MULTICULTURALISM IN SINGAPORE*

The Way to a Harmonious Society

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I. Introduction

1 It is an honour to be invited to deliver the Audrey Ducroux Memorial Lecture, for which I wish to thank David Salter, President of the International Academy of Matrimonial Lawyers ("IAML"), Jennifer O'Brien, Chairperson of the Education Committee for the IAML Meeting in Singapore, and the Singapore IAML.

2 First of all, I must apologise to David Salter for not revealing the topic of the lecture earlier. I was worried that if I did, no one would attend the lecture. I also feel somewhat inadequate to reciprocate the honour, in the light of the global dimensions of many of the previous lectures in this series. This is particularly so, as I intend to speak on a subject that seems insular and of little or no interest to international family lawyers. Nevertheless, I hope the subject will resonate with those of you who come from countries that have large populations of immigrants and which are facing economic and social problems in integrating them as part of the mainstream culture and values of the host country. The subject of my lecture is multiculturalism as the way to a harmonious society. Singapore was a British colony until 1963 when Singapore became a constituent state of Malaysia, and then an independent and sovereign state in 1965. Fortunately, for Singapore, multiculturalism was able to take root under an imperial power that ensured that each community preserved its own culture and respected the culture of other communities.

3 Singapore's achievement is in being able to use multiculturalism to foster social cohesion and as a building block of a new nation. In 1965, Singapore's population was made up of about 75% Chinese, 13% Malays, 7% Indians and 5% others. Thus, one can immediately see that with this kind of demographic distribution in a nascent democratic state, there was always a great risk of the majority racial group assuming political power without regard to the rights of the minority groups. But our political leaders have never allowed race to determine its social or political values if it is to forge a nation without a national identity of its

* This paper was delivered at the International Academy of Matrimonial Lawyers Audrey Ducroux Memorial Lecture 2012 on 8 September 2012.

own. This can only come about in a cohesive society of the different racial communities believing in shared values, and sharing common values in their daily lives. Multiculturalism is not simply a social reality that is to be tolerated by the majority ethnic group; it is a political necessity. Since 1965, multiculturalism has been the cornerstone of our nation-building efforts. Just last week,[1] the Prime Minister, when opening the Malay Heritage Centre, called on the Centre to reach out to all youths in Singapore and teach them to appreciate our multicultural heritage so that they could understand our shared cultures and the importance of ethnic cohesion.

4 Family law in Singapore is reflective of our multicultural society. Our principal family law statute is the Women's Charter,[2] which applies to all racial groups except Muslims. For them, the principal law is the Administration of Muslim Law Act,[3] which creates a separate legal and judicial system to give effect to Muslim law on marriage, divorce, maintenance, custody of children and other Muslim and Malay practices. Together, these two laws set out the norms, principles and values of the people in relation to family matters. In most countries, there is historically an established dominant law that reflects the cultural values of the dominant racial group. In this respect, Singapore is different from other Western countries. If we consider the Women's Charter to be the dominant law because it applies to everyone except Muslims, then the dominant law is not Chinese family law or customs, or Indian family law or customs, but English law, as the Women's Charter was based on English matrimonial legislation, modified to suit our own circumstances. Our family law for the large majority of the population is based on the law of our former colonial masters. The basic norms, principles and values of the Women's Charter are derived from English matrimonial law. You may be aware that the statute is not called an Act of Parliament but a Charter, because it was promoted politically as a charter of women's rights. Indeed, that seems to be the perception of many husbands, as now and again, they write letters to the media alleging judicial discrimination in the making of orders on maintenance, custody and the division of matrimonial assets.

5 For this reason we speak a common legal language with all other Commonwealth jurisdictions that have adopted English common law as part of their legal system. I note that in delivering the 2011 memorial lecture in this series,[4] Baroness Brenda Hale spoke on the

1 Robin Chan, "Teach Young our Multicultural Heritage, says PM", *The Straits Times* (*Sunday Times*) (2 September 2012).
2 Cap 353, 2009 Rev Ed.
3 Cap 3, 2009 Rev Ed.
4 Brenda Hale, "What's the Deal? Marital Property Agreements, Past, Present and Future", speech at the International Academy of Matrimonial Lawyers Audrey Ducroux Lecture 2011 (10 September 2011).

subject of prenuptial agreements ("prenups").[5] As Justice Judith Prakash has also spoken to you on the same subject in the context of Singapore law, I should simply add a footnote. When the Court of Appeal was asked to recognise a prenup signed by two foreign parties that was valid under the governing law, that is, Dutch law, we asked ourselves whether there was any Singapore public-policy reason for us not to recognise it. We found none. Singapore is a global city-state. We have many foreign couples working and living here. It is not our business to question and dismantle whatever arrangements and agreements couples might have voluntarily made among themselves in accordance with the laws of their domicile, unless we are bound by domestic law not to recognise such agreements.[6]

6 Coming back to my subject, Singapore is a nation of immigrants whose ancestors came from all over Asia, but mainly from China, India, Indonesia and the Middle East. All these countries have ancient civilisations different from one another. Our ancestors all came to live, trade and work in Singapore, but their civilisations did not clash except from time to time, at the very basic level of social interactions. It was not entirely a miracle that there were few racial and religious

5 See *Radmacher v Granatino* [2010] UKSC 42 and Anna Heenan, "Pre-nuptial Agreements: Where are We Now, asks Anna Heenan" (15 June 2012) 162(7518) NLJ for the latest cases which made clear that whether a prenuptial agreement is upheld is fact-centric. Available at <http://www.newlawjournal.co.uk/nlj/content/after-shock> (accessed 4 December 2012).

6 See *TQ v TR* [2009] 2 SLR(R) 961. This decision has settled the law for the time being on foreign prenuptial agreements. The number of divorces in Singapore involving foreign nationals has been going up in tandem with the rise in the number of foreign nationals domiciled here. However, the percentage of divorces where both parties are foreigners has been increasing, while the number of divorces involving one foreign party has been steady. It is too early to read anything into this differential in the statistics, which are reproduced below:

Filing Year	2007	2008	2009	2010	2011
No of divorces where both parties are foreigners	243	269	283	356	371
No of divorces where only one party is a foreigner	1,178	1,315	1,412	1,653	1,538
Total no of divorces	5,936	6,351	6,233	6,574	6,259

Filing Year	2007	2008	2009	2010	2011
No of divorces where both parties are foreigners	4%	4%	5%	5%	6%
No of divorces where only one party is a foreigner	20%	21%	23%	25%	25%
Total no of divorces	100%	100%	100%	100%	100%

The percentage of divorces in 2010 and 2011 where one party is a foreigner was 25%. This statistic bears a remarkable coincidence to the number of foreigners presently residing in Singapore – about one in four out of a population of 5.2 million is a foreigner, although the majority of them are low-skilled workers.

conflicts among them, because British rule kept a tight lid on social disturbances. The master culture, that is, British or Western culture, was not imposed on the local population, except for its laws and government. Some sections of the community, such as the Straits Chinese (or Peranakans) who were all English educated, as well as the Eurasians, were perhaps closer to the British in culture and tradition than the others. The British left the various Asian communities to fend for themselves, and their law protected their diverse customs, practices and cultures.

7 Therefore we can see that British rule provided two essential cultural tools that changed the ready mix of the various ethnic and religious components of Singapore society and made it possible for the different communities to live together in peace. The first is imperial rule and its institutions buttressed by English law and the English legal system, which regulated the affairs of the various communities. Over the years, English common law has become Singapore's common law. It is indispensable to our economic, social and political life, and serves as a lifeline to the global economic system. The second cultural tool, which may be even more important, is the English language, the common use of which was spread by the establishment of English schools for locals shortly after the British took possession of the island. We owe this to the vision of Sir Stamford Raffles. When Singapore became independent, our equally visionary political leaders had retained English as the common language of all the communities, while at the same time allowed each community to retain its own languages and dialects. Under the Constitution of the Republic of Singapore ("the Constitution"), English, Malay, Mandarin and Tamil are designated the official languages of Singapore, with Malay recognised as the national language, but English is the language of government, of the administration of justice, of trade and commerce, and is the language spoken at all levels of Singapore society. The English language has provided all races in Singapore with a common space to develop and nurture shared values and a common identity. It has enabled the different racial groups to share a common space in all aspects of Singapore life – its social, political and economic life – and has enabled the different communities to understand and accept one another's culture. Multiculturalism in Singapore would not be possible without English as a neutral common language that all can learn to write and speak as an official language,[7] and that can unite the people as Singaporeans.

8 But of course, those elements, although necessary, are not sufficient. There must also be the political will to plan and implement policies to achieve the desired objectives. I believe that Singapore's

7 The other three official languages in Singapore are Malay, Mandarin and Tamil; see Art 153A of the Constitution of the Republic of Singapore (1999 Reprint).

experience in building a multicultural society can provide useful lessons to some countries that find it difficult to maintain stable race relations between the dominant racial groups and the minority immigrant communities. In some Western societies, earnest and genuine attempts to create a multicultural society have yet to succeed. For instance, on 5 February 2011, David Cameron, stated publicly[8] that state multiculturalism in Britain had failed in that it was fostering extremist ideology and directly contributing to homegrown Islamic terrorism. He said that Britain must adopt a policy of "muscular liberalism" to enforce the values of equality, law and freedom of speech across all parts of society.

9 Singapore has never experienced extremist ideology until after 9/11 (unless the ideology of the Malayan Communist Party is characterised as such). But it is not necessary to have extreme ideologists in order to destroy the fragile social cohesion in Singapore. A perceived failure to respect your neighbour's culture, especially his religion, will lead to enmity between neighbours. Perceived disrespect or insult on a larger scale will lead to a larger manifestation of such enmity. In this connection, I would like to recount to you an episode of manic proportions in Singapore's social history, which arose unexpectedly from the outcome of an extraordinary Singapore family law case that came to the courts in the 1950s, when Singapore was still a British colony. One could say, with hindsight, that it was colonial insensitivity that had created the social disorder and British military might that had restored social order. But what could not be eradicated from the psyche of all Singaporeans were the dangers of future incidents of a similar nature. Race and religion are still taboo subjects to those who are unable to subscribe to the principle of "live and let live".

10 In the context of family law, this case should have some interest for international family law practitioners, as the issues of law in that case required consideration by the courts of the applicability of English common law (as part of Singapore law), Muslim law and Dutch law. It also involved the interaction of, or rather the conflict between, two European cultures, Dutch and English on the one side, and Malay/Muslim Malay culture on the other side, and two religions, Catholicism and Islam – quite a potent, and as it turned out, incendiary mix if not properly handled, as it proved to be in this case. This case may be regarded as the defining event in Singapore's road to the establishment of racial and religious harmony. This tragic episode

8 See the transcript of Prime Minister David Cameron's speech at the Munich Security Conference delivered on 5 February 2011 at Number 10, "PM's speech at Munich Security Conference" <http://www.number10.gov.uk/news/pms-speech-at-munich-security-conference/> (accessed 4 December 2012).

has informed all of Singapore's post-independence policies on racial, religious and cultural issues in nation building.

11 Although this case is invariably associated in the minds of Singaporeans with racial/religious riots and social disorder, it was essentially a clash of two cultures, or two civilisations if you like, at a basic level of human coexistence, between the dominant European culture and the local Malay/Indian/Muslim culture. Neither the Chinese nor the Indians were directly involved in the outcome of the case. In the end, when the riots took place, the Europeans were the sole targets of the rioters. However, at a less significant level, there is another aspect of this case that should interest family law practitioners, as the crucial issue in the case was the identity of the party entitled to the custody of a minor girl who had the capacity to express her own wishes as to whom she wanted to be with. Custody, as all family law practitioners know, arouses emotional responses from divorcing parents, which are not dissimilar in their intensity to national responses concerning claims to sovereignty over terrestrial and maritime territories. A child is like a piece of territory to be fought over because both parents regard the child as precious, albeit for different reasons. In an ordinary custody case, it is difficult enough even where the spouses are from the same ethnic and religious background. The difficulties are multiplied if the spouses are from different races, cultures and nationalities. It should be remembered that this incident occurred just after World War II, when colonialism was still at large and the "white man" still lorded over the natives. Even today, cross-border interracial marriages usually give more problems to judges and lawyers than domestic interracial marriages.

12 The case of the Dutch girl, Maria Bertha Hertogh, or Nadra binte Maarof (her Malay name), is undoubtedly, to me anyway, the most famous family law case that has come before the Singapore courts. For the courts, it was also one of the most difficult cases in terms of the facts and the law to be applied to resolve the critical issue in the case – who should be given custody of Maria, or Nadra? That was the heart of the problem in the case. The difficulty in the factual dispute lay in the opposing accounts of the natural parent and the foster parent as to how Maria had come to be raised by the latter as a Muslim in a Malay state. The legal issues involved the interaction of Singapore/English law, Dutch/Indonesian law and Malay customary/Muslim law. But the ultimate problem for the courts was the determination of the future welfare of Maria (or Nadra), and that depended on whether her welfare demanded that she should remain in the custody of the Muslim foster mother in Malaya, or start a new life with her natural parents in Holland. Although the courts resolved the legal problem, its aftermath was disastrous for race relations between the colonial masters and their Muslim subjects, and brought to the fore grievances against the perceived lack of impartiality of British justice.

II. The *Maria Hertogh* case and riots[9]

13 The mid-19th century in Asia saw a world where "native" territories were occupied, carved up and dominated by the more powerful Western powers as settlements, protectorates and vassal states. Singapore and what is now Malaysia became possessions of the British Empire (on which the sun never set). Indonesia was already known as the Dutch East Indies. On 24 March 1937, in Bandung, Java, in what is present-day Indonesia, Maria Bertha Hertogh was born to a Dutch-Eurasian couple. Her father served in the Royal Netherlands East Indies Army. When she was barely five years old, the Imperial Japanese army captured Singapore on 15 February 1942 and the Dutch in the East Indies surrendered to the Japanese on 8 March 1942. Maria's father was captured and interned by the Japanese in 1942, but her mother, Adeline, was not. Maria, who was the youngest daughter of five children, lived with her mother. After the birth of her sixth child (a son) in December 1942, Adeline placed Maria in the care of, or for adoption by, a Malay woman with business experience, Che Amina binte Mohammad, who was then in her forties. Che Amina was a close friend of Maria's grandmother, and would go on to claim that Maria was given to her for adoption, as Adeline could not look after so many children by herself in the Dutch East Indies. Maria's mother, on the other hand, insisted that Maria was only placed in the temporary care of Che Amina during the Japanese Occupation. After the Japanese surrender in 1945, Che Amina brought Maria back to Terengganu, Malaya, as it was not safe for both of them to remain in Java. Maria was baptised a Catholic at birth, but Che Amina converted Maria to Islam and brought her up as a Malay Muslim, speaking only Malay and wearing Malay clothes. Culturally, Maria was more Malay than Dutch. After the Dutch returned to the Dutch East Indies in 1945 (following the Japanese surrender), Maria's parents started to look for her. She was found in September 1949 in rather unusual circumstances.

14 An English district officer, Arthur Locke, spotted Maria at a school event in a village in Terengganu (then an undeveloped Malay state with a predominantly Muslim population in what is now Malaysia). He was curious as to why and how a white girl came to be living in a small Malay village. He investigated the matter and learnt of the circumstances from Che Amina. Having found out that Maria's parents were searching for her, he contacted the Dutch Consulate in Singapore, and then informed Che Amina that the Dutch Consulate was willing to help her draw up proper legal papers for Maria's adoption, and also to arrange for her and Maria to travel to Holland to meet her parents for this purpose. This led Che Amina to bring Maria to

9 This section draws its account from Haj Maideen, *The Nadra Tragedy: The Maria Hertogh Controversy* (Pelanduk Publications, 2000).

Singapore. Shortly after her arrival, Che Amina quickly found out, to her chagrin, that what Locke had told her was not the truth. The Dutch Consul wanted to pay her $500 to return Maria to her parents, which she angrily rejected. Before she could return to Terengganu with Maria, the Dutch Consulate obtained an order of court on 22 April 1950 by means of an *ex parte* application under the Guardianship of Infants Ordinance 1934[10] that custody of Maria be given to the Social Welfare Department, pending further order. Upon being served with the *ex parte* order, Che Amina surrendered Maria to the custody of the Social Welfare Department. With the assistance of a Muslim welfare organisation, Che Amina applied to court on 28 April 1950 to be made a party to the proceedings, and the order was granted. On 19 May 1950, the Chief Justice, who made the *ex parte* order, heard counsel for the parties for 15 minutes and ordered the Social Welfare Department to deliver Maria to the care and custody of the Dutch Consul, with liberty to restore Maria to the care of her natural parents.

15 Che Amina appealed against the two orders made by the Chief Justice to the Court of Appeal, which set them aside on the ground of procedural irregularity – that is to say, the initial application should not have been made as an *ex parte* application. The Court of Appeal also held that the action of the Dutch Consul amounted to an abuse of process as he had no *locus standi* in the matter since he was not acting as the agent of the father but as consul. It was said:[11]

> These proceedings were then instituted, and seem to have been instituted with altogether undue haste, for no better reason than to keep the infant within a purely casual jurisdiction, which has nothing to recommend it.

In other words, the judicial process was misused to keep Maria in Singapore. This was after Che Amina had been induced to bring Maria within the jurisdiction of the Singapore courts under false pretences. The Court accordingly ordered the release of Maria into the care and custody of Che Amina, which she had been since 1942. What happened three days later complicated the legal issues in the case when Maria was given away in marriage to a Malay in his 20s, one Mansor Adabi who came from Kelantan, a neighbouring state of Terengganu, and was studying to be a teacher-in-training. Maria was just over 13 years of age then but she had reached the age of puberty, and under Muslim law was capable of entering into a marriage. The Imam (a Muslim cleric) who

10 SS Ord No 11 of 1934.

11 See *In the Matter of Maria Huberdina Hertogh, An Infant; Amina Binte Mohamed v The Consul-General for the Netherlands* [1950] MLJ 214 at 215.

married them later testified in court that he was competent to act as her *wali* (or guardian) to give her away in marriage under Muslim law.[12]

16 Maria's natural parents continued to pursue legal action for custody of Maria. By this time, they had arrived in Singapore. They applied to be given custody of Maria pursuant to the provisions of the Guardianship of Infants Ordinance. A number of issues were raised at the hearing. The first was whether Maria had been given away to Che Amina for adoption in 1942. The judge heard the testimony of both Che Amina and Adeline, and concluded that neither was telling the truth. Thus, he was unable to make a finding on this issue.

17 The second issue was whether the court had jurisdiction under the Guardianship of Infants Ordinance to declare the validity or otherwise of Maria's marriage. The judge, Brown J, held that while he had no jurisdiction to do so, he could determine the issue nevertheless, as it was ancillary to the main relief sought, namely, custody of Maria.[13] He held that regardless of whether Muslim or English (Singapore) law applied, the marriage would not be valid unless Maria had capacity to marry as determined by the law of her domicile. The judge applied the English law doctrine, that a minor's domicile was that of her father's. Accordingly, Dutch law applied, and under Dutch law, Maria had no capacity to marry because she was under 16 years old. Thus the judge held that the marriage was null and void.

18 The third issue related to the application of an exception to the conflicts of law principle, that capacity to marry is determined by the domicile of the parties. The exception was that where the incapacity existed in the foreign domicile (in this case, Holland), but did not exist under the law of the forum (that is, Singapore), the validity of Maria's marriage would not be affected if two conditions were satisfied. First, either Maria or her husband was domiciled in Singapore. Second, Maria must be a Muslim so as to have capacity, as Muslim law recognised that a minor was capable of marriage once she had attained puberty. On the first sub-issue, the judge found that neither Maria nor her husband was domiciled in Singapore.

19 More controversially, on the second sub-issue, the judge found that Maria was not a Muslim, although she had, in fact, been converted

12 This scenario was stranger than fiction. It would be difficult even for a professor of family law to think up this complication to test the knowledge of his students on the law applicable to the new legal issues.

13 See *Re Maria Huberdina Hertogh; Adriana Petrus Hertogh v Amina Binte Mohamed* [1951] MLJ 12.

to Islam by Che Amina. The finding of the judge on this point is as follows:[14]

> … whatever the child may say and whatever ceremonies and teaching she may have undergone, she is not in the eyes of this Court a [Muslim]. [Her natural] father's affidavit states that he has been a Christian throughout his life, and that he has never consented and would never have consented to his daughter becoming a [Muslim]. And this Court must recognise his legal right, as her father, *to control the religion, education and general upbringing of his child*. The Court may deprive him of his right, if he shews himself to be unfit to exercise it or has in some other way abrogated it. But until that is done it is a legal right which this Court must recognise. [emphasis added]

The judge invoked the following analogy in further support of his reasoning:[15]

> [Consider] the hypothetical case of a Christian father whose child aged six is persuaded by one of the father's [Muslim] servants to embrace the Muslim faith, and to recite the necessary words in the presence of the necessary witnesses. Is the father, when he discovers this fact, to be deprived of his legal right to bring his child up in the Christian religion? It seems to me that in the present case as the father has never abrogated his legal right or consented to his child embracing the Muslim faith she cannot in law be regarded as a [Muslim].

On the other hand, Maria insisted that she was a Muslim.

20 Finally, the judge had to decide the most important issue of all. What was in Maria's best interests? He had no doubt as to where his judicial duty lay. He said:[16]

> First, the section requires me to 'have regard primarily to welfare of the infant'. I have to consider her welfare in the terms of her general well-being in life, not merely for the present but for the future, not merely in the terms of her present wishes (at the age of thirteen) but also in the terms of a prospect which a wider experience will afford. It is natural that she should now wish to remain in Malaya among people whom she knows. But who can say that she will have the same views some years hence after her outlook has been enlarged, and her contacts extended, in the life of the family to which she belongs? And can it be for her general well-being in life to deny her such experience and the opportunities that go with it, and to continue the unnatural separation from her father and mother and her family whom she has

14 *Re Maria Huberdina Hertogh; Adriana Petrus Hertogh v Amina Binte Mohamed* [1951] MLJ 12 at 16.

15 *Re Maria Huberdina Hertogh; Adriana Petrus Hertogh v Amina Binte Mohamed* [1951] MLJ 12 at 16.

16 *Re Maria Huberdina Hertogh; Adriana Petrus Hertogh v Amina Binte Mohamed* [1951] MLJ 12 at 18–19.

> had no means of knowing since she was five years old? Secondly, the section requires me to 'consider the wishes of the parents'. I attach particular importance to the wishes of the father for two reasons. Firstly, whatever conflict of evidence there may be about the actions of the mother in 1942, it is beyond question that the father was parted from his child in circumstances in which he took no part and over which he had no control. Secondly, it is clear from the authorities that the father has a legal right to bring up his child in the way he thinks best for her welfare. I refer again to the words of James LJ in *In re Agar-Ellis* 10 Ch D 49, which I have quoted in this judgment. 'The law has made him, not me, the judge of what is best for his child's welfare, and I cannot interfere with him in his honest exercise of the jurisdiction which the law has confided to him.' Having regard primarily to the welfare of the child, I could take away his jurisdiction if it were not being honestly exercised. But through no fault of his he has had no opportunity of exercising his jurisdiction, and he now comes to this Court to claim it. Upon what ground am I to deprive him of a right which the law gives him? In not one of the authorities that have been cited has the Court deprived a father of this right unless he has in some way, or by his own misconduct, abrogated it. And I am satisfied that if I refused him the relief which he claims I should be acting contrary to the established principles of the law which it is my duty to administer.

So the judge granted custody to Maria's natural parents. What is interesting in the reasoning of the judge is that he accepted that the welfare of Maria was the paramount consideration, but went on to hold that the law had made her father the judge of this, and therefore he could not consider Maria's wishes to remain with Che Amina as being in her best interests.

21 Che Amina appealed. The Court of Appeal dismissed the appeal after a short hearing. In a lengthy written judgment to explain its decision,[17] the Court of Appeal held that the High Court had no jurisdiction to make a declaration on the validity of the marriage, not even as an issue incidental to the main relief of custody, but it agreed with the High Court that the marriage was null and void *ab initio* under Dutch Law. The Court of Appeal also upheld the judge's finding that it was in the best interests of Maria to be restored to the custody of her natural parents. So on 12 December 1950, Maria was flown to Holland with her parents to begin a new life.

22 Seven months had elapsed between the time when Maria left her home in Terengganu and when she left for her new home in Holland. During this period, the press in Singapore and Malaya

17 *In the matter of Maria Huberdina Hertogh, an infant and in the matter of the Guardianship of Infants Ordinance (Cap 50) between Inche Masoor Adabi and Adrianuspetrus Hertogh, and Adelien Hertogh, married woman* [1951] MLR 26.

(English, Malay and Chinese) reported daily on the court hearings and how Maria was coping with her circumstances. The British and Dutch press also got into the act, thus giving worldwide exposure to the case, but as one author wrote, it was suffused with "misunderstanding, chauvinism and intolerance".[18] Irresponsible reporting by the English press inflamed the feelings of many Muslims – showing pictures of Maria with a nun in a chapel in a convent, appearing both happy and unhappy on different occasions. The reports and photographs inflamed the more extreme section of the Muslim community (both Indian and Malay) who felt that a Muslim girl was being forced to convert to Christianity. Huge crowds gathered at the court precinct at every stage of the proceedings. They came in the thousands. And so, inevitably, one small incident flared into ungovernable riots for four days from 11 to 14 December 1950, when mobs comprising Muslims and Chinese gangs attacked anyone who looked like a European. By the time the riots were brought under control by British troops (the police were unable or unwilling to do the job), 18 people had been killed, 173 injured, 119 vehicles damaged and buildings set on fire. Two weeks of 24-hour curfew was imposed but it took a while before law and order was restored. Singapore was never to forget the Maria Hertogh riots.

23 And how did the judge's judgment that Maria would have a better life in Holland come to pass? The Dutch newspapers reported that during the first four years after returning to Holland, Maria was homesick for Malaya and had a bitter relationship with her mother.[19] Maria told the press that she had never wanted to return to Holland. She had expected her natural mother to shower as much attention on her as Che Amina did, but this was not possible as Maria had five other siblings. Maria got engaged to a Dutch soldier whom she met at a party. In 1956, they were married, and in 1957 she gave birth to her first child. During the next 15 years, she bore another 13 children. A Dutch television station made a film of her life in 1975 called "The Time Just Stood Still", which set out to retell Maria's life and included an interview with Mansor Adabi. In 1976, Che Amina passed away. The film affected Maria so much that she plotted to kill her husband, and was charged in court in August 1976 for the offence. In court, Maria's counsel pleaded in mitigation Maria's tragic past. The court acknowledged her suffering and acquitted her as the plot had not been put into operation. Maria eventually divorced her husband on the ground of irretrievable breakdown of her marriage. Maria visited her adoptive elder sister, Kamariah, in 1999 in Kemanan, Terengganu, after 45 years of separation. It was apparently an emotional visit. In May 2009, during the filming of

18 Tom Eames Hughes, *Tangled Worlds – The Story of Maria Hertogh* (Institute of Southeast Asian Studies, 1980) at p 41.

19 Haj Maideen, *The Nadra Tragedy: The Maria Hertogh Controversy* (Pelanduk Publications, 2000) at p 299.

another documentary on her life, Maria called herself Nadra in sending a message on television to the people of Malaysia. She died on 8 July 2009 from leukaemia at the age of 72. In a twist of fate, she died from the same cancer that had also killed Kamariah.

24 With this tragic story of a young girl who was denied the wish to live in the cultural and religious environment in which she had been brought up, I now turn to the story of multiculturalism in Singapore.

III. The growth of multiculturalism in Singapore

25 Sir Thomas Stamford Raffles of the East India Company landed on island of Singapore in January 1819 to set up a trading station to break the trade monopoly of the Dutch between Europe and China. Singapore was then part of the Malay world and belonged to the Sultanate of Johor. There were some 150 Malays living along the banks of the Singapore River and some 30 Chinese engaged in pepper and gambier planting. The trading post took off immediately and attracted merchants and traders from the region, especially the Chinese from Penang, Malacca and China, and also the natives of Indonesia. In 1824, the British acquired full sovereignty over Singapore because of its success, and the population had grown to 10,683 (60% Malays, 31% Chinese, 7% Indians and 2% others). By 1867, the population was about 55,000, with the Chinese percentage reaching 65%. Today, the percentages are about 75% Chinese, 13% Malays and 7% Indians. From being sojourners, the immigrants became permanent settlers and built their future under British rule.

26 English law (the common law and English statutes of general application) was introduced as the general law of Singapore, but it was to be applied in so far as it was applicable to the circumstances of Singapore and its inhabitants and subject to such modifications as those circumstances might require. Thus from inception, the British recognised the importance of not abolishing the personal laws, customs and practices of the Malays, Chinese, Indians and other local inhabitants, unless they were inconsistent with English law.[20] From then until 1963, more than 130 years, Singapore's diverse peoples were able to live together in peace and tranquillity, each respecting one another's language, religion and culture, under a somewhat benign political order in which our colonial masters lived apart from their subjects. This tranquillity was explosively shattered by the Maria Hertogh riots. There were two other racial riots between the Malays and the Chinese and the rest in Singapore between 1963 and 1965, but these were partly influenced by political factors, when Singapore was trying to find its

20 *Ong Cheng Neo v Yeap Cheng Neo* (1874–1875) 6 LRPC 381.

destiny as part of Malaysia.[21] Singapore as a small state suffers from a degree of political and social vulnerability that large states are unable to understand. If its citizens are unable to share a common space suffused with shared values, the people will forever be unable to forge a nation that can survive and prosper.

27 Singapore's political leadership has therefore never taken communal peace for granted. Singapore needed to forge a common identity among the different ethnic communities. The dominant racial group is Chinese, but the Chinese are not a single homogenous group: the Chinese are themselves differentiated by their dialects and ancestral provinces, such as the Hokkiens, the Teochews, the Cantonese and the Hakkas. Moreover, they were divided culturally according to whether they had been educated in English or in Chinese, or both. The political system based on representative government makes it possible for the Chinese to ride roughshod over the minority races, in spite of protected constitutional rights guaranteed to the minorities. But for the majority to do so would be a recipe for disaster, as the Maria Hertogh riots have shown. If demography is destiny, then Singapore's destiny is to be a multicultural state. Without multiculturalism, a common identity cannot be forged.[22] Moreover, in geopolitical terms, Singapore cannot have peace with its two bigger neighbours (Indonesia and Malaysia) if the Chinese were to discriminate against the minority racial groups in developing Singapore as a nation. Racial discrimination would be the end of Singapore. But non-discrimination or mere neglect of the minorities is not sufficient to build a nation. There must be a positive strengthening of multiracialism in the sense of tolerance of the cultural values of each ethnic community if Singapore were to succeed in nation building. Key to this is political and community leadership, with the will to curb chauvinism and all kinds of ideology that would marginalise the minority races. Let me now highlight how the Government has gone about strengthening multiculturalism in Singapore.

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21 Singapore left Malaysia because of the intractable differences in the political objectives of the United Malay National Organisation ("UMNO") (the dominant political party in the States of Malaya) and that of the People's Action Party ("PAP") (the dominant political party in Singapore). The PAP was pursuing the goal of a Malaysian (*ie*, multiracial) Malaysia, while UMNO was pursuing a Malay (dominated) Malaysia, with the other races playing a subordinate role in the control and exercise of political power.

22 The Chinese had settled in Malacca since the 15th century, when Admiral Cheng Ho visited Malacca. More Chinese came with the arrival of the Portuguese in Malacca in 1511, the Dutch in 1604 and the British in 1796 in Penang and in 1819 in Singapore. The early Chinese intermarried with the Malays, learnt to speak a form of patois (combining bazaar English and Malay) and modified the Chinese cuisine with local ingredients, resulting in a distinct community called the Babas or the Peranakans. However, they retained much of their Chinese culture although many of them could not speak Chinese.

IV. Maintaining racial harmony and peaceful coexistence in Singapore

A. Protection of minorities in Singapore

28 The Constitution of the Republic of Singapore contains a Bill of Rights. No one can be deprived of his life, liberty or property, except by law. Everyone is equal before the law. The Constitution enshrines the freedom of speech and expression, freedom of association, freedom of religion, due process and so on (Arts 12 to 15). But like other Constitutions, all freedoms are subject to restrictions in the interest of public order, national security and other overriding interests of the state.

29 However, the Singapore Constitution has certain provisions for the protection of minority communities, especially the Malays, and their religion and culture. Three Articles in the Constitution provide the foundation of state multiculturalism in Singapore, namely, Arts 152, 153 and 153A:

> **Minorities and special position of Malays**
>
> **152**— (1) It shall be the responsibility of the Government constantly to care for the interests of the racial and religious minorities in Singapore.
>
> (2) The Government shall exercise its functions in such manner as to recognise the special position of the Malays, who are the indigenous people of Singapore, and accordingly it shall be the responsibility of the Government to protect, safeguard, support, foster and promote their political, educational, religious, economic, social and cultural interests and the Malay language.
>
> **Muslim religion**
>
> **153.** The Legislature shall by law make provision for regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion.
>
> **Official languages and national language**
>
> **153A**— (1) Malay, Mandarin, Tamil and English shall be the 4 official languages in Singapore.
>
> (2) The national language shall be the Malay language and shall be in the Roman script:
>
> Provided that —
>
> (*a*) no person shall be prohibited or prevented from using or from teaching or learning any other language; and
>
> (*b*) nothing in this Article shall prejudice the right of the Government to preserve and sustain

> the use and study of the language of any other community in Singapore.

Pursuant to Art 153, Parliament enacted the Administration of Muslim Law Act 1966[23] ("AMLA") to establish a religious council for the administration of the Muslim faith and affairs, and also a Syariah Court to adjudicate on disputes relating to betrothal, marriage, divorce and the division of property according to Muslim law as varied by Malay custom. This Act also provides for certain "Muslim" offences,[24] but these offences are not triable by the Syariah Court but by the ordinary criminal courts.

B. Constitutional safeguards against "differentiating" laws

30 In addition to constitutional guarantees of equality before the law, the Constitution has an additional safeguard for minority rights. If any Bill passed by Parliament is a "differentiating measure"[25] (that is,

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23 Act 27 of 1966.

24 Some of these offences, as stated in the Administration of Muslim Law Act (Cap 3, 2009 Rev Ed), are:

(a) cohabitation outside marriage, by either party (s 134);

(b) enticing an unmarried woman from her *wali* (lawful guardian) without consent (s 135);

(c) failure to pay *zakat* or *fitrah* (alms) (s 137);

(d) failure to report conversion to or from Islam (s 138); and

(e) teaching or publicly expounding false doctrine (s 139).

25 Article 68 of the Constitution of the Republic of Singapore (1999 Reprint) defines a differentiating measure as "any measure which is, or is likely in its practical application to be, disadvantageous to persons of any racial or religious community and not equally disadvantageous to persons of other such communities, either directly by prejudicing persons of that community or indirectly by giving advantage to persons of another community". Set out below are selected examples of statutory provisions and subsidiary legislation that accommodate cultural diversity but are not differentiating measures:

(a) the Administration of Muslim Law Act (Cap 3, 2009 Rev Ed);

(b) the Oaths and Declarations Act (Cap 211, 2001 Rev Ed) s 5(*a*), which allows Muslims and Hindus to make affirmations instead of taking an oath;

(c) the Prisons Regulations (Cap 247, Rg 2, 1990 Rev Ed) reg 99(2), which provides that "Jewish prisoners are not to be compelled to work on Saturdays if they claim exemption and they may also keep such festival days as may be allowed by the Government";

(d) the Prisons Regulations (Cap 247, Rg 2, 1990 Rev Ed) reg 99(3), which allows Muslim prisoners to observe the fast of Ramadan and to work less during the fast;

(e) the Singapore Armed Forces (Leave) Regulations (Cap 295, Rg 12, 2001 Rev Ed) reg 9(*d*), which empowers the Director of Manpower to grant pilgrimage leave to Muslim servicemen;

(f) the Women's Charter (Cap 353, 2009 Rev Ed) ss 3(2) and 3(4), which exclude Muslims from the provisions relating to marriage and divorce to Muslims; and

(*cont'd on the next page*)

if it disadvantages any racial or religious community in its practical application), such a Bill, if so certified by the Presidential Council for Minority Rights, must be reconsidered by Parliament, which may: (a) amend the Bill accordingly and send it back to the Council for consideration; or (b) affirm the Bill without amendment on a two-third majority vote.[26] Such a voting majority would have the power to amend the Constitution itself. Thus, minorities are twice protected by the Constitution, that is, equal protection of the law and no disadvantage to them in the practical application of the law.

31 As Members of Parliament ("MPs") are elected by a simple majority of votes, minority candidates (from the Malay, Indian and Eurasian communities) stand the risk of not being returned to Parliament and having no representation in Parliament. This risk led to the Constitution being amended to provide for what is called Group Representation Constituencies ("GRCs"), which can only be contested by a group of three to six candidates that must include one member from a minority race. In the current Parliament, there are 15 GRCs, which collectively have 75 MPs. This means that there will be at least 15 MPs who represent the minorities in Singapore.

32 It can be seen from these provisions that race and religion pose the most important challenges to the social order. The Constitution protects freedom of religion, but the clash of religions will lead to social disorder. Hence, there is a vast array of laws to prevent this. Here are some of them:

(a) Chapter XV, ss 295 to 298A of the Penal Code,[27] which provide:

> **Injuring or defiling a place of worship with intent to insult the religion of any class**
>
> **295.** Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage or

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(g) the Corrosive and Explosive Substances and Offensive Weapons Act (Cap 65, 1985 Rev Ed) s 6(3)(*b*), which presumes that a weapon is carried with lawful authority if it is part of his ceremonial dress on a ceremonial occasion, *eg*, the wearing of *krises* by Malay cultural groups or *kirpans* by Sikhs on certain festive occasions.

26 Constitution of the Republic of Singapore (1999 Reprint) Art 78. Subsidiary legislation constituting a differentiating measure is subject to a similar corrective procedure. The Minister may amend it and send it back to the Presidential Council for Minority Rights for consideration, or Parliament may affirm it by a simple majority vote.

27 Cap 224, 2008 Rev Ed.

defilement as an insult to their religion, shall be punished with imprisonment for a term which may extend to 5 years, or with fine, or with both.

Disturbing a religious assembly

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.

Trespassing on burial places, *etc*

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.

Uttering words, *etc*, with deliberate intent to wound the religious or racial feelings of any person

298. Whoever, with deliberate intention of wounding the religious or racial feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, or causes any matter however represented to be seen or heard by that person, shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.

Promoting enmity between different groups on grounds of religion or race and doing acts prejudicial to maintenance of harmony

298A. Whoever —

(*a*) by words, either spoken or written, or by signs or by visible representations or otherwise, knowingly promotes or attempts to promote, on grounds of religion or race, disharmony or feelings of enmity, hatred or ill-will between different religious or racial groups; or

(*b*) commits any act which he knows is prejudicial to the maintenance of harmony between different religious or racial groups and which disturbs or is likely to disturb the public tranquillity,

shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.

(b) The Sedition Act[28] makes it an offence, *inter alia*, for a person to distribute any seditious publication. A seditious publication includes a publication that promotes ill will between different classes of Singaporeans. In 2005, two Chinese were convicted under the Sedition Act for posting inflammatory remarks about Malays and Muslims. Their posts had been triggered by a letter from a Muslim to the forum who was concerned about dogs in taxis. Most Muslims in Singapore belong to a school of Islamic law that regards dog saliva as unclean and they are forbidden from coming into contact with it. Both accused persons were dog lovers who were apparently upset by the letter, and they not only responded to it, but crossed the line by disparaging the Muslim and Malay communities as a whole. In 2009, two Christians were convicted of an offence under the Act for having distributed materials that had the tendency to promote ill will and hostility between Christians and Muslims by sending to Muslim persons pamphlets denigrating their religion. It should also be mentioned that they were also convicted of offences for possession of undesirable publications such as anti-Catholic tracts. A charge of sedition for such an offence under the Sedition Act has the effect of signalling that the offence is serious.

C. Maintaining religious harmony

33 In addition to using the criminal law to maintain civility in relations and religious tolerance, Parliament also enacted a preventive law in 1990 to ensure that the various religions should be practised with mutual respect for each other, and also to prevent religion from being used for political purposes. The Maintenance of Religious Harmony Act[29] ("MRHA") put in place a limited mechanism to enable prompt and effective action to be taken to defuse potentially explosive situations that could lead to religious enmity and hatred, or worse, riots. The weapon adopted to prevent such potential trouble was a statutory restraining order. The MRHA authorises the Minister to issue a restraining order against any member of a religious group or institution from doing certain specified acts that threaten public order and national security.[30]

28 Cap 290, 1985 Rev Ed.

29 Cap 167A, 2001 Rev Ed.

30 Section 8 of the Maintenance of Religious Harmony Act (Cap 167A, 2001 Rev Ed) provides:

(1) The Minister may make a restraining order against any priest, monk, pastor, imam, elder, office-bearer or any other person who is in a position of authority in any religious group or institution or any member

(*cont'd on the next page*)

Before making the order, the Minister has to give the affected person an opportunity to make representations against the proposed order. Similar provisions in the MRHA apply to persons who incite, instigate or encourage any religious group or institution to commit any of the proscribed acts. A breach of a restraining order is an offence punishable with fine or imprisonment, or both.[31] A restraining order is subject to review by the Council for the Maintenance of Religious Harmony, whose members are appointed with the consent of the President. The function of the Council is to make recommendations to the President that the restraining order be confirmed, cancelled or varied in any

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thereof for the purposes specified in subsection (2) where the Minister is satisfied that that person has committed or is attempting to commit any of the following acts:

(*a*) causing feelings of enmity, hatred, ill-will or hostility between different religious groups;

(*b*) carrying out activities to promote a political cause, or a cause of any political party while, or under the guise of, propagating or practising any religious belief;

(*c*) carrying out subversive activities under the guise of propagating or practising any religious belief; or

(*d*) exciting disaffection against the President or the Government while, or under the guise of, propagating or practising any religious belief.

(2) An order made under subsection (1) may be made against the person named therein for the following purposes:

(*a*) restraining him from addressing orally or in writing any congregation, parish or group of worshippers or members of any religious group or institution on any subject, topic or theme as may be specified in the order without the prior permission of the Minister;

(*b*) restraining him from printing, publishing, editing, distributing or in any way assisting or contributing to any publication produced by any religious group without the prior permission of the Minister;

(*c*) restraining him from holding office in an editorial board or a committee of a publication of any religious group without the prior permission of the Minister.

(3) Any order made under this section shall be for such period, not exceeding 2 years, as may be specified therein.

(4) Before making an order under this section, the Minister shall give the person against whom the order is proposed to be made and the head or governing body or committee of management of the religious group or institution which is to be named in the proposed order, notice of his intention to make the order together with the grounds and allegations of fact in support thereof and of their right to make written representations to the Minister.

(5) The Minister shall have regard to such representations in making the order.

(6) All written representations under subsection (4) must be made within 14 days of the date of the notice of the Minister's intention to make an order under this section.

31 Maintenance of Religious Harmony Act (Cap 167A, 2001 Rev Ed) s 16. The offence is punishable with a fine of up to $10,000 or two years of imprisonment, or both.

manner.[32] Up to today, no restraining order has been made, but the existence of the law is a sufficient deterrent to any religious group acting in a manner that would invite a restraining order.

D. Practical measures to promote racial integration

34 Singapore also actively implements policies that promote racial integration. One such area is housing policy. For public housing under the Housing and Development Board ("HDB"), the HDB, which is the authority regulating public housing, sets limits on the proportion of residents of each race in a particular neighbourhood.[33] This produces a mix of various races which, living together, provide ample opportunities for them to interact and to build a community spirit. Of course, this also means that there will be neighbourhood conflicts as well.

35 Last year, for instance, a family of new Chinese immigrants complained about the smell of cooking curries emanating from their Indian neighbour.[34] For lovers of curry, that smell is aromatic and pleasing; for others, it may be overpowering and pungent. This incident attracted strong reactions from Singaporeans of all races who love curry. In particular, netizens were upset when it was reported that after mediation, the Indian family had agreed to cook curry only when the Chinese family were not at home. Many saw this as an unfair compromise. So incensed were many Singaporeans that they unofficially designated one day (21 August 2011) as "Cook Curry Day" and many families participated in a show of support for the Indian family.[35] It was subsequently clarified that the solution was voluntarily accepted by the Indian family in the interest of racial harmony, after discussions with the Chinese family.[36]

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32 Maintenance of Religious Harmony Act (Cap 167A, 2001 Rev Ed) ss10–12. Under Art 22I of the Constitution of the Republic of Singapore (1999 Reprint), the President has the discretionary power to reject the advice of the Cabinet where such advice is contrary to the advice of the Council for the Maintenance of Religious Harmony. This power enables the President to check any abuse of executive power.

33 See Michael Hill & Lian Kwen Fee, *The Politics of Nation Building and Citizenship in Singapore* (Routledge, 1995) at pp 126–127.

34 Karen W Lim, "Families Settle Curry Dispute, not Mediators", *Asiaone* (16 August 2011) <http://www.asiaone.com/News/AsiaOne%2BNews/Singapore/Story/A1Story20110816-294757/3.html> (accessed 28 June 2012).

35 Benita Aw Yeong, "Curry – Our New National Icon", *Asiaone* (16 August 2011) <http://www.asiaone.com/News/AsiaOne%2BNews/Singapore/Story/A1Story20110815-294609.html> (accessed 28 June 2012).

36 An even more recent incident concerns the hosting of *Diner en Blanc* in Singapore. It was reported that some Singaporeans were annoyed by the presumptuousness of the organisers of this event (which originated in Paris 24 years ago, and Singapore is the first city in Asia to hold such an event) to reject Singapore hawker food as not being classy enough to be eaten at this dining event meant only for French cuisine.

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E. Promoting understanding and harmony across races and religions

36 Our efforts in promoting racial and religious harmony start at an early stage. Our kindergartens and schools are natural institutions where the inculcation of values of tolerance and understanding takes place. Formal instruction, through various subjects, such as history as well as civics and moral education, underline and emphasise the importance of harmony and tolerance. This is reinforced by a national education syllabus that aims to develop national cohesion and a national identity that crosses religious and racial lines.

37 A controversy that erupted in 2002 illustrates the fine tightrope on which public policy-making treads when balancing the promotion of racial cohesion and communal interests. That year, four Muslim primary schoolgirls were suspended from attending school for wearing the *tudung*, a Muslim headscarf,[37] in contravention of the Ministry of Education's policy on uniforms.[38] The parents and their supporters argued that the schoolgirls were only exercising their freedom of religion in wearing headscarves. This incident, as expected, attracted widespread commentary from political groups, foreign commentators and the media.[39] The Ministry held its stand that there must be some common secular space in the schools, which every student can share. What was particularly difficult for the Government to justify was the fact that Sikh boys were allowed to attend school in their turbans. It was, however, explained that Sikhs had been allowed to wear turbans to schools even before Singapore gained independence and this was a practice that was continued. However, Sikhs were not permitted to carry ceremonial daggers into school, even though it is one of the five articles of Sikhism.[40] Some of the parents withdrew their children from school rather than have them forgo wearing the *tudung*. The dispute eventually died down.

38 Yet another area of communal dispute that was common in the past was rival claims for the right to bury the dead. Funeral rites are important to all races and religions, but particularly to Muslims. Disputes arose frequently in the past concerning converted Muslims

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Rebecca Lynne Tan, "More bellyaching over *Diner en Blanc*", *The Straits Times* (28 August 2012).

37 See Sharon Siddique, "Islamic Dress put in Perspective", *The Straits Times* (20 February 2002).

38 See Ahmad Osman, "PM Firm on *Tudung* Issues", *The Straits Times* (3 February 2002).

39 Leslie Lau, "Politicians and Groups Criticise S'pore over *Tudung*", *The Straits Times* (31 January 2002).

40 "Ministers Call for 'Give and Take' Attitude", *The Straits Times* (*Sunday Times*) (17 February 2002).

who might have renounced Islam before they died. Disputes of this nature had arisen between Chinese families and Muslim families. The potential for a family conflict spreading to the communal sphere was high in such cases. When I was a judge in the 1980s, I was asked to decide such an issue on an urgent basis. A Muslim organisation claimed custody of a Chinese deceased whose body was lying at a wake at a void deck in an HDB block. One party insisted he died a Muslim; the other insisted he died a Buddhist as he had renounced Islam before he died. As the dispute raised contested issues of fact or even of law, it was impossible to decide the case immediately. I could not adjourn the case as the body was due to be cremated or buried, as the case might be. In the end, I declined to make any order on the application on the ground that at common law there was no property in a dead body. The legal system is not the appropriate forum to decide this kind of dispute. Subsequent to this case, a registry was established to record any renunciation as evidence thereof. Since then, no such disputes have come before the courts.

39 What we have tried to do in Singapore is to have these matters resolved through discussion and dialogue, often with the participation of religious and community leaders who are acutely aware of the need to tread delicately. They have worked and continue to work hard to achieve resolution that respects the religious needs of the deceased and his family members, and which preserves the harmony between religious groups. Continuing these efforts into the future needs the constant commitment of religious leaders to work out difficult issues in an atmosphere of common understanding and interaction.

40 To that end, the establishment of different forums to facilitate such interaction and dialogue between religious leaders is essential. The threat of Muslim fundamentalist terrorist attacks after 9/11 provided an added incentive to maintain religious harmony. Regular interfaith dialogues were broadened and formalised through the Declaration on Religious Harmony, which is encouraged to be recited by participants of all religious faiths on Racial Harmony Day every year. These efforts build on the foundation of the work of the Inter-Religious Organisation Singapore, which has been promoting dialogue between different religious groups since the early 1960s.[41]

V. Points of friction in everyday life

41 Life in a dense urban environment creates lots of potential points of conflict and dispute. These may seem mundane to outside

41 See the Inter-Religious Organisation Singapore website <http://iro.sg> (accessed 4 December 2012).

observers, but for those directly involved these are often seen as turning on points of principle, pride and identity. We have had news reports of conflict between neighbours about parking of cars, plants in the corridor outside apartments crossing into another person's territory and inappropriate use of apartments for religious purposes. In respect of the last, the issue often turns on sound (one person's religious chant may be seen as noise or an intrusion by another), as well as smell, as religious practices often involve incense of one sort or another. As I have also mentioned, disputes can arise over something seemingly innocuous such as the cooking of curry. Most disputes are not racial or religious in nature, and those involved may come from the same racial group or religion. But on occasion these matters do cross racial or religious lines.

42 For instance, in many of our apartment blocks, at least for public housing, the ground floor is a common space known as the void deck. That is often rented out to the residents for social uses. But different ethnic groups tend to use the void deck for different purposes. The Chinese, for instance, tend to use a void deck for wakes; the Malays, on the other hand, would use it for weddings. One occasion is usually sad and urgent; the other is happy but as any father or mother of a bride will tell you, non-negotiable. We have had at least one instance when a Chinese family with a relative who had just passed away commandeered the void deck that a Malay family had booked in advance for a wedding. Compromise was sought, and community and political leaders brought in. The Chinese family did not budge. But fortunately the Malay family gave way.

43 On a happier note, the Prime Minister noted that on another occasion both sides using a void deck were able to compromise. In this instance, a Chinese family had a funeral going on at the same time as a Malay celebration of a birthday. The funeral rites needed prayers, while the birthday celebration, of course, involved happy music and karaoke. Both sides were able to come to an agreement about being side by side: for 15 minutes every hour, the Malay family lowered the volume of its music and singing to allow the Chinese family to proceed with its prayers.[42]

44 A new challenge has emerged for the Government: the need to integrate new immigrants with citizens, and new citizens with existing citizens. While a number of these citizens belong to the same ethnic groups as our native citizens, friction does arise, simply because we have evolved our own norms of conduct and behaviour. There is really a common identity among Singaporeans and that partly lies in their

42 Prime Minister's Speech: <http://www.pmo.gov.sg/content/pmosite/mediacentre/speechesninterviews/primeminister/2012/July/speech_by_prime_ministerleehsienloongatteckgheeirccracialharmony.html> (accessed 4 December 2012).

love of, or respect for, each other's cuisine. The curry incident I have mentioned is one example of differences between "old" and new Singaporeans. Other incidents are more mundane – there are differences in personal space needed, volume of speech and how much interaction there is with your neighbours. Steps have been taken to ensure that there is integration, but this issue, of course, requires constant monitoring and constant effort. A large part of the effort will have to come from the new citizens themselves. But the authorities recognise the need to facilitate interaction, and native citizens must also be welcoming and understanding. The last thing we would want is for racial and religious harmony to exist alongside tension between "old" and new citizens.

VI. A common space open to all

45 Racial and religious integration and harmony in Singapore are ultimately underpinned by the recognition of all Singaporeans that their prosperity and success, by whatever measure they use, are not constrained by the colour of their skin, but only by their effort and determination. Meritocracy rules in school, at work and in the public service. A strong commitment to meritocracy, both in word and deed, over the decades since independence has ensured that it is an ingrained part of our society. Without meritocracy, suspicion and prejudice are bound to fester and grow. Even if those who feel that they are at the short end of the stick do not allow their anger to boil over, many among them are bound to leave for fairer environments, to the loss of the country as a whole. Singapore cannot afford that.

VII. New challenges

46 While race and religion are the traditional fault lines that have to be carefully managed, new group identities are also developing. The growth of lesbian, gay, bisexual and transgender communities the world over has not left Singapore untouched. There is one offence relating to gay sex that is under constitutional challenge. Section 377A of the Penal Code[43] provides: "Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years." Sodomy is a grave offence under Muslim law. If s 377A is held unconstitutional on the ground that it discriminates against homosexual males, how would it impact on Islamic beliefs and values? Whatever the outcome of this challenge, Singapore will have to address the interests or needs of this community,

43 Cap 224, 2008 Rev Ed.

which cross racial and religious lines, with members coming from different cultural traditions. Managing these tensions calls for care and sensitivity, tolerance, patience and compromise. Political and community leaders in Singapore would need to pay attention to these issues constantly.

47 The Internet has made irresponsible speech concerning race and religion more difficult to control. But the need to regulate inflammatory speech on such sensitive matters that can only divide rather than unite the people will become more urgent when hate speech becomes prevalent. The hard-won peace and stability that underlie our progress and development need to be protected from hate and destructive speech with no socially redeeming value. Speech and conduct that lead to social disorder must be discouraged and deterred, and punished. There will be no burning of Korans or other religious texts or publication of pictures, images or caricatures that are seen to demean a particular religion. But the application of the rules and regulations always needs to be calibrated and adjusted to deal with new fault lines.

VIII. Conclusion

48 Multiculturalism is here to stay because we do not have and cannot afford a dominant or a homogeneous culture. The espousal of any racial or religious community will destroy Singapore. History has taught us lessons that race and religion are powder kegs that must not be allowed to be lit. Incidents such as the Maria Hertogh riots and more recently the curry episode remind us that we tend to overreact if our cultures are under attack. Just last week, many Singaporeans overreacted to the action of the organisers of *Diner en Blanc* in suggesting that one of our favourite hawker dishes was not good enough. Singaporeans displayed a national identity in defending local "low-class" food against high-class foreign cuisine, in this case, supposedly French. When undergirded by a neutral common language, English, a neutral principle of action, meritocracy and the virtue of toleration by the majority of the minority backed by a strong political will and appropriate laws, multiculturalism will be sustained and sustainable in Singapore. When Singapore achieves nationhood for all the races, it will be all the stronger because it will be built on the rock of multiculturalism.