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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Note verbale dated 14 June 2011 from the Permanent Mission of Singapore to the United Nations Office and other international organizations in Geneva addressed to the secretariat of the Human Rights Council

The Permanent Mission of the Republic of Singapore to the United Nations Office and other international organizations in Geneva presents its compliments to the secretariat of the Human Rights Council and has the honour to refer to the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai, on his mission to Singapore from 21 to 28 April 2010 (A/HRC/17/40/Add.2).

The Permanent Mission requests that the enclosed comments by Singapore on the above-mentioned report* be circulated as a document of the seventeenth session of the Human Rights Council under agenda item 9.

* Reproduced in the annex, as received and in the language of submission only.

Annex

Comments by the Government of Singapore on the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai on his mission to Singapore (21 to 28 April 2010) (A/HRC/17/40/Add.2)

1. The Government of Singapore wishes to thank the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance Githu Muigai, for his visit to Singapore. The Government also thanks the Special Rapporteur for his efforts in trying to reflect in his report the information received during the visit, including information received from the Singapore Government. In order to further a constructive dialogue, this paper provides additional context for some of the issues raised in the report.

Freedoms of expression and assembly

2. In paragraph 28 of his report, the Special Rapporteur expressed the view that the laws described in paragraphs 26 and 27 of his report are “aimed at framing and limiting any public debate or discourse on issues that are regarded as highly sensitive” in Singapore. The Special Rapporteur “recommend[ed] that the Government review undue legislative restrictions on public debate or discourse related to matters of ethnicity”.

3. The Singapore Government assures the Special Rapporteur that laws, regulations and policies pertaining to free expression and assembly, especially in the complex and difficult area of ethnicity and religion, are kept under constant review. This balance between all the considerations at play is contextual, and must take into account the various socio-political realities that subsist at any given time. In Singapore, the “peaceful co-existence of the diverse communities”, to which the Special Rapporteur refers (paragraph 23), is not a natural construct. Instead, it is the result of the continuous nurturing of tolerance and respect amongst the different ethnic and religious groups. The Government believes that Singapore is not the only UN Member State that must address this challenge.

4. The broad theme of Singapore Government policy on matters of ethnicity and religion, in the context of our multi-racial and multi-religious society, has consistently been to expand common space, and to minimise divides. In recent years, the Singapore Government has in fact reviewed certain laws, regulations and policies on free expression and assembly. Such laws, regulations and policies have also been openly debated in Parliament and other public fora.

5. The Government encourages dialogue to promote inter-faith and inter-ethnic understanding. Since 1961, an inter-faith non-governmental organisation, the Inter-Religious Organisation (IRO), has promoted inter-faith dialogue as an important way for people of different religions to engage each other, and build mutual trust and understanding. The IRO has been appointed by the Government as a member of the National Steering Committee (NSC) on Racial and Religious Harmony since 2006. The NSC provides a national platform for ethnic and religious leaders to dialogue and build trust across racial and religious groups.

6. In 2002, the Inter-Racial and Religious Confidence Circles (IRCCs) were initiated in each of the 84 Electoral Divisions in Singapore to provide a regular platform for various key community leaders to interact in order to build confidence, understanding and trust. In 2006, the IRCCs were re-positioned to include the local religious community and their leaders. The Government provides institutional, secretariat and funding support for the IRCCs. The IRCCs have helped to widen the channels of dialogue and put in place a valuable network of interpersonal relationships across races and religions. Through these channels, Singaporeans have open and fruitful discussions on matters of religion and ethnicity.

7. The Singapore Government therefore urges the Special Rapporteur to view laws, regulations and policies prohibiting inflammatory comments on race, ethnicity and religions against this context.

Ethnicity information on identification documents

8. The Special Rapporteur recommended that the Singapore Government remove the indication of one's ethnic background on identification documents, so as not to perpetuate ethnic categorization of Singaporeans and to lessen the significance of ethnic identity in one's interactions with the State and within Singaporean society at large.

9. In Singapore, we openly accept our ethnic differences and celebrate our ethnic and cultural diversity which we view as strengths. While the Government appreciates the points made by the Special Rapporteur, the Government wishes to explain that ethnicity information is included in identification documents for practical reasons. Racial classification systems are not unique to Singapore, and most countries in the world have similar systems. This helps the government to customize its interventions to fit the different ethnic groups and ensures that no group is disadvantaged in terms of government assistance by a lack of understanding of their specific needs and cultural characteristics. It also helps the Government to identify individuals who qualify for various Government assistance schemes on the basis of membership in a particular ethnic group.

Provision of social services

10. The Special Rapporteur has recommended that Singapore sets up a national body, instead of ethnically based self-help groups, to coordinate efforts and provide people living in Singapore with complementary social services in an equal manner.

11. Singapore provides social services both on a national basis and also through ethnically based self-help groups. No needy person or family is denied help on the basis of race. The various national-level channels offer financial assistance on a needs-basis, as eligibility is based on income level, rather than ethnic affiliation. Self-Help Groups (SHGs)' programmes complement these national schemes and programmes, and are additional avenues in providing help for their communities. In our experience, both approaches are equally relevant and effective in Singapore.

12. In paragraphs 31 and 32 of the Special Rapporteur's Report, the Singapore Government is described as saying that SHGs provide tailored responses because they draw on "cultural loyalties". We wish to clarify that rather than drawing on cultural loyalties, SHGs provide tailored responses on the basis that these groups better understand specific cultural factors influencing issues which their respective communities face. Hence, for

instance, a Malay/Muslim may be more comfortable with confiding in a Malay/Muslim counsellor.

13. We also note the Special Rapporteur's concerns about the financial resources of the SHGs. We would like to assure the Special Rapporteur that while the Chinese Development Assistance Council (CDAC) may have more individual donors, since the Chinese population is the largest in Singapore, the Government provides sufficient financial support to all self-help groups such that no community is left behind. The non-Chinese SHGs receive higher grants, on a per capita basis, than CDAC.

14. While it may appear a paradox to outsiders that our social policies are neither solely colour-blind nor solely colour-conscious, a blend of both approaches provides us the flexibility and variety of options to address different issues.

Individuals of mixed origins

15. There is flexibility for individuals of mixed origins to tap on more than one self-help group. For example, Indian Muslims are able to tap on the services of Yayasan Mendaki (YM), the Singapore Indian Development Association (SINDA), or the Islamic Religious Council of Singapore (MUIS). The take-up rates by the Indian Muslim community for YM and SINDA programmes have also been promising.

16. People of mixed descent are allowed to choose the most favourable racial classification in most cases. The proportion of Singaporeans who do not belong to any of the main ethnic groups is very small (less than 3.3%). These individuals are still able to tap on national-level channels and programmes for assistance.

Education

17. Singapore notes the Special Rapporteur's recommendation that our Government consider creating special temporary programmes to help Malay students catch up academically.

18. The Government currently provides programmes to help all academically weak students regardless of race. This is complemented by community efforts and is a sustainable approach that has been working well. Help is extended to all children who need catching up academically, regardless of race. Each year, some children entering the first year of compulsory primary education are found to have very weak English language and literacy skills, or lack foundational knowledge and skills in numeracy (or both). To support these children, early specialised interventions have been put in place systemically in the form of the Learning Support Programme (LSP) for EL and the Learning Support for Mathematics (LSM) in all primary schools.

19. To support the implementation of the LSP and LSM, the Ministry of Education (MOE) provides all national primary schools with additional teacher post(s). The LSP and LSM are implemented by qualified teachers specially trained by MOE.

20. Support for weak pupils does not stop with the LSP and LSM. Schools continue to provide support in the form of supplementary and/or remedial lessons to pupils who require help beyond the LSP and LSM.

21. Regarding the Special Rapporteur's request that the Government consider direct subsidies for tuition fees for Malay students, rather than through the community-based self-help groups, we would like to remind the Special Rapporteur that Malay students do enjoy free education in national schools.

22. All primary students receive free education (no school fees payable, only a token sum for miscellaneous fees). Secondary and Junior College-level Malay students, as well as those in the Institutes of Technical Education, also do not pay any school fees.

23. It is in government-funded universities and polytechnics where tuition for poorer Malay students is further subsidised using Government funds provided through the community-based self-help group Mendaki. (Tuition fees are already subsidised for students of all races.) We think that this approach is a balanced one, because self-help groups are able to identify and help to target funding at poorer students, while those from better-off families pay the standard fees (which are already subsidised). This approach of collaborating with the self-help groups allows Government funding to be better targeted at those who really need it.

Employment in public institutions

24. The Special Rapporteur indicated in his Report that there were difficulties and negative stereotypes faced by members of the Indian and Malay communities in the field of employment and consequently recommended that the authorities consider adopting legally binding provisions prohibiting discrimination of all kinds, including on the grounds of ethnic or national origin, in the field of employment.

25. A core principle on which Singapore operates is meritocracy. Recognition and rewards are based on merit, with the equality of opportunity being the basic starting point for everyone. There are therefore no "guidelines, policies or practices" that prevent members of ethnic minorities from being employed in Singapore's public institutions.

26. The Singapore Armed Forces (SAF), like all sectors in Singapore society, works on the principle of meritocracy. This means that so long as a person is committed to Singapore, dedicated to the SAF and capable of doing the job, his appointment and advancement in the SAF will be based on qualifications and merit. The number of Malay commanders in the SAF today reflects the educational attainment of the community and compares well, for example, with the proportion of Malay managers and professionals in the economy. Those who demonstrate a potential to assume higher level appointments in the SAF are given the opportunity to do so and distinguish themselves. Some Malay officers have risen up the ranks to hold senior appointments.

27. The Chief Justice, Judges of Appeal, Judges and Judicial Commissioners are appointed by the President on the advice of the Prime Minister. The Prime Minister is required to consult the Chief Justice before tendering his advice on the appointment of a Judge or Judicial Commissioner. Since Singapore's independence, there have been a total of 40 Supreme Court Judges appointed, of which 23 are Chinese (57.5%), 1 Malay (2.5%), 11 Indian (27.5%) and 5 from other ethnic groups (12.5%). The racial composition of the Supreme Court Bench is not fixed and varies over the course of time. This is because Judges are appointed based on merit. There is no discrimination against members of any racial group in appointments to the Bench, neither is there any affirmative action in favour of any minority group.

28. The Singapore Police Force (SPF) adopts the principle of meritocracy, in line with the rest of the government agencies. Recruitment and promotion in the SPF are based on merit, and minorities are well represented. This includes members of ethnic minorities being appointed to senior positions, as well as front-line law enforcement. There is no discrimination against any racial group in the SPF.

29. Singapore rejects discrimination in any form, including that against members of ethnic minority groups in the workplace. In close partnership with the unions and employers, the Singapore government has adopted a promotional tripartite approach to eliminate discriminatory practices at the workplace guiding employers to implement fair and responsible practices. Singapore's employment legislation provides recourse for employees who feel they have been unfairly dismissed.

Accession to international human rights instruments

30. The Special Rapporteur recommended that Singapore accede to international human rights instruments containing provisions reaffirming the fundamental human rights principles of non-discrimination and equality. The Government assures the Special Rapporteur that the principles of non-discrimination and equality are fundamental guarantees under Singapore law. Further, the question of accession to additional core international human rights instruments is kept under constant study by the relevant inter-agency mechanisms of the Singapore Government. At the recent eleventh session of the Universal Periodic Review Working Group, the Government confirmed its intention to consider accession to the International Convention on the Elimination of All Forms of Racial Discrimination, among other instruments.

Electoral system

31. The Special Rapporteur observed that Singapore's Electoral System reinforced the view that members of minority groups were not electable on their own and that they needed to be part of a group of Members of Parliament to be able to get a seat in the Parliament. This implied that members of ethnic minorities are unable to stand for single-member constituencies. We would like to point out that this is factually incorrect as there are no legal provisions that bar a member of any ethnic minority from standing in a single-member constituency. Since 1988 (when the Group Representation Constituency (GRC) system was introduced), there have been 15 instances of members of ethnic minorities standing for single-member constituencies during General Elections. In the recent 2011 General Election, a minority candidate (Mr Michael Palmer) contested and was elected in a single-member constituency.

32. In fact, the Special Rapporteur may wish to note that the GRC scheme favours the minorities. The minority races can group together to form a team of candidates to contest in a GRC whereas Chinese candidates cannot stand in a GRC on their own. They have to team up with either a Malay, an Indian or a member from another minority community.

33. In relation to the size of the GRCs, Article 39A(1) of the Singapore Constitution provides that the group size of a GRC shall be "not less than 3 but not more than 6 candidates". It is therefore factually incorrect for the Special Rapporteur's Report to state in footnote 7 that "Parties must field a team of five or six candidates in each GRC". At the recent General Elections 2011, there were two GRCs (Holland-Bukit Timah and Moulmein-Kallang GRCs) comprising 4 candidates each.

Housing

34. We note that the Special Rapporteur indicated in his Report that due to the Ethnic Integration Policy (EIP), ethnic minorities in Singapore seemed to be disadvantaged and encountered difficulties with regard to the buying and selling of flats built by the Housing Development Board (HDB).

35. We would like to inform the Special Rapporteur that the EIP prevents the formation of racial enclaves and promote racial harmony in HDB housing estates. It is applied equally and consistently across all races. With the EIP, a good mix of residents of different races in every neighbourhood and block of an HDB estate is ensured.

36. When the EIP limit for a particular ethnic group is not reached, there is no restriction on the sale and purchase of an HDB resale flat. As at May 2011, 86% of 162 HDB neighbourhoods have not reached any EIP limits. In other words, potential flat sellers may face limitations in only 14% of HDB neighbourhoods. Even in such cases, sellers can still sell their flats to buyers from the same ethnic group, as it will not increase the ethnic group's proportion.

37. The buying and selling of flats on the open markets is affected by many factors such as attributes of the flats and the prevailing market conditions. It is difficult to attribute the resale price to any single factor such as the EIP.

Non-citizens

38. We would like to correct the unfortunate impression created by paragraphs 15 to 17 of the Special Rapporteur's Report. The Government assures the Special Rapporteur that it respects the fundamental human rights of all within its jurisdiction. The Government cannot agree with the observation that non-citizens in Singapore do not have human rights. Apart from the constitutional guarantees that apply to everyone under Singapore law, including the guarantee of equality, non-citizens enjoy common law liberties, as in common law jurisdictions without written constitutions. Some provisions of the Singapore Constitution do make specific reference to Singapore citizens. However, this drafting is not unique to Singapore and can be found in many other national constitutions, particularly those in the Commonwealth which share similar antecedents.

Presidential Council for Minority Rights (PCMR)

39. The Special Rapporteur observed a potential conflict of interest between the dual role of the Chief Justice as head of an independent judiciary, to which a case may be filed on measures that have an adverse impact on members of a particular ethnic group, and as Chairperson of PCMR, who may issue an adverse report on a particular legislation or public policy which amounts to a differentiating measure. Consequently, the Special Rapporteur encouraged the Singapore Government to review the mandate conferred on the PCMR, so that the latter may consider, on its own initiative, any legislation or public policy and their impact on the rights of members of ethnic minorities.

40. We recall that the Chairman of the PCMR had informed the Special Rapporteur during their meeting that if there is a legal case mounted against this affirmed legislation as being in breach of other constitutional provisions, the Chief Justice will definitely recuse himself from hearing the case as required of him by reason of the common law rule against apparent bias. This is an established rule in constitutional and administrative law that is

followed by all common law judges throughout common law jurisdictions, such as the UK and the US. So, for example, in the hypothetical scenario described by the Special Rapporteur in paragraph 21 of his Report, the Chief Justice will recuse himself even if the party challenging the affirmed legislation does not do so.

41. The function of the PCMR is not to decide whether a law or policy is unconstitutional, but to consider how such a law or policy impacts on persons of any racial or religious community in Singapore. Accordingly, the Special Rapporteur should have little or no concern, at a theoretical or practical level, with respect to any potential conflict of interest in the Chief Justice's role as Chairperson of the PCMR.

Migrant Workers

42. In his Report, the Special Rapporteur made several recommendations regarding the protection of the human rights of migrant workers particularly foreign domestic workers (FDW). We would like to clarify that Singapore has in place a comprehensive framework of laws, administrative measures, education and outreach measures geared towards protecting the rights and promoting the well-being of FDWs. All foreign workers are protected under the Employment of Foreign Manpower Act (EFMA) that addresses the particular needs of migrant labour. For foreign domestic workers, the EFMA imposes legally binding Work Permit (WP) conditions on employers to look after their well-being. These include provisions on safety, proper accommodation, prompt salary payment, adequate food and rest. In addition, under the Penal Code, any employer of an FDW or a member of the employer's family, if convicted of certain offences against the worker such as causing hurt, or insulting the modesty of the worker, is liable to a penalty which is one and a half times the usual penalty. Employers convicted of abuse are permanently barred from employing another FDW and employers who do not take necessary measures to ensure their FDW's safety can be charged in court for criminal negligence.

43. The Singapore Government, through the Ministry of Manpower (MOM), seeks to amicably and expeditiously resolve labour disputes through conciliation. This approach has been effective. Domestic workers in general have been able to settle their disputes and secure their salary arrears and benefits. For the small number of employees who may need to stay behind in Singapore to assist with investigations as MOM prosecution witnesses, MOM would permit them to work on the Temporary Jobs Scheme, or to convert to regular Work Permits on a case-by-case basis. When foreign workers have subsistence, shelter or other immediate needs, non-domestic foreign workers are referred to the bipartite Migrant Workers Centre, and domestic workers are referred to the Keramat Road dormitory as well as shelters operated by NGOs. MOM provides funding to the Migrant Workers Centre and Keramat Road dormitory to house these workers.

44. In Singapore, wages are determined by market forces and employment terms are agreed upon between employers and employees. Singapore does not have a legislated minimum wage, for any industry or group of workers, local or foreign. To do so for foreign workers would imply discrimination against locals. Employees can seek redress if there are any disputes arising from the employment terms.