America, which had inspired the radical Catholicism that led to the ousting of Philippines dictator Ferdinand Marcos in 1986. Thus, the harsh action against the alleged conspirators was motivated by the fear that religious groups engaged in social activism posed a powerful countervailing challenge to political authority. There was no broad consensus about the necessity of detention and some detainees gave harrowing accounts of maltreatment in detention.²⁸¹

276. *Id.*

277. Annex, MRHA white Paper, *id.*, at paras 20-24.

278. *Id.*

279. Section 8, Internal Security Act (Cap 143), 1985 Revised Edition.

280. Cheng was accused of coordinating various groups including the National University of Singapore Catholic Students' Society, the Catholic Church Justice and Peace Commission and a Catholic Welfare Centre which managed a maid refuge centre. The conspiracy allegedly penetrated the opposition Worker's Party and Law Society as well. See Michael Hill, *supra* note 139 at 349.

281. See Francis Seow, *To Catch a Tartar: A Dissident in Lee Kuan Yew's Prison* (1994). See also Michael Hill, 'Conversion and Subversion: Religion and the Management of Moral Panics in Singapore' Asia Studies Institute, available at 281. See Francis Seow, *To*

Interestingly, the commissioned Academic report which was published around the time of the Marxist conspiracy in 1988 noted that the increased involvement of religious groups in social activism was an “emergent problem”²⁸² as zealous believers extended “their interest and activities beyond the domain which has been conventionally defined as religious.” The report in relation to Christian group involvement in social welfare service noted that “the distinction between social concern and on welfare services”²⁸³ and “politically oriented social actions to redress perceived social injustice” was “extremely thin.”²⁸⁴ It cautioned that “Religious and religiously oriented activities could develop into a political activist movement” such that religion would encroach upon the political arena, stating that this called for “careful monitoring and handling.”²⁸⁵ Thus, it echoed the government’s views and concerns.

In the aftermath of the ‘Marxist Conspiracy,’ the government adopted the Maintenance of Religious Harmony Act to pre-emptively deal with threats to religious harmony by demarcating the sphere of ‘religion’ and ‘politics’ to prevent the former from trespassing on the latter (though not vice versa). The Law Minister S. Jayakumar cited 2 examples to illustrate the types of scenarios the Act would deal with. First, as referred to in the Prime Minister’s National Day Rally of August 1987, the instance of an Indian Muslim foreign preacher who urged Muslims in Singapore to be less complacent and more militant given their failures to increase the numbers of Chinese converts to Islam; he also disparaged Christianity as a “foolish religion.”²⁸⁶ Second, a Catholic priest on the second anniversary of the ISA arrests of apparent Marxist conspirators had asked his congregation to pray for the detainees and had declared that “the Minister for Home Affairs Jayakumar, all Judges and ISD officers would face God’s punishment for this matter.” Jayakumar considered it a “grave concern”²⁸⁷ that religious leaders would invoke religious authority to invoke feelings against state authorities and “to invoke the divine

Catch a Tartar: A Dissident in Lee Kuan Yew’s Prison (1994). See also Michael Hill, ‘Conversion and Subversion: Religion and the Management of Moral Panics in Singapore’ Asia Studies Institute, available at <http://www.vuw.ac.nz/asianstudies/publications/working/conversion.html>

282. *Religious Revivalism report*, *supra* note 141 at 31.

283. *Religion and Religious Revivalism in Singapore*, *id.*, at 31.

284. *Id.*

285. *Id.*

286. Minister S Jayakumar 54 *Singapore Parliament Reports*, 6 Oct 1989 at col 636

287. Minister S Jayakumar *id.*, at col 637.

power of damnation upon secular authorities.”²⁸⁸

The exploitation of Religion by subversive elements was also highlighted in the ISD paper. The example of Vincent Cheng and the Marxist Conspiracy was brought up alleging that Cheng sought to build up grassroots links as pressure groups to confront the government, through organising talks to urge revolutionary change. Also indicted was the Ikhwan (Muslim Brotherhood) which sought to gain recruits from pre-university and university students through religious discussion groups, intending ultimately to implement Islamic law similar to that of Saudi Arabia or Iran, with resort to armed uprising as a possible means of action.²⁸⁹

5. The Malay / Muslim Community and the Question of Loyalty

The issue of the loyalty of Malay-Muslims²⁹⁰ to Singapore was heightened in the late 1980s, precipitated by the visit of Israeli Prime Minister Chaim Herzog to Singapore in 1986, which displeased the Malay community and indeed, Malaysia, which refuses to recognise Israel. Israel had helped to build and train Singapore’s military forces since Independence.²⁹¹ Shortly thereafter, the issue surfaced domestically in 1987 when Minister Lee Hsien Loong replied to a question why there were no Malay pilots in the Singapore Armed Forces thus: “. . .if the SAF is called upon to defend the homeland, we don’t want to put any of our soldiers in a difficult position where his emotions for the nation may come in conflict with his emotions for his religion. . . .”²⁹² In 1999, Senior Minister (SM) Lee Kuan Yew had remarked that the SAF needed to check the background of a very religious Malay-Muslim officer before putting him in charge of a machine gun unit.²⁹³ These issues and others were discussed in a frank dialogue with the Malay community in 2001, where SM Lee stated

288. *Id.*

289. Annex, MRHA white paper, *supra*, note 26 at paras. 32-35. Five Ikhwan leaders have been arrested under the ISA with the government assuring the Malay community that the arrests were targeted not at Islam but individuals seeking to subvert the state: KE Kuah, ‘Maintaining ethno-religious harmony in Singapore’ *Journal of Contemporary Asia*, 3 Jan 1998

290. On the treatment of Malays as a minority, see Lily Zubaidah Rahim, ‘Minorities and the State in Malaysia and Singapore: Provisions, Predicaments and Prospects’, E/CN.4/Sub.2/AC.5/2003/WP.12, UN Working Group on Minorities 9th Sess., 12-16 May 2003.

291. Michael Hill, *supra*, note 139 at 349.

292. *Straits Times*, 18 March 1987, quoted in Michael Hill, *supra*, note 139 at 349.

293. ‘100 Malays for dialogue with SM today’ *Straits Times* (Singapore) 2 March 2001, 3.

that the criterion of race and religion was still a consideration with respect to employment in the security services.²⁹⁴ At the inception of national service in 1967 when race relations were still tenuous, the government did not recruit all young Malays to do military training run by Israeli instructors at a time of Muslim-Israeli conflict. Since the 1980s, all Singaporean males are called up for national service, whether they were deployed in the Singapore Armed Forces, police or civil defence. SM Lee candidly noted that factors in deciding the posting of NS men included the sensitivity of the post and the racial and religious mix of the units.²⁹⁵ Thus, the perception of the problem of Malay integration in Singapore society persists.

6. Religious Extremism, Terrorism and Threats against State Security

Singapore has faced the twin threats of Communism and Communalism since its inception. While Communism is a spent force in a post Cold War landscape, communalism in the form of ethnic unrest and religious tension remains a major concern. The present incarnation of this threat is in the form of religious extremism, most recently embodied in the *Jemaah Islamiyah* (JI) bomb threat.

The JI is a terrorist group which has links with *Al Qaeda*. Their objective is to establish by violent means a pan-Islamic state or *Daulah Islamiyah*, transcending the borders of Southeast Asian countries like Malaysia, Singapore, Indonesia, Philippines and Brunei. In December 2001, their plan to bomb certain strategic locations including the US embassy and the Yishun Mass Rapid Transportation station was uncovered, resulting in the arrest of some 15 persons, with another 21 arrested in August 2002 by the Internal Security Department. This exacerbated ethnic relations as these men were Malay Muslim and in Singapore, the vast majority of Malays are Muslim which make ethnicity and faith virtually synonymous.²⁹⁶ These “radical self-proclaimed Islamic groups in Southeast Asia” threaten the cohesion of Singapore society as these groups “exploit the teachings of Islam to justify their actions;” hence, “any acts of violence that they perpetrate will inevitably undermine inter-ethnic

294. ‘Integration has brought benefits to all’: SM’s Dialogue with the Malay Community’ *Straits Times* (Singapore), 4 March 2001, at 34.

295. *Id.*,

296. But note that the Muslim Community is not homogenous: up to 9% are Indian by ethnic origin and have different cultural and linguistic traditions from the majority Malay Muslims: *Religious revivalism report*, *supra* note 141 at 7.

trust and unravel the general communal harmony and peace that Singaporeans enjoy today.”²⁹⁷ Thus, terrorism in the name of religion poses a grave threat to Singapore’s social fabric.

Aside from deploying the weight of preventive detention laws on the JI members, the government released a white paper in January 2003 which sought to explain the rationale and basis for their action.²⁹⁸ Through meetings with community leaders, the government tried to diffuse ethnic-religious tension and heightened suspicions towards Muslims. The white paper frankly noted that while the terrorist threats affect all Singaporeans alike, whether Muslim or non-Muslim, an effect of the discovered threat was to elicit “divisive misgivings” and suspicions” as “some Muslims worry that these developments have caused non-Muslims to view them with distrust and suspicion,” owing to a perception of increased radicalism within the Muslim community.²⁹⁹ The government emphasised that JI members were a “small and isolated group of misguided Muslims with no support from the community” and that the “vast majority of Singaporean Muslims are moderate, tolerant and law-abiding and do not support the actions of Muslim militants.”³⁰⁰ The government sought to proactively engage the Muslim community to develop “a comprehensive self-regulatory system to monitor religious education” so as to detect “dangerous extremist teachings.”³⁰¹ In placatory terms, it recognized that in rooting out radical teachers and terrorists, it “must not disrupt the legitimate practices and peaceful activities of the local Muslim community.”³⁰²

Thus, the government took a lead role in trying to debunk harmful stereotypes. In realizing the limits of a legislative or ‘top down’ institutionalised approach towards managing religious harmony, the government has sought to engage individual and community grassroots involvement in building up relationships between the races and religions, *e.g.* through initiatives like the Inter-Racial Confidence Circles established in January 2002, to provide a forum where community and religious leaders could engage in inter-

297. *The Jemaah Islamiyah Arrests and the Threat of Terrorism*, white paper (Cmd. 2 of 2003, Singapore Ministry of Home Affairs) at 2 [JI white paper], available at the website of the Ministry for Home Affairs, at <http://www2.mha.gov.sg/mha/index.jsp>.

298. *Id.*

299. *Id.*, at 23.

300. *Id.*, at 23.

301. *Id.*, at 22.

302. *Id.*, at 22.

faith dialogue, confidence-building, relationship forging activities.³⁰³ This would prevent a community from retreating into its own parochial shell.

7. Where Religious Tenets Clash with Government Policy: In the Army

Where religious tenets, like pacifism or conscientious objection are seen as threats to general laws and public policy, like compulsory military service, secular imperatives trump sacred dictates, with the courts displaying sympathy towards government concerns. For example in the leading 1994 High Court decision of *Colin Chan v PP*, Yong CJ noted the statement of concern in the affidavit of the Assistant Director of Manpower of the Ministry of Defence that the morale of the Singapore Armed Forces would be undermined by the wilful disobedience by Jehovah Witnesses (JWs) of orders to put on a military uniform.³⁰⁴ Furthermore, if not punished, JWs would “enjoy the social and economic benefits of Singapore citizenship and permanent residence”³⁰⁵ without bearing the “responsibility of defending the very social and political institutions”³⁰⁶ which enable them to do so.³⁰⁷ Great weight was accorded to the state’s perspective over the religious liberty issues and the paramountcy of security objectives. Under the Societies Act, a group can be deregistered where it is considered to be “prejudicial to public peace, welfare or good order in Singapore.”³⁰⁸ The Chief Justice approved the pre-emptive nature of the act of dissolving the Congregation of the Jehovah Witnesses, for fear that their pacifist stance would threaten the public order, without evaluating the likelihood or possibility of such occurrence. There was no need to show that the exercise of a religious liberty presented a ‘clear and present danger’ before a state could restrict a religious practice as “any administration which perceives the possibility of trouble over religious beliefs and yet prefers to wait until trouble is just about to break out before taking action must not be only be pathetically naïve but also grossly

303. ‘Bringing potential racial tiffs under control; Despite receiving criticism, Inter-Racial Confidence Circles show they have played a role in defusing tension around S’pore’, *Straits Times* (Singapore) 5 April 2005, available on LEXIS.

304. [1994] 3 SLR 662 at 684G-I.

305. (1994) 3 SLR 662 at 684H-I.

306. *Id.*

307. *Id.*

308. Section 24(1), Societies Act (Cap 311), 1985 Revised Edition.

incompetent.”³⁰⁹

This means that the state may conclusively determine what matters fall within the province of the ‘secular’ which is subject to legal regulation:

Jehovah’s Witnesses believe that their religion forbids them to do any form of National Service. Under the law, this is criminal conduct, not conscientious objection. Followers of this sect who refuse to obey call-up orders are court-martialled and serve jail sentences.³¹⁰

Thus, JW’s who refuse to perform military service are not granted exemptions from the general law of the land, in contrast with the exemptions granted under the Administration of Muslim Law Act (Cap 3) in relation to Muslim personal and religious law. While the division between religion and politics “is a matter of convention,”³¹¹ it is the government that determines convention

8. Where Religious Tenets Clash with Government Policy: In the Schools

The state controls religious expression in public school, as evident in the 2002 ‘tudung controversy,’³¹² which the New York Times described as involving “the most potent act of civil disobedience” Singapore had witnessed for years.³¹³ It involved a tussle between asserted rights of religious freedom and an educational policy directive mandating that only uniforms be worn in public school, to serve the purposes of maintaining school discipline, preserving the secular multi-ethnic character of schools and to promote a common identity among school children.

The government views educational institutions as forums for socialising citizens into its vision of ethnic management through national integration, with the desired goal of communal harmony.³¹⁴ Pursuant to this, the rationale underlying a school uniforms policy was to maintain a common domain where students can interact

309. (1994) 3 SLR 662 at 683D.

310. MRHA white paper, *supra*, note 26, page 7, section 26b.

311. MRHA white Paper, *supra*, note 26 page 5, section 24.

312. Thio Li-ann, ‘Recent Constitutional Developments: Of Shadows and Whips, Race, Rifts and Rights, Terror and Tudungs, Women and Wrongs’ *Singapore Journal of Legal Studies* 328-373 (2002). See also Kam-ye Law, ‘Civic Disobedience of Malay Muslims in Post September 11th Singapore’ in *Development*, 46(1), 107-111 (March 2003).

313. Seth Mydans, ‘By Barring Religious Garb, Singapore School Dress Code Alienates Muslims’, *New York Times*, 2 March 2002, Section A, Column 1 at page 6.

314. For a contrary view on how government ‘integrationist’ policy has actually institutionalised ethnic and cultural differences, see Suzaina Kadir, *supra*, note 122.

without consciousness of difference. This was challenged by demands, accelerating since the 1990s,³¹⁵ by parents at dialogue sessions with government ministers that their daughters be allowed to wear the headscarf as an expression of religious identity.

In January 2003, there was open defiance of government policy when four Muslim primary schoolgirls were suspended from attending school for as long as they choose not to comply with the 'no tudung' uniforms policy. Their parents argued that this violated their constitutional rights of religious freedom as it was their view that Islam mandates such dress as a matter of modesty. No issues of gender inequality³¹⁶ or feminist critique³¹⁷ were publicly canvassed, that a 'no tudung' policy liberates female Muslims from a repressive patriarchal practice. Furthermore, it must be noted that Sikh boys were allowed to wear turbans to schools. Government ministers justified this on pragmatic grounds, on the basis that this practice historically dated back to colonial times. In calling for compromise and accommodation, Minister Lim Boon Heng pointed out that even Sikhs compromised insofar as they were not allowed to carry, as their religion required, a dagger (kirpan) but instead carried a dagger-shaped comb.³¹⁸ In advocating a pragmatic 'give and take' attitude, the government downplayed the rights issue – that the article 12 equality clause might impugn this discriminatory practice.

In the face of potential litigation with the aid of a Malaysian lawyer,³¹⁹ accompanied by critical Malaysian politicians claiming a spiritual protectorate of sorts over Singapore Malay Muslims,³²⁰

315. 'Time is not right for Islamic attire in national schools', *Straits Times* (Singapore), 8 May 2000, available on LEXIS; Suzaina Kadir, *supra*, note 122 at 15.

316. See Salbiah Ahmad, 'Construction of identity through 'religious dress', *Malaysiakini.com*, 7 Feb 2002, available at <http://www.singapore-window.org/sw02/020207mk.htm>

317. See Lama Abu-Odeh, 'Post Colonial Feminism and the Veil: Considering the Differences' 26 *New England Law Review* 1527 (1992).

318. 'Ministers call for 'give and take' attitude', *Straits Times* (Singapore), 17 Feb 2002, available on LEXIS.

319. The lawyer was Kirpal Singh, who was refused an employment pass. See generally Singapore – The Tudung Affair', *From Dateline* (Australia TV), 27 March 2002, archived at <http://www.singapore-window.org/sw02/020327sb.htm>

320. Malaysian politicians in justifying their intervention in Singapore's internal affairs stated that "universal elements in Islam have no geographical boundary": PAS leader writes to SM Lee on Tudung Issue" *Straits Times* (Singapore) 6 Feb 2002 at A7. See also "Umno Youth claims right to speak on tudung issue" *Straits Times*(Singapore)(2 Feb 2002, available on LEXIS. The PAS political party went so far as to raise money to support any legal fees incurred which was criticized by other Malaysian political parties: "PAS raises \$4700 for tudung girls" *Straits Times* (Singapore) (23 May 2002) "KL politicians slam PAS

official Muslim bodies made statements which did not enjoy universal consensus within the Muslim community.³²¹ MUIS and the Mufti, Singapore's highest Muslim religious authority, stated that Islam valued education over issues associated with wearing the headscarf relating to the *aurat* (parts of the body which could be seen in public), in the event of a clash,³²² stressing it was unclear that Islam required that a pre-adolescent girl wear the Muslim headscarf.³²³ Critics feel the fact that the Mufti took the position he did was indicative of his weak position, and further, that the close relation MUIS had with the government, compounded by the assertion that Malay Muslim MPs speak out for party interests, not for the Malay community, meant that other Muslim voices went unheeded. If so, then the state is able to modulate if not regulate the views expressed by the chief religious authorities in the land, and thus stamp the supremacy of its objectives which constrain the autonomous expression of religious perspectives.

The tudung case never went to court; nevertheless, it appears that national goals limit the exercise of civil liberties, including religious liberties.³²⁴ In the aftermath of 9-11 and the discovered JI bomb plot, with the Muslim community sensitive to receiving negative media publicity, the government was concerned this issue might heighten religious consciousness and unify even moderate Muslims in opposition to what might be seen as the marginalisation of religious and cultural identity. It was feared that allowing religious clothing in schools would accentuate racial and religious differences and elicit competing demands from other communities. Nevertheless, the government indicated that this policy was not set in stone and could change as Singapore matured into a "successful multi-racial society."³²⁵

for exploiting tudung issue', *Straits Times*(Singapore) (24 May 2002), available on LEXIS.

321. The Singapore Islamic Scholars and Religious Teachers Association (PERGAS) maintained that wearing the hijab was compulsory: The English translation of the Pergas stand on the Hijab issue is available at <http://www.pergas.org.sg/hijab-press2eng.html>. See Suzaina Kadir, *supra*, note 115 at 15 and Chua Lee Hoong, 'Tudung controversy a test in art of negotiation', *Straits Times*(Singapore), 20 Feb 2002, available on LEXIS.

322. 'Mufti puts school first', *Straits Times* (Singapore) ,6 Feb 2002, available on LEXIS.

323. Karamah (Muslim Women Lawyers for Human Rights) argued the Mufti was acting on the Islamic principle of choosing the lesser of 2 evils, opting for education over wearing a tudung but asserted that the government's capitalization on this fatwa to justify its discriminatory practices was "reprehensible": Letter to Singapore Ambassador Heng Chee Chan, 20 April 2002, available at http://www.karamah.org/press_letterto_singapore.htm (visited 20 Feb 2005).

324. See Thio Li-ann, *supra*, note 315 at 355-366.

325. 'Time is not right for Islamic attire in national schools', *Straits Times* (Singapore), 8 May 2000, available on LEXIS.

Critics argued that visible expression of religious differences promote familiarity and respect for differences, stating that the Singapore policy heralded “a new attitude of hostility towards religious diversity,” and portended a shift towards further “internal political hegemony” which sacrificed minority interests on the altar of statist concerns.³²⁶ KARAMAH, a US-based Muslim women’s lawyers group argued that measures to protect integration at the expense of the constitutional rights of minorities harked back to “an age of hegemony” where the enforced homogenization of a diverse population was a deployed tactic of social control. Thus not only was the Singapore policy intolerant and unconstitutional, “its historical and civilizational premises are obsolete,” in an age where diversity was celebrated.³²⁷

True to the Singapore ethos of social engineering, the official stance was that while diversity in Singapore was a fact, it was uncertain whether diversity would promote greater unity or separateness. Hence, it was important that “critical institutions” like schools serve as key pillars in the task of forging social cohesion since it was unwise to leave things “to chance or natural forces.”³²⁸ The rationale of the ban was characterized as an attempt to remove displays of religiosity from public schools in an attempt to preserve Singapore’s “secular ethos”³²⁹ after a secularism portrayed as intolerant and homogenizing and inimical to “genuine pluralism.” Critics have argued that the tudung policy represents an attempt by the PAP government “to impose cultural and social conformity in schools” exposing its “religious insensitivity,” an expression of “secular fundamentalism.”³³⁰

Thus, the fate of the Muslim religious minority is similar to that

326. The local association of Islamic scholars and religious teachers, PERGAS, also disagreed and felt wearing the tudung was no obstacle to national integration, being an aspect of modest dressing as required by Islam, there being a need for greater understanding of Muslims’ religious needs from both government and citizens: Ahmad Osman, G Sivakkumaran, ‘Common uniform policy strengthens national unity; Govt should not be too hasty to change uniform policy as it helps foster integration says Yaacob Ibrahim’, *Straits Times* (Singapore), 9 Feb 2002, available on LEXIS..

327. Karamah Letter, *supra*, note 326.

328. Lim Chee Hwee, Press Secretary to the Minister for Education, ‘Uniform reminds students of common ties’, *Straits Times* (Singapore), 2 Feb 2002, Forum, available on LEXIS..

329. ‘Tudung’s a mark of difference, not subversion’, *New Straits Times (Malaysia)* 5 Feb 2002 at 10.

330. Rahim, ‘Minorities and the State in Malaysia and Singapore’, *supra*, note 292 at 13.

of the Jehovah's Witnesses, where their rights to religious expression in schools are subject to the primacy of statist objectives. As Tan Lee Meng J noted in *Peter Williams Nappalli v Institute of Technical Education*, involving the dismissal of a teacher for refusing to participate in flag saluting ceremonies, while state interests and the religious beliefs of the plaintiff had to be carefully balanced so as to give individuals the full measure of their fundamental liberties, "this is one case where the interest of the State in the education system must prevail over those of the individual."³³¹ Thus, the courts defer to state objectives and manifest a communitarian approach to adjudicating constitutional rights, and religious liberty rights are curtailed through a broad construction of the qualifications clause.

III. Conclusions

The theme of managing religious harmony in the interests of state stability and prosperity is likely to remain a dominant one in Singapore's political discourse. As Home Affairs Minister Wong Kan Seng noted in 2003:

Strengthening our social cohesion and religious harmony is a fundamental and on-going enterprise in our nation-building which preceded the terrorist threat and which will continue after this is over.³³²

In Singapore, where Religion can bolster or facilitate state programs, it is co-opted. It is fair to say that the model of State-Religion relations in Singapore is generally more co-operationist than separationist in nature.³³³ There is no strict separation of 'Church (Religion) and State' in Singapore; as such, terms like 'quasi-secular' and 'accommodative secularism' are apt descriptions of the Singapore context. This reflects the pragmatic nature of the continuing experiment in managing religious pluralism and state objectives in Singapore. Nevertheless, government pragmatism has its limits and official policy holds that religion and politics must not mix, which means communities can pursue religious interests with the caveat that

331. [1998] SGHC 351 para. 53 (High Court, Singapore).

332. 'Balancing needs of faith and citizenship; Minister tells Parliament that each community can pursue its interests as long as political cohesion is not harmed', *Straits Times* (Singapore) 23 Jan 2003, available on LEXIS.

333. The government must not be 'antagonistic' towards religion but 'neutral', not preferring any religious groups; it must ensure individual are able to choose their own faith and that religious freedoms do not infringe the rights and sensitivities of other citizens: MRHA white paper, *supra*, note 26 at para 5.

the “political cohesion at the centre”³³⁴ must not be threatened. Religion is controlled or limited where it is seen to be a threat to the secularly couched objectives of the state in terms of security and preserving racial and religious harmony, or national policy. It is left to flourish where it is confined to the realms of private spirituality, celebrated as an aspect of cultural identity and source of traditional values or where it operates in the innocuous realm of civic-mindedness and ministers to social needs. Ultimately, the State reserves to itself the right to define religion and the sphere of legitimate religious activity. While religious diversity is an aspect of pluralism, a government minister has noted in general that “our capacity to accommodate diversity and differences is directly tied to the strength of our common values and beliefs. If we do not have these anchor points as a people, then diversity may well tear us apart.”³³⁵ The limits of multiculturalism are tied to the preservation of a national value system, which stresses ‘racial and religious harmony’, as articulated by the government.

While religious liberty is broadly enjoyed in Singapore, at least for the mainstream religious groups, and while religion is afforded a role in public life, ultimately, Religion is subordinated to government priorities and imperatives, within a dominant political culture which has been defined as embodying “paternalism, communitarianism, pragmatism and secularism.”³³⁶

334. ‘Balancing needs of faith and citizenship; Minister tells Parliament that each community can pursue its interests as long as political cohesion is not harmed’ *Straits Times* (Singapore), 23 Jan 2003 (Minister Wong Kan Seng in parliamentary debates over the Jemaah Islamiyah white paper), available on LEXIS

335. Raymond Lim, ‘Thoughts on getting ‘people climate right’, *Straits Times* (Singapore), Review, 18 July 2005, available on LEXIS.

336. Eddie Kuo, ‘Confucianism as Political Discourse in Singapore: the Case of an Incomplete Revitalization Movement’, in *Confucian Traditions in East Asian Modernity: Moral Education and Economic Culture in Japan and the Four Mini-Dragons* 304, 307 (W.M. Tu ed., Harvard University Press, 1996).