

ANNEX A: CLARIFICATIONS REGARDING POINTS MADE IN THE DECISION

S/ n	Points made in the Decision	Comments	Clarifications
1	<p>Page 5, [5]: “[A] small portion of the video (approximately 30 seconds in a video over eight minutes in length) compares Lee Kuan Yew to Jesus, lambasting both figures. [X] said that the charge against Yee was the government’s attempt to hide its efforts in “going after” someone for criticizing the government directly.”</p> <p>Page 10, [2], [3]: “First, the video In fact, religion took up only about 30 seconds of the video’s 8½-minute content.”</p>	<p>The decision does not give enough emphasis to the fact that there was conduct offensive to Christians.</p>	<p>The passage from the video lasts 38 seconds (from 2:35 – 3:13), and, as set out in full at [27] of the trial judge’s grounds of decision, <i>Public Prosecutor v Amos Yee Pang Sang</i> [2015] SGDC 215 (“Amos Yee”), reads:</p> <p>“Seeing what Lee Kuan Yew has done, I am sure many individuals who have done similar things come to mind. But I’m going to compare him to someone that people haven’t really mentioned before – Jesus. And the aptness of that analogy is heightened seeing how Christians seem to be a really big fan of him. <i>They are both power hungry and malicious, but deceive others into thinking that they are compassionate and kind. Their impact and legacy will ultimately not last as more and more people find out that they’re full of bull.</i> And Lee Kuan Yew’s followers are completely delusional and ignorant and have absolutely no sound logic or knowledge about him that is grounded in reality, which Lee Kuan Yew very easily manipulates, <i>similar to the Christian knowledge of the Bible and the work of a multitude of priests.</i>” (Emphasis added.)</p> <p>The appellate court that dismissed Yee’s appeal (see https://www.agc.gov.sg/docs/default-source/newsroom-documents/media-releases/2015/ma-9108-of-2015-amos-ye-v-pp-(ex-temporare)-(1).pdf) found that on the evidence, there was a background that led to Yee making the offensive remarks:</p>

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			<p>“5 Mr Yee had an apparently unhappy experience in the Catholic church. He mentioned in one of his police statements that he was “kicked out of the altar boys” for uttering a profanity at an altar boys meeting. He also mentioned that he was asked to leave the church when he spoke to a priest about his reservations about being confirmed in the faith. He described these incidents as possible “emotional catalysts” for him to turn away from Catholicism and embracing atheism, the major impetus of which was his advocacy of logic and reasoning. There was therefore a background when he wrote the words stated in the s 298 charge. They were not innocent words uttered without real thought.”</p> <p>The offending portion of the video was not just about “lambasting” Jesus together with Lee Kuan Yew. The trial judge found the entire passage derogatory and offensive to Christians and the Christian community (<i>Amos Yee</i> at [33]). The fact that the video contained criticism of Lee Kuan Yew and the Singapore government is irrelevant and does not detract from the fact that Yee was prosecuted in relation to the comments he had made about Christians and Christianity.</p>
2	<p>Page 1, [1] : “Singapore prosecuted Yee under the guise of its laws prohibiting insulting religion and obscenity.”</p> <p>Page 1, [2]: “[t]he evidence presented at the hearing demonstrates Singapore’s prosecution of Yee was a pretext to</p>	<p>The evidence shows that Yee was prosecuted for his offensive religious comments.</p>	<p>Yee was not prosecuted under the “guise” of any laws. In Singapore, the office of the Attorney-General, who is the Public Prosecutor (“PP”), is created by the Constitution, which also provides for the PP’s independence and power to control and direct all prosecutions (Art 35(8) of the Constitution). The PP is politically independent, and prosecutorial discretion is – like in the USA – exercised having regard to a wide range of considerations and factors. Yee was prosecuted for criminal offences of uploading an obscene image and for causing a matter to be heard</p>

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	<p>silence his political opinions critical of the Singapore government.”</p> <p>Page 6, [1]: “In Yee’s case, X believes the prosecution was directed at the political context of Yee’s speech, not the religious criticisms.”</p> <p>Page 6, [4]: “Jeyaretnam believes the prosecutions against Yee were meant to punish and silence his political speech, not because of his comments about religion.”</p> <p>Page 6, [5]: “Jeyaretnam testified that the prosecution of Yee for obscenity is selective, as there is more offensive material posted online than Yee’s picture.”</p> <p>Page 10, [8]: “Seventh, regarding the obscenity charge related to the line drawing, many more-explicit pictures are available to the Singapore public and do not result in prosecutions. But this particular drawing had the face of</p>		<p>by a person with deliberate intent to wound that person’s religious feelings. He was found guilty, convicted and sentenced after trial, in which he was represented by counsel. The conviction and sentence were upheld on appeal at which he was also represented by counsel.</p> <p>Yee was in no way enjoined from voicing whatever political opinions that he may have had. Indeed, he has expressed his political opinions on several occasions, as has Kenneth Jeyaretnam, who is an opposition politician. Neither they nor others have been prosecuted for voicing political opinions. In fact, in 2013, Jeyaretnam contested a by-election in Singapore. The minimum threshold for election candidates to avoid forfeiting their security deposit is 12.5% of votes. In that by-election, Jeyaretnam obtained only 1.2% of the vote. That by-election was won by another opposition party.</p>

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	<p>Yew superimposed on one of the figures (behind one with Margaret Thatcher's head). This again raises the inference that the prosecution was politically motivated."</p>		
3	<p>Page 6, [2]: "X testified that she does not believe it to be reasonable that the average person in Singapore would find the image obscene..."</p>	<p>There is no basis for suggesting that X's view represents the views of the average person in Singapore.</p>	<p>X provided no basis for her subjective belief as to what the average person in Singapore would find obscene. At Yee's trial in 2015, the trial judge considered that it was for the court to judge if the image is obscene having regard to Singapore's current community's standards or conscience (<i>Amos Yee</i> at [16]). This was a finding of fact to be made by a court of competent jurisdiction, having considered evidence before it and being cognisant of standards of morality in Singapore. It was open to Yee to challenge the finding of the trial court. He did challenge the finding, on appeal, through his counsel, but was unsuccessful.</p>
4	<p>Page 3, [2]: "Yee testified that he believes that the main reason he was prosecuted was for his criticisms of the Singapore government rather than his criticisms of religion. If the government charged him explicitly for his political criticisms, people would know he is the "biggest political threat" in Singapore and would be curious about his posts." Page 8, [4]:</p>	<p>Singapore's laws have been inaccurately understood.</p>	<p>There is no law in Singapore which criminalises or allows people to be charged for political criticisms. If Yee had confined his remarks to his political opinions, he could not and would not have been prosecuted. Yee's assertion that he was charged for his criticisms of religion rather than his criticisms of the Singapore government because more people would be curious about his posts if he was "charged...explicitly for his political criticisms", is not credible and self-serving. If Yee commits any criminal offence in future, he should face the prospect of prosecution just like any other person who violates the laws of Singapore. He should not have special dispensation from prosecution just because he criticises the government. In any case, Yee has been criticising the government without concern about prosecution. His testimony</p>

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	<p>“Even after completing his sentence, Yee still faced like prosecution for any future offending posts....Both because of his past prosecution and because of the clear danger of a future one, Singapore’s treatment of Yee, when taken as a whole, amounted to persecution.”</p> <p>Page 3, [2]: “If returned to Singapore, Yee believes that he would be jailed and eventually sent to a rehabilitative training program.”</p> <p>Page 5, [2]: “X testified that while Singapore’s constitution technically recognizes freedom of speech, this freedom is subject to restrictions the government deems necessary.”</p> <p>Page 5, [2]: “Many of these laws are overly broad and vague.”</p> <p>Page 5, [2]: “She is unaware of a case where an individual was openly criminally prosecuted for political speech, but</p>		<p>before Judge Cole is also contrary to what he has himself stated on other occasions. For instance, in a Facebook post made on 18 November 2016 shortly after his release from prison, Yee began with the following: “So as you guys can tell from immediately criticising the Singapore government upon my jail release, I am fine. ...” For the same reason, there is no rational basis for any belief on Yee’s part that if he returns to Singapore, he would be jailed and eventually sent to a rehabilitative training programme in the absence of any conduct that violates Singapore’s laws.</p> <p>The right to freedom of speech and expression is enshrined in in Art 14(1) of the Constitution. Restrictions on this right in Art 14(2)(a) of the Constitution are not “subject to restrictions the <i>government</i> deems necessary”. These are imposed by the Legislature, i.e. Parliament in Singapore’s context (equivalent to Congress in the United States), as it considers necessary or expedient “in the interest of the security of Singapore or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or to provide against contempt of court, defamation or incitement to any offence.”</p> <p>The claim by X that many laws are “overly broad and vague” is, ironically, just that. No reference has been made to the many judicial decisions of Singapore courts that – like courts in the United States – set out the interpretation of statutory provisions.</p> <p>By X’s own admission, she is not aware of any prosecutions for political speech. There is no offence in Singapore criminalising</p>

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	<p>the effect of these laws is to intimidate those who might otherwise speak out against the government.”</p> <p>Page 6, [3]: “X explained that Yee was targeted because he posted prolifically and had a large following...Ultimately Yee’s speech is considered subversive and it was on that basis that he was prosecuted. Were he to return to Singapore, she believes he would likely be subject to more prosecution as he is a controversial figure that the government is watching him (sic).”</p> <p>Page 8, [4]: “Even after completing his sentence, Yee still faced like prosecution for any future offending posts....Both because of his past prosecution and because of the clear danger of a future one, Singapore’s treatment of Yee, when taken as a whole, amounted to persecution.”</p> <p>Page 11, [1]:</p>		<p>political speech. Further, there is no basis for suggesting that the effect of laws is to intimidate those who might otherwise speak out against the government. There is an abundance of information in the public domain showing that people regularly speak out against the government and its policies both in cyberspace and in the real world (see e.g. http://www.wp.sg/perspectives/, http://yoursdp.org/news/, and https://kenjeyaretnam.com/). The vast majority of individuals who criticise the government have never been – nor can they be – prosecuted, or sued for defamation for such criticisms. All the cases in which there have been civil suits or prosecution share a common ground – that an offence has been committed or that the law on defamation has been breached. For example, when a factual allegation is made that someone is a thief, or corrupt, the person making the allegation must make good what he says. If the allegations are false, he can face a civil defamation suit. In this regard, the law applies and is available to all alike, regardless of station. The law of defamation has, for instance, been successfully used by opposition politicians to protect their personal reputation (e.g. <i>Chiam See Tong v Xin Jiang Restaurant Pte Ltd</i> [1995] 1 SLR(R) 856; and <i>Chiam See Tong v Ling How Doong and others</i> [1996] 3 SLR(R) 942), including against politicians from the People’s Action Party. Examples include the 1981 lawsuits by Mr Chiam See Tong against the then-Foreign Affairs Minister, Mr S Dhanabalan and the then-Defence Minister, Mr Howe Yoon Chong, who eventually made out-of-court settlements for their allegedly defamatory remarks (see http://eresources.nlb.gov.sg/infopedia/articles/SIP_1536_2009-07-03.html).</p>

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	<p>“Eighth, the country condition reports and expert and lay witness testimony all describe that this is the modus operandi for the Singapore regime – critics of the government are silenced by civil suit for defamation or criminal prosecutions.”</p> <p>Page 10, [5]: “Fifth, the terms of Yee’s pre-trial release prohibited him from posting to social media. These restrictions were also highly unusual and restrictive and served the main purpose to silence Yee’s criticism of the government.”</p>		<p>The provisions of the Criminal Procedure Code concerning bail have been erroneously depicted. These give the court discretion and flexibility in imposing bail conditions having regard to the facts of individual cases before it. In Yee’s case, the conditions were directly related to his offending conduct, which involved a posting on social media. It is not logical to thereby conclude that they must have served the “main purpose” of silencing Yee’s criticism of the government. Yee was free to air his views in other ways apart from social media during the pendency of the restriction.</p>
5	<p>Page 4, [2]: “According to Yee, he thought incarceration was a better option because he was afraid that he would violate the terms of his probation by posting something online, which he feared would result in a longer jail sentence.”</p>	<p>Yee’s explanations as to why he preferred imprisonment to probation are inconsistent.</p>	<p>This is contrary to what Yee, as noted by the trial judge, told a probation officer regarding his unwillingness to be on probation, namely that he was not keen on probation as probation was long and jail was short (<i>Amos Yee</i> at [60]). If what is set out is true, then Yee may have perjured himself before Judge Cole.</p>
6	<p>Page 8, [2]: “[Yee] was arrested at least twice, interrogated, prosecuted, placed on curfew, barred from social media,</p>	<p>Evidence and reasoned judicial findings in Yee’s trial were not given due weight.</p>	<p>As found by the trial judge in 2015, what Yee went through was based on his own doing. She noted that it was Yee who had first indicated that he was prepared to be placed on probation before changing his mind (<i>Amos Yee</i> at [54] – [63]). The Prosecution’s</p>

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	ordered to take down his social media posts, and finally imprisoned.”		sentencing submissions, which were publicly available, also show (i) how Yee had rejected the Prosecution’s suggestion at his bail review hearing that he voluntarily continue with his psychiatric evaluation at the Institute of Mental Health (“IMH”) – which would have resulted in him avoiding the period of remand at the IMH – (ii) how it was the Prosecution that had suggested probation as a sentencing option upon Yee’s conviction on 12 May 2015, and (iii) how Yee had, after agreeing to be assessed for probation, changed his mind and rejected probation (https://www.agc.gov.sg/docs/default-source/newsroom-doucments/media-releases/2015/15-7-6_amos-yee-written-skeletal-sub-(with-annexes).pdf).
7	Page 6, [5]: “Jeyaretnam also testified that Yee’s sentence was unusually harsh.” Page 10, [4]: “Fourth, the evidence presented showed that Yee’s prison sentence was unusually long and harsh, especially for a young offender.”	Singapore’s sentencing jurisprudence and reasoning of the trial judge were not given due weight.	Singapore’s sentencing jurisprudence and the circumstances leading to Yee’s imprisonment term, including the key fact that Yee chose not to consent to probation, preferring imprisonment because he felt probation would take longer than imprisonment, should have been considered. Both the trial court and the appellate court noted that the period Yee had to spend in remand was caused entirely by him alone (see details at S/Nos. 5 and 6 above). The trial judge also considered Yee’s age, sentencing precedents and differences in other cases (e.g. that previous persons charged for offences under s 298 of the Penal Code had pleaded guilty, repented and apologised for their actions after arrest before imposing sentence (<i>Amos Yee</i> at [82])).
8	Page 5, [4] “One was prosecuted for criminal contempt for publishing a book on the handling of a case challenging	Previous cases in Singapore have been inaccurately depicted, resulting in an	There was never any prosecution for “criminal contempt for publishing a book on the handling of a case <i>challenging Singapore’s anti-sodomy laws</i> .” X was probably referring to <i>Shadrake Alan v Attorney-General</i> [2011] 3 SLR 778, which was

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	<p>Singapore's anti-sodomy laws. In addition, Roy Ngreng (sic) was subjected to a civil defamation charge for suggesting that the government was corrupt."</p> <p>Page 5, [6]: "[T]he Singapore government has used this tactic in other cases. One example is cartoonist Leslie Chu, who was prosecuted for contempt after being threatened with sedition charges for his satirical and critical cartoons. According to X, the law against wounding religious feelings is easy to prove and frequently gets used to silence government critics."</p> <p>Page 6, [5]: "Jeyaretnam explained that others in Singapore have made similarly offensive comments regarding religion and have not been investigated or prosecuted, including Lee Kuan Yew himself. Another example is Jason Neo, who was investigated after he publicly disparaged Muslims online but was never prosecuted, likely because</p>	<p>erroneous picture of Singapore's legal system.</p>	<p>an action for scandalising the judiciary of Singapore in a book about the use of capital punishment, which is also practiced in certain parts of the United States. The essence of the allegation was that the Singapore courts made decisions in capital cases not based on the legal merits but based on "politics, international trade and business," favouring accused persons from western countries, and the wealthy and privileged, while being biased against the weak and disadvantaged. No jurisdiction with a reputable Judiciary would let such comments stand unaddressed.</p> <p>The defamation action brought against Roy Ngerng did not involve any criminal charge. It was a civil lawsuit for defamation filed by Lee Hsien Loong in his personal capacity for remarks imputing that Lee was guilty of criminal misappropriation of public money in Singapore's Central Provident Fund (<i>Lee Hsien Loong v Ngerng Yi Ling Roy</i> [2014] SGHC 230).</p> <p>Chew Peng Ee (also known as "Leslie Chew") was never "threatened with sedition charges". He was investigated by the Police for possible offences under the Sedition Act, but no charges were eventually tendered. Committal proceedings for scandalising the judiciary were instituted against Chew but were withdrawn after Chew's counsel indicated he was remorseful, and Chew himself apologised for scandalising the court as well as undertook not to do so again. Further, X has not provided any proof that "the law against wounding religious feelings is easy to prove and <i>frequently</i> gets used to silence government critics". The law in question, s 298 of the Penal Code, has in fact been used very infrequently, as the vast majority of people in Singapore respect, and are proud of, its multi-religious, multi-racial identity.</p>

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	<p>Neo was previously a youth leader in the PAP.”</p> <p>Page 10, [6]: “Sixth, other people who made disparaging comments about religions but who were not similarly critical of the Singapore regime avoided prosecution. These include Calvin Cheng and Jason Neo...Both made comments critical of Islam, equating Muslims with terrorists. Neither was charged.”</p>		<p>The description about the facts of Calvin Cheng’s case and the reference to him as an example of a person who made disparaging comments about religions but escaped prosecution is factually incorrect. Calvin Cheng, who was the subject of a police report (see: http://www.channelnewsasia.com/news/singapore/police-report-filed-over/2352262.html) never made comments critical of Islam or Muslims; his comments made no mention of either, and were directed at “terrorists”.</p> <p>As for Jason Neo, his professed remorse and the timely apology he offered (see e.g. http://news.asiaone.com/News/AsiaOne+News/Singapore/Story/A1Story20111118-311261.html), stand in clear contrast to Yee’s case. The findings made by both the first instance court and the appellate court were that Yee showed no remorse even up to and after the point of conviction. There are therefore clear distinguishing features between both cases and Yee’s.</p>