

#Ready4Repeal? Viewing s 377A of the Singaporean Penal Code Through the Lens of Legal Actors and Artists

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In 2013, the apex court of Singapore affirmed that s 377A of the Singaporean Penal Code prohibiting gay male sex was constitutional and refused to strike it down. Five years later, in September 2018, the first major review of the Penal Code in more than a decade took place. Part of the process included a three-week public consultation on the report of the Penal Code Review Committee. During this consultation, s 377A was completely excluded from the scope of discussion. Furthermore, just a year earlier, the Parliament passed new restrictions banning foreigner participation at Pink Dot, an annual event held in support of the LGBT community. While all troubling signs, between 2013 and 2018, a locally-driven surge of support for LGBT recognition has concurrently fomented in Singapore. New lawsuits, art exhibits, talks, and other events have taken place in support of LGBT rights, culminating in the #Ready4Repeal movement and its running petition to repeal and strike out the antiquated provision. But is Singapore #Ready4Repeal? This article explores how LGBT rights have evolved over the past 10 years through the lens of s 377A of the Singaporean Penal Code, with an emphasis on the individuals who played a role in pushing the constitutional challenge in the courts. The final section describes how such legal challenges have had ramifications for the Arts community. Artists who are forced to work with, and around, s 377A, also wish to see it removed, but have a very different take on legal challenges to it.

Singapore is one of the few countries in the world that still criminalises gay male sex. Over the years, attempts to repeal s 377A—the provision of the Penal Code that criminalises sex between mutually consenting adult men—have been met with great resistance, initially from a government attempting to appease ‘conservative’ Singaporeans, and now from ‘conservative’ Singaporeans themselves. Yet the challenge to the law is far from over. In 2007, the first attempts to repeal s 377A took place as s 377, or the provision that criminalised sex ‘against the order of nature’, was removed from the Penal Code by Singapore’s Parliament. Impassioned speeches, petitions, and public debates all surfaced at the time to pressure parliament to also remove s 377A. In response, the Prime Minister announced that the law would remain on the books but that the government would not ‘proactively enforce’ it. Section 377A was again in the limelight in 2010, when a man charged under the law challenged its constitutionality, and two more plaintiffs joined the appeal shortly thereafter. In 2013, the Court of Appeal, Singapore’s apex court, upheld the law, dismissed their appeals and held that s 377A did not violate constitutional guarantees of equal protection and liberty.

Over the six years since the Court of Appeal challenge in 2013, attempts to repeal s 377A have not abated. In 2018, in particular, the decision of the Supreme Court of India to strike out s 377 of its penal code triggered a tidal wave of interest in renewing attempts to repeal s 377A in Singapore. Beginning with the call by veteran diplomat Professor Tommy Koh, Ambassador-at-Large in the Ministry of Foreign Affairs, to challenge s 377A, two cases have emerged to challenge the law yet again in the courts. At the same time, a number of art exhibits, public talks, and a massive petition called #Ready4Repeal emerged in tandem. This article aims to document some of the legal challenges to repeal s 377A, and the corollary events that have emerged alongside them. Of course, these challenges, legal and otherwise, did not happen in vacuum. Thus, the article will begin with a discussion of the history of the law, where it comes from, how it has been used in the past, and some of the previous legal challenges to it. Next, it will discuss the precipitating events in 2018, beginning with Tommy Koh’s call to challenge the law and the two legal challenges to s 377A with a specific focus on the actors pushing the case forward—the litigants and the lawyers. Finally, the article will

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conclude with a discussion of two LGBT-themed art exhibits and performances that have happened outside of the courtroom, as a way to review and discuss the wider social engagement taking place in the shadow of the legal challenge.

Section 377A and its Origins

Criminalisation of sexual acts that were deemed ‘against the order of nature’ began with the British enacting s 377 in the Indian Penal Code of 1860, and then codifying the law in Singapore in 1872 (Ord 4 of 1871) (‘the Straits Settlements Penal Code’). Section 377 was modelled after the Buggery Act of 1533, which criminalised the ‘detestable & abominable vice of buggery committed with mankind or beast’. In 1885, anti-sodomy laws in the United Kingdom were modified to specifically target gay male sex with s 11 of the Criminal Law Amendment Act of 1885, commonly known as the Labouchere Amendment. In the United Kingdom, death was the penalty for sodomy convictions until 1861, when the punishment was reduced to life imprisonment. In 1885, the Labouchere Amendment reduced the penalty further to a 10-year maximum. This amendment introduced the language of ‘gross indecency’, which included homosexual acts other than just sodomy, as well as the ability to prosecute such acts, whether conducted ‘in public or private’. These changes made the law more workable and allowed for larger numbers of convictions—the most famous being Oscar Wilde in 1895.

In 1938, the Straits Settlements amended its Penal Code to include a section that was similar to the Labouchere Amendment in the United Kingdom, labelling it 377A. The Straits Colonies (which included Singapore) are unique, as other colonies, such as India, retained s 377, without the equivalent of the Labouchere Amendment (Radics, 2013). Immediately after s 377A was enacted, a series of high-profile prosecutions made headlines in Singapore (Radics, 2013: 66-77). However, interest in the matter waned due to World War II, and the region being occupied by the Japanese. By the end of the war, when Singapore was returned to the British, colonial authorities were concerned with rebuilding, containing epidemics, and maintaining order in a region with rising demands for independence. After a messy split from Malaysia, Singapore became independent and decided to keep many of the restrictive laws regarding sexuality and political order in place, preserving a British colonial legal legacy that continues today.

Entrapment, Gay Raids and the End of Section 377

Post-independence, Singapore became a ‘developmentalist state,’ falling into a category of nations that ruthlessly pursued economic growth ‘over all else’ (Pereira, 2008). It relied on the tools of control left behind by the British to organise and discipline its diverse population.¹ The 1970s were a period of explosive growth, and Parliament and the courts responded by enhancing the punitive regime found under the British to ensure that Judges wouldn’t ‘turn soft’ (see Radics, 2014). To address fears that Singapore was becoming morally lax due the consumerist lifestyle that accompanied economic growth, from the early 1980s to the 1990s arrests for homosexual activities increased and were procured by undercover agents who dressed or behaved seductively to entice men to make advances towards them (Leong, 2008). Many of these men were charged under s 354 of the Penal Code concerning the ‘outrage of modesty’. Ultimately, the High Court ended the practice when Justice Yong Pung How stated ‘I found it somewhat disquieting that an accused, who was arrested as a result of such police operations should subsequently be charged with having outraged the modesty of the police officer he came into contact with’ (*Tan Boon Hock v Public Prosecutor*, at ¶8).²

In addition to sting operations in which the police targeted popular ‘cruising’ areas in the 1990s, police also frequently raided gay businesses. But things began to change after a raid on a gay bar

¹ Singapore is a multi-ethnic society comprised mostly of migrants. Indian and Chinese laborers were brought to Singapore after the British set up a trading post on the island in 1819. The immigrant Chinese soon developed into the majority and by the 1960s made up 65 per cent of the population. Upon independence, the population roughly consisted of 75 per cent ethnic Chinese, 17 per cent Malays, 7 per cent Indians, and small percentage of ‘Others,’ which included everyone outside the first three categories. (Vasu, 2012).

² *Tan Boon Hock v Public Prosecutor* [1994] SGHC 101.

called Rascals in 1993. Due to a civil exchange between a young lawyer who was arrested during the raid and the police involving a written complaint from the lawyer that resulted in an apology for police behaviour, Lynette Chua said that night is ‘often hail[ed] ... as Singapore’s Stonewall ... galvanizing a fledgling gay movement that was quietly taking shape in the early 1990s’ (Chua, 2014: 3). Chua notes that these civil exchanges between the parties provided hope to the nascent community of gay organisers that they could negotiate with the government and, out of this period, community-based education, forums, and other community building activities began to emerge (Chua, 2014: 3). Singapore’s transition to the knowledge economy, with its need to train an open-minded, creative, and flexible workforce, as well as the concern that AIDS and other public health issues could become more of a problem if they are kept in the dark, led the government in the late-1990s and early 2000s to loosen its policies and allow for limited exposure to LGBT lifestyles in the arts, and liberalised its attitudes towards gays in the public sector (Lim, 2005; Chua, 2014).

By 2007, debates began to emerge about whether s 377 of the Penal Code, which criminalised acts against the order of nature, had any place in contemporary Singapore. In *Annis bin Abdullah v Public Prosecutor*,³ the District Court, after applying s 377, found Abdullah guilty of a crime when a young woman performed fellatio upon him while on a date and subsequently reported the act to the police (*Annis* at ¶12). The District Court’s decision in *Abdullah* led to intense public debate concerning the archaic nature of s 377’s regulation of consensual sexual conduct (Fong et al, 2003). This did not go unnoticed by the legislature, which consequently undertook the updating of the 1985 Penal Code to ‘reflect societal norms and values’ (*Tan Eng Hong v Public Prosecutor* at ¶32;⁴ The legislature also found the archaic wording of s 377 too vague to be effective, and it enacted more precise provisions to cover cases that would formerly have been within the purview of s 377 (*Tan Eng Hong v Public Prosecutor* at ¶32).

Public debate about s 377A was renewed when Parliament started to review s 377. For the first time in over two decades, a member of Parliament, Siew Kum Hong, submitted a public petition, signed by 2,519 Singaporeans, requesting that Parliament repeal s 377A (Straits Times, 2007). Siew Kum Hong gave a stirring speech, requesting members of Parliament to vote against the Penal Code (Amendment) Bill, which repealed 377 but retained s 377A (Radics, 2013: 80). In contrast, over 15,560 Singaporeans signed a petition to retain s 377A. Ultimately, Parliament decided to maintain s 377A to placate ‘conservative’ Singaporeans (Radics, 2013: 80), while s 377 was repealed. Prime Minister Lee Hsien Loong, however, noted in his speech that, ‘There are gay bars and clubs.... The Government does not act as moral policemen. And we do not proactively enforce section 377A’ (Radics, 2013: 81). Section 377A was to be, in effect, an ‘unenforced’ offence.

First Challenge to Section 377A, Pink Dot and Gay Adoption

Prime Minister Lee’s words were put to the test just three years later. On 9 March 2010, Tan Eng Hong, was found committing an act of ‘gross indecency’ in a public restroom and charged under 377A of the Penal Code. In September 2010, Tan filed suit at the High Court, arguing that s 377A was inconsistent with Singapore’s constitutional provisions regarding liberty (art 9 of the constitution), equal protection (art 12), and freedom of association (art 14) (*Tan Eng Hong v Attorney General 2011*).⁵ Even though the Attorney General amended the charge to public obscenity and the High Court dismissed the case in June 2011, Tan appealed his case to the Court of Appeal, Singapore’s highest court. Reversing the High Court, the Court of Appeal held that every constitutional right is a personal right, and that a ‘violation of constitutional rights *may* be brought about by the very existence of an allegedly unconstitutional law in the statute books... and/or by a real and credible threat of prosecution under an allegedly unconstitutional law’ (*Tan Eng Hong v Public Prosecutor* at ¶115, word italicised in the original). The Court of Appeal further found that Tan’s case should not have been dismissed because s 377A is arguably inconsistent with Singapore’s constitutional

³ *Annis bin Abdullah v Public Prosecutor*, [2003] SGDC 290.

⁴ *Tan Eng Hong v Public Prosecutor* [2012] SGCA 45. See 83 Singapore Parliament Debates Official Report 2198 [22 October 2007]).

⁵ *Tan Eng Hong v Attorney General* [2011] SGHC 56.

guarantees of equal protection under the law. The Court of Appeal's judgment in *Tan Eng Hong v Attorney General 2011* was a landmark decision. It opened the door for Singaporeans who were personally affected by unconstitutional laws to file suit even without being prosecuted under it. After the court ruled on the standing issue, the case was then sent back to the High Court to determine whether 377A was inconsistent with the equal protection provision of the Constitution.

After the court opened the door for all Singaporeans to challenge unconstitutional laws, a gay couple, Lim Meng Suang and Kenneth Chee Mun-Leon, filed suit seeking a declaration that s 377A of the Penal Code was unconstitutional. They argued that, as a result of being in a romantic and sexual relationship for the past fifteen years, they too were affected by the law and therefore could challenge it (*Lim Meng Suang and another v Attorney General 2013*).⁶ In a separate hearing, Tan also presented his arguments at the High Court (*Tan Eng Hong v Attorney-General 2013*).⁷ Justice Quentin Loh of the High Court ultimately ruled against both parties, and in July 2014, the Court of Appeal heard both appeals in a consolidated review. The Court of Appeal affirmed the rulings of the High Court (*Lim Meng Suang and another v Attorney-General and another appeal and another matter 2014*).⁸ In affirming the High Court, the Court of Appeal focused on arguments concerning the deprivation of liberty (art 9), and the claim that 377A violates constitutionally-mandated equal protection under the law (art 12). The Court held that art 9 mainly pertains to capital punishment and incarceration. The Court added that the law is not invalid for being excessively vague since the language is clear: sexual acts between males are criminal. In addressing the equal protection clause, the Court found that the purpose of the law was to prosecute gay male acts generally and that while s 377 covered 'carnal intercourse against the order of nature,' 377A took this a step further to include the lesser offense of 'gross indecency', which, in effect, broadened the scope of criminal activity. Lastly, the law was meant to enforce 'morals of the community,' by targeting acts that were deemed particularly offensive, such as gay male sex, and prohibiting such activities not just in public, but in private as well. Ultimately, the Court held that the law was constitutional and it was up to the legislature to determine whether the offence should be abolished.

Although the cases at the Supreme Court triggered much debate publicly regarding LGBT issues in Singapore, the courts were not the only forum in which LGBT issues were being debated.⁹ Since 2000, Singaporeans have organised an annual event called 'Pink Dot' where gay and straight participants show up at Speaker's Corner, a designated free speech zone in Singapore, donning pink to show their support of LGBT rights. In 2009, it was reported that approximately 2,500 people participated to show their support: the largest number of people to ever congregate in Hong Lim Park since Speaker's Corner was launched (PinkDot.sg, 2015). By 2015, the number of participants increased more than tenfold to 28,000 individuals (PinkDot.sg, 2015). Pink Dot has gained international attention and sponsorship from major corporations such as Twitter, Cathay Cinemas, Bloomberg, Google, Barclays Plc, and US bank Goldman Sachs. Although Pink Dot became an important success, resistance to the event grew as well. In 2015, Singapore's Minister for Families and Social Development, Chan Chun Sing, publicly reprimanded Goldman Sachs for their support of LGBT rights in Singapore. He said that 'Singapore and Singaporeans will decide on the norms for our society. Foreign companies here should respect local culture and context' (Tan, 2014). Moreover, various religious communities encouraged their constituents to wear white in order to stand in solidarity with 'traditional family values,' and in 2015, the government refused to allow Pink Dot organisers to promote the event publicly in movie theatres. In 2017, the government made amendments to the Public Order Act banning foreigner participation in political events, particularly those to be held at Speaker's Corner, such as Pink Dot. When queried about whether this was targeting Pink Dot, Minister of Law Shanmugam stated, 'the Government is neutral on this point.... But whether it is pro-LGBT or opposing LGBT, it is a matter for Singaporeans to decide' (Tan, 2014).

In addition to the 377A cases and restricting foreigner participation at Pink Dot, in 2018, the Court of Appeal came down with a favourable decision for a gay couple adopting a child born through

⁶ *Lim Meng Suang and another v Attorney General*, [2013] SGHC 73.

⁷ *Tan Eng Hong v Attorney-General* [2013] SGHC 199

⁸ *Lim Meng Suang and another v Attorney-General and another appeal and another matter*, [2014] SGCA 53

⁹ See *Attorney General v Au Wai Pang* [2015] SGHC 16, discussed later in this article.

surrogacy—though the court was careful to state that its judgment was not to change government policy on gay marriage or adoption. In 2014, a gay medical doctor and his partner of 13 years were able to give birth to a son through IVF and surrogacy. Upon birth the child attained US citizenship through the surrogate mother, then the surrogate mother and her partner relinquished all rights to the child. Shortly after the child's birth, the gay couple returned home to Singapore and applied for Singaporean citizenship for their child but the application was denied after eight months. The doctor then pursued adoption to give him sole rights and responsibility to the child and to remove the child's 'illegitimate' status under Singaporean law.¹⁰ Their application was denied after six months, with the Director of Social Welfare in her role as Guardian-in Adoption (GIA) stating that it was the position of Singaporean public policy that parenthood is encouraged within marriage, as it is within the interest of the child to grow up with a mother and a father. The GIA added that gay marriage is not allowed in Singapore and that it would be contrary to public policy to allow for the adoption of a child when the applicant is in a same-sex relationship. The doctor and his partner appealed the GIA's decision.

Judge Shobha Nair of the Family Court issued her ruling the day after Christmas, dismissing the couple's appeal. In her written opinion, released in March, she relied on the government's policy of not recognising same-sex partnerships and stated, 'This application is in reality an attempt to obtain a desired result - that is, formalising the parent-child relationship in order to obtain certain benefits such as citizenship rights, by walking through the back door of the system when the front door was firmly shut' (*Re UKM* at ¶33).¹¹ On appeal, however, although the Court of Appeal acknowledged that 'the government is opposed to the advancement of any right claimed by a homosexual for the purpose of forming a same-sex family unit' (*UKM v Attorney-General* at ¶202),¹² Justice Menon reversed the Family Court after a lengthy discussion on balancing the welfare of the child against the government's stated policy. The court found that allowing the adoption in this case facilitated citizenship and all the rights attached, including intestacy. Justice Menon was careful to point out that 'our decision is a decision on the particular facts of this case, and should not be taken as an endorsement of what the appellant and his partner set out to do' (*UKM v Attorney-General*, at ¶249).

This legal and social backdrop demonstrates that Singapore's history regarding gay rights has been fraught with complications and roadblocks, but also moments of triumph and progress. The next section will discuss how recent events in the world, namely India's repeal of s 377 has triggered yet another wave of activities challenging the legitimacy and constitutionality of s 377A, starting with an online petition entitled #Ready4Repeal, and lawsuits that emerged alongside it.

#Ready4Repeal

In the wake of the Indian Supreme Court's decision in *Navtej Singh Johar v Union of India*¹³ to strike out s 377 of the Indian Penal Code, veteran-diplomat Tommy Koh, in response to a Facebook post by the Dean of NUS Law School congratulating his classmate for her work on the case, stated 'I would encourage our gay community to bring a class action to challenge the constitutionality of Section 377A' (Reuters, 2018). When it was drawn to his attention that Singapore's Court of Appeal had already ruled on the constitutionality of the law in 2014, Koh responded 'try again' (Reuters, 2018). Shortly thereafter, the Chief of Government Communications, Janadas Devan, writing in his personal capacity on his own Facebook page stated, 'Speaking personally, I support Tommy's

¹⁰ The court found that the child was born to a married woman but his biological father, the appellant, was not a party to that marriage, making the child illegitimate at common law. *UKM v AG*, [2018] SGHCF 18 ¶ 62.

¹¹ *Re UKM*, [2018] SGFC 20.

¹² *UKM v Attorney-General*, [2018] SGHCF 18.

¹³ On 6 September 2018, the Supreme Court of India deemed s 377 of the Indian Penal Code criminalising consensual sex 'against the order of nature' unconstitutional, partially based on its violation of art 14 of the Constitution, India's guarantee of equal protection. *Navtej Singh Johar v Union of India*, WP (CrL) No 76 of 2016, ¶ 156. Because Singapore's Penal Code is derived from the Indian Penal Code, and although Singapore's Parliament repealed s 377 in Singapore in 2007, the fact that the nation from which Singapore's Penal Code is derived was moving in such a positive direction, and veteran diplomats were congratulating India on its landmark decision, led Singaporean activists to see this as an opportunity to reopen the conversation regarding s 377A.

position. 377A is a bad law; it is bad law' (Reuters, 2018). A little over two weeks later, Koh followed up on his response with an article in the *Straits Times*, Singapore's most widely read periodical, entitled 'Section 377A: Science, Religion and the Law' (Koh, 2018). In the piece he argued that 'Singaporeans are a rational people [who base their] policies and laws based on facts, science and reason' (Koh, 2018). He added that because science has shown that homosexuality is a genetic variation, religious leaders of the Christian and Muslim faith 'should respect the separation of state and religion and refrain from pressuring the Government to criminalise conduct which they consider sinful' (Koh, 2018). Ultimately, K Shanmugam, who serves as both the Minister of Home Affairs and the Minister of Law stated 'Singapore ... on this issue, is a deeply split society. The majority oppose to any change to s 377A - they are opposed to removing it [and] a growing minority - want it to be repealed. The Government is in the middle' (Ong, 2018a). He concluded that Singaporeans for themselves need to decide which direction they want to take when it comes to the legislation.

These comments made by high-level government officials brought s 377A back into the limelight. Shortly after India's striking out of 377 and Tommy Koh's statements, a petition was started called #Ready4Repeal. The intent was to deliver the signatures to parliament on 28 September 2018, the day that Ministry of Home Affairs planned to host a public consultation on the first periodic review of the Penal Code in over a decade, even though an executive decision was taken by the Government to exclude s 377A entirely from the scope of the review. In addition to explaining the background to the law, the petition stated:

We, the undersigned Singaporeans and Permanent Residents, call on Parliament to repeal section 377A of the Penal Code for the following reasons:

1. It is a law the British imposed on Singapore when we were still a British colony, and is no longer relevant.
2. It perpetuates discrimination and harms LGBTQ+ Singaporeans by branding them as criminals.
3. It prevents Singapore from being a truly pluralistic society that protects the interests of its minorities.
4. Our laws should be secular and outside the influence of religious overreach.
5. The policy of non-enforcement is vague and arbitrary, and undermines our rule of law.

The rest of the world has made progress in correcting this unjust colonial imposition, and Singapore must not be left behind on the wrong side of history (Ready4Repeal, 2019).

The petition was authored by distinguished film and theatre director Glen Goie and attorney Johannes Hadi. In addition to receiving the support of Tommy Koh and another veteran-diplomat, Kishore Mahbubani, 40 prominent artists, activists, and business and community leaders signed the petition as Lead Signatories. Twenty significant non-governmental organisations and the non-sectarian Buddhist Fellowship also placed their support behind the petition (Ong, 2018b). By 27 September, the petition had garnered a total 44,650 signatures (Ong, 2018b). On 30 September many of the lead signatories participated in a private town hall discussion, attended by over 800 people, in which speakers urged gay and straight people alike to encourage their Members of Parliament to support repealing 377A. The town hall discussion provided space for Singaporeans to discuss recent developments, such as the recent statements made by VK Rajah, former Justice of the Court of Appeal, in support of the appeal and the NGO work done by Sayoni, a Singapore-based feminist, volunteer-run organisation that works with queer women, and Oogachaga, a community-based, non-profit organisation working with LGBTQ+ people since 1999. These NGOs pointed out that s 377A leads to violence against all LGBTQ people, and not just gay males (Ready4Repeal, 2018).

Two of the attorneys involved in the petition and the private town hall discussion eventually worked on assembling a new challenge at the Court of Appeal. Bryan Choong, one of the speakers at the Town Hall meeting, filed his challenge in November. In addition, even before the #Ready4Repeal Town Hall meeting, and immediately after Tommy Koh's statement, another individual, Johnson Ong, and his legal team filed their challenge to the law. The next section will discuss these two cases.

Johnson Ong Ming v Attorney General

On 12 September 2018, Johnson Ong Ming, 43, who also goes by the stage name DJ Big Kid, filed an application to strike down s 377A stating that he was encouraged to bring the action because of

Tommy Koh's post (Chua, 2018). Johnson, who is in a relationship with another man, was aware of the court ruling in 2014 that rejected the constitutional challenge filed by Tan Eng Hong and a gay couple, Gary Lim and Kenneth Chee (Lum, 2018a). Given the global legal and judicial developments concerning same-sex relationships and activity since then, particularly India's recent Supreme Court ruling, he believed that the Singapore courts should also depart from precedent. Furthermore, he intends to use recent data previously unavailable during the 2013 hearings such as the 2015 report by the United States Substance Abuse and Mental Health Services Administration, which argues that 'sexual orientation is unchangeable or suppressible at unacceptable personal cost' in his challenge (Lum, 2018a). Ultimately, Johnson will argue that the law violates the right to equality enshrined in art 12 of the Singapore Constitution because it only penalises gay men and not gay women, despite the similar nature of their relationships and activity. Johnson's attorney added that, 'We will be presenting medical and scientific evidence to show that sexuality is inherent and is not a choice', noting that the previous challenge in Singapore did not deal strongly with this point (Lum, 2018b). He believes that once this argument is established, then s 377A will be seen to contradict art 9 of the Singapore Constitution, which guarantees life and personal liberty (Lum, 2018b).

Taking up the challenge to question the constitutionality of s 377A just six short years after it had been deemed constitutional is not an easy move, and Johnson Ong, who has an interesting and illustrious personal history of his own, was not shy to take up the challenge, having fought for gay rights in the past. Johnson was born to what he described a 'typically conservative Asian family,' and always felt that being gay would be something unfathomable for his parents (Foo, 2016a). Johnson felt he had to keep up appearances so as to not disappoint them. So, throughout his secondary school and junior college years, he tried dating girls in order to portray himself as a heterosexual male (Foo, 2016a). He notes that his attempts at trying to be straight, however, instead culminated in disastrous situations. Notwithstanding these disappointing 'disasters,' he did well in school and graduated with a law degree, eventually ending up in a lucrative a career as PR consultant (Foo, 2016a). In 2008, Johnson decided to follow his dreams and quit his full-time PR consultancy job to pursue a career as a DJ. Since then, Johnson has gone on to establish himself as the internationally renowned DJ Big Kid and became a #1 US Billboard dance remixer and official remixer for superstars like Enrique Iglesias and Olivia Newton John (Foo, 2016a). Although Johnson decided to challenge 377A because he was inspired by Tommy Koh's words, this was not the first time he stood up against prejudice and anti-gay bias in Singapore. In 2010, he served as the Pink Dot ambassador. In agreeing to serve as an ambassador, he stated:

I think, a lot of times, this issue drives a wedge between sons and daughters, with their parents. There's that 'need' to hide who you are, that 'need' to keep up with appearances, and because of this, you cannot reveal your true self to the people that you love – your parents, extended family members, friends, old classmates... It keeps everyone in the family from having a truly close relationship' (PinkDot.sg, 2010).

Johnson is also represented by a seasoned and highly-regarded human rights attorney, Eugene Thuraisingam. Some of Thuraisingam's most recognised cases include representing Roy Ngern, a blogger who was found guilty of defaming Prime Minister Lee Hsien Loong for accusing the government of the criminal misappropriation of CPF funds,¹⁴ and for drawing an analogy between the Prime Minister and another high-profile corruption case concerning the *City Harvest Church*.¹⁵ A tireless advocate for those on death row, recently, Thuraisingam was convicted in August 2017 of scandalising the judiciary and fined \$6000 SGD for a 22-line poem he had written on the eve of his client's death (Chelvan, 2017). After dealing with his own charge of scandalising the judiciary, Thuraisingam defended prominent human rights activist Jolovan Wham in a contempt of court case, in which Wham was convicted for claiming that Malaysian courts were more independent than Singaporean courts (*Attorney General v Wham Kwok Han Jolovan*).¹⁶ Given Thuraisingam's

¹⁴ Central Provident Fund is a compulsory comprehensive savings plan for working Singaporeans and permanent residents primarily to fund their retirement, healthcare, and housing needs.

¹⁵ *Lee Hsien Loong v Roy Ngerng Yi Ling* [2014] SGHC 230; see *Public Prosecutor v Lam Leng Hung and Others* [2018] SGCA 7.

¹⁶ *Attorney General v Wham Kwok Han Jolovan* [2018] SGHC 222.

experience, it is clear that Johnson is represented by an experienced attorney who is passionate in upholding the constitution and defending the civil liberties of Singaporeans.

Choong Chee Hong v Attorney General

In November, Choong Chee Hong, better known as Bryan Choong, filed another challenge at the Supreme Court. Bryan, 41, is the former executive director of Oogachaga, a non-profit organisation working with the lesbian, gay, bisexual and transgender (LGBT) community (Duffy, 2019). According to court documents, Brian argues that s 377A is inconsistent with the right to personal liberty in art 9 of the Constitution (Alkhatib, 2019). The two other portions of the constitution with which 377A is deemed inconsistent in his pleadings are: equal protection (art 12) and freedom of speech and expression (art 14) (Power, 2019). Bryan is represented by Senior Counsel Harpreet Singh Nehal from Cavenagh Law, as well as a team from the Peter Low and Choo law firm (Alkhatib, 2019). At the Townhall meeting, Remy Choo Zheng Xi, attorney with the Peter Low and Choo firm, and attorney for Lim and Chee in 2014, raised arguments found in VK Rajah's article in the *Straits Times* (Rajah, 2018). In discussing the article, Choo stated that VK Rajah, Attorney-General from 2014 to 2017 and a former judge on the Supreme Court and Court of Appeal, highlights that the 2014 decision to uphold the constitutionality of s 377A was likely to be incorrect, because the law is pre-Constitutional and colonial. Choo highlights that s 377A was enacted in 1937, well before the constitutional protections Singaporeans received in 1963 through the Constitution of Malaya. Because 377A came before the constitution, it should not have received the same presumption of constitutionality as laws that came after 1963 (Ready4Repeal, 2018).¹⁷

In his speech at the town hall meeting regarding the petition, Bryan stated that 377A affects the lives of the LGBTQ in Singapore in five ways: 1) it prevents the adequate training of counsellors and teachers who can deal with LGBTQ youth issues; 2) it negatively affects healthcare and social services; 3) it facilitates workplace discrimination; 4) it leads to unequal representation of the LGBT in the media; and 5) it makes it so most, if not all, organisations aiming to help LGBTQ individuals are denied official recognition by the state (Ready4Repeal, 2018). These comments were not only made as recommendations of the joint NGO report to the United Nations Universal Periodic Review he helped prepare to urge the UN to recommend that Singapore repeal s 377A, but are likely based on his six-year service as Executive Director of Oogachaga. At Oogachaga, Bryan counselled scores of LGBTQ people, serving as the first Centre Manager, and subsequently as Executive Director (Foo, 2016b). He then spent another three years working for B-Change, a not-for-profit organisation that aimed to promote the health and well-being of the LGBT community in Southeast Asia through the use of mobile technology. Given his years of service to the LGBTQ community in Singapore, he was selected as one of the first group of recipients for the Asian Pink Awards in 2014 (Reid-Smith, 2014). Coming from a low-income background, and living with an abusive father, Bryan overcame the odds and joined the Singapore Air Force at a young age. He worked hard to provide for his mother and ended up buying his first flat at the age of 21 (Foo, 2016b). It was also at this time that he became active in the LGBT community and took part in the growth of Oogachaga. Bryan has spent close to 15 years of his life aiming to improve the conditions of LGBTQ people in Singapore and his desire to step up and challenge s 377A of the Penal Code is another example of his commitment to the community.

Bryan is represented by a powerful team of attorneys. Lead counsel is Harpreet Singh, a former Justices' Law Clerk of the Singapore Supreme Court, graduate of Harvard Law School, and senior counsel at Clifford Chance Asia. Although Singh's main areas of practice involves international arbitration and complex commercial litigation, he has experience in constitutional and family law, his most recent case being the Gay Adoption case profiled earlier. Having joined the legal team at the appellate level, he and his team were able to successfully seek reversal of the trial court's decision to deny a gay man the right to adopt his own biological son, and repudiated the government's 'public

¹⁷ Section 4 of the Singapore constitution states that 'This Constitution is the supreme law of the Republic of Singapore and any law enacted by the Legislature after the commencement of this Constitution which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void' (emphasis added).

policy' argument that denying the adoption was more important than the interest of the child.¹⁸ Harpreet Singh is also accompanied by other well-seasoned attorneys. His team includes Remy Choo Zheng Xi,¹⁹ lawyer for Lim and Chee in the 2014 case against s 377A, and Priscilla Chia, a lawyer who has worked on a number of high-profile death penalty cases.²⁰

Needless to say, Johnson and Bryan, both committed to social change, are well-positioned to challenge s 377A. The difference between 2013 and the present cases on appeal is that the pool of skillful lawyers willing to work on the case is growing, the institutional knowledge on challenging s 377A cases and the relevant constitutional issues is forming, and the number of high ranking government officials coming out in favour of repealing s 377A is unprecedented. Society is slowly becoming more aware of LGBT issues and becoming more open-minded on the repeal of s 377A. Yet the legal domain is not the only arena in which battles are fought; nor are such battles always perceived and approached in the same way in other domains. This final section will review the work of two artists who have been engaged in LGBT-themed performances leading up to, at the time of, and after the s 377 decision in India. These case studies aim to highlight how there are many involved in LGBT issues who, labouring in the shadows of the same law, take a different approach from the confrontational legal challenges documented earlier.

LGBT Themed Performances

Although the legal challenge to s 377A has dominated the headlines and public attention and involves a wide range of actors—from lawyers and activists to NGOs and government officials—many sectors intersect and run parallel to the s 377A challenge. One perfect example would be the arts scene in Singapore. While the #Ready4Repeal petition was authored and supported by one of Singapore's most important artists, Glen Goie, a number of artists perform and conduct their practice in the shadows of the challenge. While welcoming the bold and courageous moves by the lawyers and activists, they are also cautiously optimistic and sometimes anxious of the repercussions of the political backlash onto the ability to continue their art. Furthermore, rather than overtly pushing for change, instead, they work within the confines of the law, highlight its ramifications, and attempt to reveal how power manifests in the shadow of the law. This final section will discuss the work of two well-regarded artists whose work deals with queer and LGBT issues: Loo Zihan and Ng Yi-Sheng.

Catamite – Loo Zihan

While dealing with LGBT issues in his art, Zihan Loo works to preserve collective histories and study the structures of power that oppress. A perfect example of his work includes *Catamite*, which drew upon the early 1940's s 377A cases, but also reflected beyond the cases to explore the process of remembering history and how objects play a role in making memories. Part of the M1 Singapore

¹⁸ This case was not Singh's first foray into constitutional law challenges. Very early on in his career, just four years out of law school, in *Public Prosecutor v Norzian bin Bintat* ([1995] SGHC 207), Singh successfully argued that the court may compound a criminal case at the behest of the complainant despite the objection of the Public Prosecutor. This case placed a check on the Public Prosecutor's powers, which at that point had been unfettered, arguably rendering the court a 'rubber stamp' on prosecutorial decisions (see Kumaralingam, 2018: 10; *Norzian bin Bintat* at ¶51). At the international level, in *West LBAG v Philippine National Bank & 8 Ors* (OS No 134/2004), Singh advised the Philippine National Bank, escrow agent for the Philippine government, in relation to the recovery of approximately US\$ 16 million and GB£ 4 million, allegedly forming part of the funds amassed by former Philippine President Ferdinand Marcos.

¹⁹ Choo is famous for representing Alex Au in his contempt of court case for implying in a blog post that the Chief Justice showed partiality towards one of the two constitutional challenges in the first s 377A case, *Attorney-General v Au Wai Pang* ([2015] SGHC 16). Choo also represented Yang Kaiheng and his wife Ai Takagi, operators of the website 'The Real Singapore,' who were charged with seven counts of sedition and one count of failing to present documents to the police. See: *Public Prosecutor v Ai Takagi and Yang Kaiheng* (MAC903124-2015 to MAC 903131-2015). For his work on these cases, and many others, he was named civil society advocate of the year at the Singapore Advocacy Awards in 2015 and was the first Singaporean to receive the International Bar Association's (IBA) Outstanding Young Lawyer of the Year Award in 2016.

²⁰ Co-Counsel Priscilla Chia is also a lawyer who has experience in handling constitutional law claims, having worked on 'The Real Singapore' sedition case, and serving as co-founder and Director of 'We Believe In Second Chances', a youth-led non-governmental organisation that advocates against capital punishment in Singapore and provides support for family members of death row inmates (WomenTalk, 2018).

Fringe Festival 2019, *Catamite* performed from 25-27 January 2019 with two to three performances each day. Each performance was 100 minutes long and was organised into five segments, with the first being the 'Object Exercise,' where participants lay out everything they brought to the space in front of them. In this segment, participants considered the stories encapsulated in each of the objects and were asked to select one piece and reflect on it. In the second part of the performance, Zihan explained the origins behind *Catamite* and how the project was inspired by his three months of research at the queer archives in Melbourne and how that experience inspired him to create his own archive installation in 2016. Participants were then able to handle and observe the objects from the Singapore queer archive to learn about what was included and excluded in the archive, and how its story continues. With this background in mind, part three of the performance consisted of participants sharing what they wanted about their own selected object's significance, function, and reason for existing, as well as why they chose to bring it with them. In this segment participants also choose another person's object to hold in trust for the rest of the show. The performance then transitioned to part 4, where Zihan staged a re-enactment of an early courtroom trial in the 1940s where 377A was invoked, having audience members play an officer (Captain Douglas Marr who was alleged to have gay sexual relations), a Malay boy (Sudin Bin Daud, the 'Catamite' or male prostitute), and the judge involved (Judge Conrad Oldham), using or wearing objects from the Singaporean queer archive in the re-enactment. The final segment has participants return to the object they had held in trust and write a note to be returned with the other person's object they had selected earlier.

Catamite was an introspective experience that allowed audience members to reflect on what they brought with them that day and how objects have meaning. Referring to the Melbourne queer archive, and his own archive in 2016, this meaning attached to objects could be seen as taking two roles—first, its explicit intent and purpose, but second, and more importantly, the history that travels with it. This history as seen through his installation *Queer Objects: An Archive for the Future* (2016), referenced during *Catamite*, can sometimes be hidden and excluded, or out in broad daylight without attracting much attention. Furthermore, the *Catamite* in the title and the staged re-enactment highlighted how the watch that led to Sudin Bin Daud's trial was more than just an object; it was a trigger to his arrest (he was caught pawning the watch he allegedly stole while in the bedroom of the captain), a symbol of his precarious status, and an artefact that metaphorically reminded the audience of the passage of time, and perhaps even the lasting effect of 377A.

This was not the first performance, in which Loo tackled sensitive issues in Singapore. In addition to *Queer Objects* (2016) installation, Loo confronted other issues in Singapore such as censorship in performance art in his performance *Cane* (2012), where he reconstructed Josef Ng's *Brother Cane*—a performance that led to public debate over obscenity in performance art and led to a ten-year restriction on the licensing and funding of performance art in Singapore from 1994 to 2004. In *I am LGB* (2016) Loo addressed the obsessive nature of Singaporean schools when it comes to uniformity, obedience and good grades by guiding up to 100 participants at a time through a series of activities that encourage non-conformity and expose them to works of seminal performance artists from throughout Singapore's history.

Loo Zihan is one of Singapore's most important and celebrated artists. Graduating as valedictorian in the first batch of students from the Nanyang Technology University's School of Art Design and Media, he immediately encountered friction when the school's authorities asked for a poster from his film *Threshold* that featured two shirtless men in an embrace to be amended. Ultimately he chose to remove his poster from the venue and in his graduation speech called out the censorship, stating that as artists 'we bear responsibility for the art we produce, otherwise we betray ourselves and our audiences' (The Online Citizen, 2009). His next film, *Solos*, also encountered difficulties, being withdrawn from its debut screening at the 20th Singapore International Film Festival due to its explicit depiction of homosexual sex (Ferber, 2009). Notwithstanding this setback, it was selected to be screened at the 12th Busan International Film, became the first Singaporean film to be selected for the American Film Institute Festival in Los Angeles, and won the Nuovo Sguardi Award in the 23rd Turin Gay and Lesbian Festival. Undeniably talented, in 2015, Singapore's National Arts Council presented Loo with the revered Young Artist Award, Singapore's

highest award for artists under the age of 35—though much of his queer art and accolades related to it were not included in his profile in the press release (see National Arts Council, 2015).

Despite encountering difficulties in presenting his work due to his explicit reference to queer issues and constant engagement with controversial topics such as censorship, obedience and the state, Loo continues to flourish as an artist. He harbours no ill will towards the government's restrictions, stating that his art is a reflection of his environment and, instead of refusing to produce, the state just becomes another actor in his pieces as he explores how power manifests.²¹ Thus, moments like Tommy Koh's comments and the legal challenges to 377A, forcefully thrust 377A into the limelight, causing both positive and negative backlashes for Loo's practice. The negative backlash can be particularly discouraging for artists like Loo who are already struggling to produce work in the shadow of a government that, while negotiating with, and supporting, such artists, also becomes more sophisticated in its mechanisms of control.

Painted Shadows and IndigNation - Ng Yi-Sheng

Much like Loo, Ng Yi-Sheng also engages Section 377A and deals with LGBT themes in his art without intentionally or overtly challenging the law. As part of the School of Uncommon Knowledge,²² a project of the Substation—Singapore's first independent contemporary arts house—Ng Yi-Sheng decided to host an event called 'Painted Shadows'. Inspired by events that interrogated 'art and empire' at the National Gallery in 2016, Ng decided to put on his own tour of the National Gallery, focusing on queer art and artists. According to a description of the event, 'Moving between chambers of the National Gallery, Ng will unlock the spaces and artefacts of the institution to reveal hidden stories of oppression, struggle, liberation, love and loss' (Substation, 2016b). Ng revealed that he was influenced and motivated by his experiences of doing similar tours in Manila, and his activism and familiarity with regional queer history. His tour focused on the close connection between colonialism and homophobia, highlighting historical facts such as those who endured corporal and capital punishment for the crime of buggery. Moreover, given the fact that the National Gallery now occupies the former Supreme Court Building of Singapore, and sits beside the new Supreme Court building, although his performance was not a direct response to 377A or the cases that the court had heard just two short years earlier, he admits that 377A was part of the story, and as an artist/historian it was hard to deny its presence.²³

One year later in August 2017, Ng helped to organise and moderate a series of activities at IndigNation, an annual month-long Pride event that hosts a series of talks to 'activate the queer imagination [and] bring together Singapore's diverse queer communities together in real space to exchange ideas, share knowledge and cultivate compassion for each other ... enabl[ing] progressive action' (IndigNation, 2017). At IndigNation, Ng participated and organised five activities including, Sayang/Chellame: A Multilingual Queer Love Poetry Event, TRANSIT: an Evening of Trans Arts, ContraDiction XII: Dirty Dozen, ContraDiction XIII: HOMO BOMOH, and Ten Years After the Campaign to Repeal 377A. In the 'Ten Years After' activity, Ng moderated a panel that reflected on how things have changed from 2007 to 2017—ten years after the initial Repeal 377A campaign that coincided with the debates that repealed s 377 of the Penal Code (IndigNation, 2017). On the panel, key activists from that campaign gathered to discuss the history, strategies and impact of the 2007 campaign. Ng noted that from his own experience participating in IndigNation in 2007, perhaps as a result of the heated environment surrounding the 377A debates at that time, he was not allowed by the Media Development Authority (MDA) to present a short story he wrote entitled 'Lee Low Tar'. In its place, Ng delivered a talk on the motivation behind his piece and his feelings towards the

²¹ Interview with Loo Zihan, 31 January 2019.

²² In explaining its purpose, on its website the School of Uncommon Knowledge states that, 'in a society obsessed with grades and the prestige of one's school, education is frequently reduced to a means to an end. The School of Uncommon Knowledge questions what we typically think 'education' involves and is a platform for uncommon knowledge to be imparted by unexpected people' (Substation, 2016a).

²³ While the tours took place in 2016, group tours were offered as late as January 2018.

MDA's decision.²⁴ However, in 2017 when he submitted the pieces to be read at that year's ContraDiction to the MDA for approval, some of the pieces he submitted, which were very close in tone and style to 'Lee Low Tar,' to his surprise, were not censored.²⁵

Like Loo, Ng is a talented and well-regarded artist who has received some of the country's highest accolades. As early as 1998, he won first prize at the annual National University of Singapore Poetry Competition, as well as the SPH-TheatreWorks 24-hour Playwriting Competition in 1998 and 1999. Since then, a number of Ng's plays have been staged such as *Hungry* by TheatreWorks (1998), *Snake* by Stage Right (1999), *Redhill Blues* by the CAP Alumni (1999) and *Serve* by The Ordinary Theatre (2006). His debut poetry collection, *Last Boy*, which deals with identity issues and sociocultural concerns, won him the prestigious Singapore Literature Prize in 2008. Although an outspoken supporter of gay rights who has in the past been censored or overlooked for opportunities, such as those in the educational sector, he believes that given Singapore's multicultural history, diversity, and access to resources unavailable elsewhere in the region, he is privileged. For him, to say s 377A is the only human right violation that matters would not be correct. He does not want to be a single-issue activist and is inspired by others who are willing to fight for issues that lead to even more severe consequences. While hopeful that s 377A will be repealed, he also fears that the heated exchange could lead to a crackdown and more restrictions on his art, as he saw in 2007.

Loo and Ng are two artists who, despite the repressive legal environment, have continued to produce important work recognised both in Singapore and abroad. They certainly feel the presence of a strong government monitoring their work, but at the same time, see such presence as either something to be reflected in their art, or tolerable in light of the more severe regulations that their activist friends endure when confronting the government on other issues or using other methods. Their intent, therefore, is not to challenge the law, but to work in its shadows to highlight its impact on society and reflect upon how power works, memories are created, and categories are constructed. They occupy a space where many of their colleagues are queer-friendly and life is relatively comfortable. Thus when legal challenges take place, their artistic craft is thrown in disarray. Although the spectre of the law haunts them and their work, it is the heightened attention, negative backlash, and enhanced government restrictions during challenges to 377A that affect them more intensely.

Conclusion

The position of Singapore's LGBTQ community is constantly evolving in the shadow of s 377A. A colonial holdover that the former leader of the UK conservative party, Theresa May, in 2018 described as 'wrong then and wrong now,' is an unfortunate law that continues to criminalise the sexual activities and lives of gay males in Singapore (BBC, 2018). Moreover, as seen in the community work done in the NGO sector of Singapore, the law's trickle-down effects also harm a wide range of people other than gay men who are stigmatised and fear discrimination from the state—from lesbians who are raped to 'set them straight,' to transgender people who experience bullying and discrimination in the labour market. Lastly, when the state continues to uphold a hetero-normative definition of the family as seen in the gay adoption case of *UKM v Attorney-General*, not just gay men, but single parents, children raised by extended family members, and unmarried couples with children will continue to be penalised, even if such family formations have always been present in Singapore's history. Repealing s 377A will signal to society that the government will uphold the constitutional rights of citizens, even if they are in the minority, and affirm that a rigid conformity to hetero-normative notions of the family is not the only acceptable way to exist.

Unfortunately, repealing s 377A will not change people's views overnight. Although, Tommy Koh, Kishore Mahbubani, Janadas Devan and VK Rajah in their personal capacity as members of the government have stepped up to speak out against 377A, the courts must still tread through the

²⁴ In the *Gay Anthology of Singapore Prose and Poetry* (2010), Ng hilariously provides his version of the letter denying his application to read 'Lee Low Tar'. The letter denied his application on the grounds that 'it is a specimen of the most degraded pornography known to man' (Ng, 2010: 110).

²⁵ Interview with Ng Yi-Sheng, 7 February 2019.

complicated process of disentangling and decoding the history behind the law, its current impact on society, and how both comport with the constitution. Bryan Choong, Johnson Ong, and their legal teams, have a mighty challenge ahead of them. In the meantime, artists such as Loo Zihan and Ng Yi-Sheng continue their practice in the shadow of the law, as the state restricts and relaxes its regulations on this 'sensitive issue'. As the world moves forward, and conditions in the region continue to change, the important question of whether Singapore is #Ready4Repeal hangs in the balance, while the even larger question of 'what happens next' looms in the distance.

References

- Alkhatib, S (2019) 'LGBT Rights Advocate Files Case against Attorney-General, Stating Section 377A of Penal Code is Void', *Straits Times*, 22 January <<https://www.straitstimes.com/singapore/courts-crime/lgbt-rights-advocate-files-case-against-attorney-general-stating-section-377a>>
- British Broadcasting Corporation (2018) 'Theresa May 'Deeply Regrets', UK's Colonial Anti-gay Laws', 17 April <<https://www.bbc.com/news/world-africa-43795440>>.
- Chelvan, VP (2017) 'Lawyer Eugene Thuraisingam Fined S\$6,000 for Contempt of Court over Facebook Post', *Channel News Asia*, 7 August <<https://www.channelnewsasia.com/news/singapore/lawyer-eugene-thuraisingam-fined-s-6-000-for-contempt-of-court-9099504>>.
- Chua, A (2018) 'Repeal of Section 377A Will End "Online Vitriol and Abuse" against LGBTQ Community, Says DJ Who Filed Legal Challenge', *Today* (Singapore), 12 September <<https://www.todayonline.com/singapore/dj-mounts-fresh-legal-challenge-against-section-377a>>.
- Chua, Lynette (2012) 'The Power of Legal Processes and Section 377A of the Penal Code: Tan Eng Hong v Attorney-General', *Singapore Journal of Legal Studies* 457, 458.
- Chua, Lynette (2014) *Mobilizing Gay Singapore: Rights and Resistance in an Authoritarian State*. Philadelphia: Temple University Press.
- Duffy, N (2019) 'Singapore's Ban on Gay Sex Faces Legal Challenge', *Pink News*, 23 January <<https://www.pinknews.co.uk/2019/01/23/singapore-ban-gay-sex-lawsuit/>>.
- Ferber, Lawrence (2009) 'Silencing Singapore', *Advocate*, 4 June <<https://www.advocate.com/arts-entertainment/film/2009/06/04/silencing-singapore>>.
- Fong T et al (2003) 'Oral Sex Ruling Vexes Many', *The Straits Times*, 8 November, H1.
- Foo, S (2016a) 'Out of the Closet: Johnson Ong aka DJ Big Kid Shares His Story', *Dear Straight People*, 15 February <<https://dearstraightpeople.com/2016/02/15/out-of-the-closet-johnson-ong-aka-dj-big-kid-shares-his-story/>>.
- Foo, S (2016b) 'Out of the Closet: Bryan Choong Shares His Story', *Dear Straight People*, 1 June <<https://dearstraightpeople.com/2016/06/01/out-of-the-closet-bryan-choong-shares-his-story/>>.
- IndigNation (2017) 'IndigNation 2017: Unafraid to Assemble', 27 July <<https://indignationsg.wordpress.com/>>.
- Kumaralingam, A (2018) 'The Public Prosecutor and Sentencing: Drug Trafficking and the Death Penalty in Singapore', NUS Scholar Bank, 30 August <<https://scholarbank.nus.edu.sg/bitstream/.../1/10.108014729342.2018.1471835.doc>>
- Koh, T (2018) 'Section 377A: Science, Religion and the Law', *Straits Times*, 24 September <<https://www.straitstimes.com/singapore/section-377a-science-religion-and-the-law>>
- Koh, V (2016) 'Ex-TRS Editor Cashed in on Unhappiness', *Straits Times*, 28 June <<https://www.todayonline.com/singapore/trs-co-founder-yang-kaiheng-jailed-8-months-sedition>>.
- Leong, WT (2008) Wai-Teng, 'Decoding Sexual Policy in Singapore', in Lian-Kwen Fee and Tong Chee Kiong (eds), *Social Policy in Post-Industrial Singapore*. Amsterdam: Brill.
- Lim, EB (2005) 'Glocalqueering in New Asia: The Politics of Performing Gay in Singapore', 57 *Theatre Journal* 403.
- Lum, S (2018a) 'Court Challenge Filed by Singapore DJ against Section 377A', *The New Paper*, 12 September <<https://www.np.sg/news/singapore/court-challenge-filed-singapore-dj-against-section-377a>>.
- Lum, S (2018b) 'Singapore DJ Files Challenge against Gay-sex Law; Court Should Depart from 2014 precedent, he says; lawsuit comes days after India ruling', *Straits Times*, 12 September <<https://www.straitstimes.com/singapore/singapore-dj-files-fresh-court-challenge-against-section-377a-arguing-it-is>>.
- National Arts Council (2015) '11 of Singapore's Artists Honoured with Cultural Medallion and Young Artist Awards 2015', 16 October <<https://www.nac.gov.sg/media-resources/press-releases/Singapore-s-artists-honoured>>.
- Ng, Y (2010) 'Lee Low Tar', in *GASPP: A Gay Anthology of Singaporean Poetry and Prose*. Singapore: The Literary Centre.
- Ong, J (2018a) 'Singapore Society Has to Decide Which Direction It Wants to Take on Laws against Gay Sex: Shanmugam', *Straits Times*, 7 September <<https://www.channelnewsasia.com/news/singapore/singapore-gay-sex-law-377a-shanmugam-society-has-to-decide-10693926>>.
- Ong, J (2018b) 'Not If but When 377A Will Be Repealed, Says Singapore Movement against Anti-gay Law', 30 September <<https://www.channelnewsasia.com/news/singapore/ready4repeal-section-377a-townhall-anti-gay-law-10773704>>.
- Pereira, A (2008) 'Whether the Developmental State? Explaining Singapore's Continued Developmentalism', 29(6) *Third World Quarterly* 1189.
- PinkDot.sg. (2010) 'DJ Big Kid' <<https://pinkdot.sg/ambassador/dj-big-kid/>>.
- PinkDot.sg. (2015) 'Press Release: A LOVE Note, from 28,000 at Hong Lim Park to Reaffirm their Support for the Freedom to Love', 13 June <<https://web.archive.org/web/20160330225247/http://pinkdot.sg/alovenotefrom28000/>>.

- Power, S (2019) 'Lawsuit Filed against Singapore Attorney-General over Anti-gay Laws', *GayStarNews*, 22 January <<https://www.gaystarnews.com/article/lawsuit-filed-against-singapore-attorney-general-over-anti-gay-laws/#gs.QXefKmw2>>.
- Radics, GB (2013) 'Decolonizing Singapore's Sex Laws: Tracing Section 377A of Singapore's Penal Code', 45(4) *Columbia Human Rights Law Review* 60.
- Radics, GB (2014) 'Singapore: A "Fine" City—British Colonial Criminal Sentencing Policies and its Lasting Effects on the Singaporean Corporal State', 12(3) *Santa Clara Journal of International Law* 57.
- Rajah, VK (2018) 'Section 377A: An Impotent Anachronism; Time for Serious Reconsideration of Section 377A', *Straits Times*, 30 September <<https://www.straitstimes.com/opinion/section-377a-an-impotent-anachronism>>.
- Ready4Repeal (2018) 'Ready4Repeal Townhall', Facebook, 30 September <<https://www.facebook.com/ready4repeal/videos/533652883726990/>>.
- Ready4Repeal (2019) 'Petition' <<https://ready4repeal.com/>>.
- Reid-Smith, T (2014) 'First Asian Pink Awards Honor 15 Amazing Heroes', *GayStarNews*, 17 March <<https://www.gaystarnews.com/article/first-asian-pink-awards-honor-15-amazing-heroes170314/#gs.fnT1ZZNt>>.
- Reuters (2018) 'Veteran Singapore Diplomat Calls for Gay Community to Challenge Sex Ban', *Reuters*, 7 September, <<https://www.reuters.com/article/india-lgbt-singapore/veteran-singapore-diplomat-calls-for-gay-community-to-challenge-sex-ban-idUSL5N1VT0AP>>.
- Straits Times* (Singapore) (2007) 'A Rare Petition and a Spirited Debate', 23 October: 1.
- Substation (2016a) 'School of Uncommon Knowledge' <<http://www.substation.org/schoolofuncommonknowledge/>>
- Substation (2016b) 'Painted Shadows: A Queer Haunting of the National Gallery, Hosted by Ng Yi-Sheng', <<https://static1.squarespace.com/static/56fcaa737da24fa2afc22beb/t/59ba131ca84bfb2/1505366877957/School19-24.pdf>>.
- Tan, Sylvia (2014) 'Respect Local Culture: Singapore Minister Rebukes US Investment Bank for LGBT Recruitment Drive', *GayStarNews.com*, 3 May <<http://www.gaystarnews.com/article/respect-local-culture-singapore-minister-rebukes-us-investment-bank-lgbt-recruitment-drive03/>>.
- The Online Citizen (2009) 'NTU Student Protests against School's Censorship in Graduation Speech', 25 July <<https://www.theonlinecitizen.com/2009/07/25/ntu-student-protests-against-censorship-in-graduation-speech/>>.
- Vasu, N (2012) 'Governance through Difference in Singapore', 52(4) *Asian Survey* 737.
- WomenTalk (2018) 'Priscilla Chia', 17 July <<http://womentalk.com/womenprofile/priscilla-chia/>>.

Legislation

- Buggery Act (UK, 1533)
- Constitution of the Republic of Singapore (Singapore, 1999 reprint)
- Criminal Law Amendment Act (UK, 1885)
- Criminal Law (Temporary Provisions) Act (Singapore, cap 67, 2000 rev ed)
- Indian Penal Code (1860)
- Straits Settlements Penal Code (1871)
- Singapore Parliament Debates Official Report vol 83, 2198 (22 October 2007)

Court Cases

- Annis bin Abdullah v Public Prosecutor*, [2003] SGDC 290
- Attorney General v Au Wai Pang*, [2015] SGHC 16
- Attorney General v Wham Kwok Han Jolovan* [2018] SGHC 222
- Lee Hsien Loong v Roy Ngerng Yi Ling* [2014] SGHC 230
- Lim Meng Suang and another v Attorney General*, [2013] SGHC 73
- Lim Meng Suang and another v Attorney-General and another appeal and another matter*, [2014] SGCA 53
- Navej Singh Johar v Union of India*, WP (CrI) No 76 of 2016. (India)
- Public Prosecutor v Ai Takagi and Yang Kaiheng*, MAC903124-2015
- Public Prosecutor v Ai Takagi and Yang Kaiheng*, MAC903131-2015
- Public Prosecutor v Lam Leng Hung and Others* [2018] SGCA 7
- Public Prosecutor v Norzian bin Bintat* [1995] SGHC 207
- Re UKM*, [2018] SGFC 20
- Tan Boon Hock v Public Prosecutor*, [1994] SGHC 101
- Tan Eng Hong v Attorney General*, [2011] SGHC 56
- Tan Eng Hong v Public Prosecutor*, [2012] SGCA 45
- Tan Eng Hong v Attorney-General*, [2013] SGHC 199
- UKM v Attorney-General*, [2018] SGHCF 18
- Vijaya Kumar S/O Rajendran and Others v Attorney General* [2015] SGHC 244
- West LB AG v Philippine National Bank & 8 Ors* (OS No 134/2004)