



# SINGAPORE

Legal System	Constitution	Bill of Rights	Country Structure	Form of Government
Common Law Statutory Law Customary Law	Written	No	Single State	Republic

## 1. INTRODUCTION

### 1.1. Singapore and Modern Slavery (Human Trafficking)

According to the U.S. Department of State, Singapore meets the minimum standards for the elimination of slavery and human trafficking.<sup>1</sup> While Singapore is rarely a country of origin for trafficking activities, Singapore has been either a transit or destination country for victims of trafficking. Local and foreign nationals have been trafficked for both sexual and labour exploitation. Singapore is a central Asia-Pacific business and trading hub and is a major importer of labour. Based on international reports, the Asia-Pacific region has over two-thirds of the world’s modern slavery victims and close to three-quarters of the world’s victims of sexual exploitation.<sup>2</sup> Notwithstanding these international statistics, the Singapore Government, in particular the Ministry of Manpower (**MOM**),<sup>3</sup> reports low numbers of trafficking in persons (**TIP**) and cases of child labour each year.

As a wealthy regional hub with attractive working conditions, Singapore’s economic activity continues to grow and attract high numbers of foreign workers into the country. As of the end of 2020, there were more than 800,000 low-wage foreigners in Singapore<sup>4</sup> (over 35% of Singapore’s entire labour force)<sup>5</sup> primarily working in domestic assistance and the construction, commercial sex, and entertainment industries. Given that these low-wage foreign workers generally come from economically disadvantaged backgrounds, they may be vulnerable to exploitation.

Foreign workers in Singapore have a number of protections under Singapore’s employment and labour laws (refer to Section 5). In addition to Singapore’s legislative and regulatory framework, the Singapore

<sup>1</sup> See U.S. Dep’t of State, Trafficking in Persons Report 442 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>. The Report outlines minimum standards under the Trafficking Victims Protection Act at pages 45 to 46, which include: the government should (i) prohibit severe forms of TIP and punish acts of such trafficking and (ii) make “serious and sustained efforts” to eliminate severe forms of TIP.

<sup>2</sup> International Labour Organisation and Walk Free Foundation, “Global Estimates of Modern Slavery: Forced Labour and Forced Marriage,” International Labour Office (Report, 2017), available at: [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_575479.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf).

<sup>3</sup> The MOM is the ministry that is responsible for the formation and implementation of labour policies in Singapore.

<sup>4</sup> See total number of people holding “Work Permits” in Singapore in December 2020 in the MOM’s official foreign workforce numbers, available at: <https://www.mom.gov.sg/documents-and-publications/foreign-workforce-numbers> (link needs to be copied and pasted into web browser).

<sup>5</sup> The Singapore Government’s Department of Statistics’ official website lists the Total Labour Force as 3,713.9 at 28 April 2021, see information available at: <https://www.singstat.gov.sg/find-data/search-by-theme/economy/labour-employment-wages-and-productivity/latest-data>.

Government has also established the Singapore Inter-Agency Taskforce on TIP (**Singapore TIP Taskforce**) to implement a multidisciplinary approach to combat TIP.

Nonetheless, practical limitations impede the effectiveness of the Singapore Government’s approach, as well as Singapore’s employment and labour laws. It is difficult to effectively detect and enforce the laws when much of the TIP takes place disguised under the cover of legal activities or employment. For example, some employers withhold the passports of foreign workers, despite Singapore law prohibiting this practice.<sup>6</sup> It is also common for foreign workers to assume large debts to recruitment agencies or individual recruiters to obtain work in Singapore,<sup>7</sup> notwithstanding that Singapore law limits the fees that employment agencies can charge, and agencies may be prosecuted for exceeding these limits.<sup>8</sup>

Further, a number of human rights organizations have recently raised concerns about the risk of human trafficking arising from the Singapore Government’s treatment of foreign workers during the outbreak of COVID-19 in the foreign worker dormitories. Amendments to the Employment of Foreign Manpower (Work Passes) Regulations prohibited foreign workers from leaving their accommodations without their employer’s consent.<sup>9</sup>

From 2010 to 2019, the U.S. Department of State’s Trafficking in Persons Reports placed Singapore on a human trafficking Tier 2 watch list, a category for countries that have a significant number of trafficking victims and that have failed to show efforts to combat the situation.<sup>10</sup> In 2019, Singapore’s TIP Taskforce criticized the U.S. Department of State’s Reports for overstating the number of trafficking cases in Singapore.<sup>11</sup> In the 2020 U.S. Department of State Report, Singapore was upgraded to Tier 1 following Singapore’s first labour trafficking conviction, increased identification of trafficking victims, and enhancement of government awareness activities.<sup>12</sup>

## 1.2. Singapore’s Policy and Legal Position

Recognizing the legitimate threat of TIP in Singapore, the Singapore Government established the Singapore TIP Taskforce in 2010. The Ministry of Home Affairs (**MHA**) and the MOM are co-chairs of the TIP Taskforce, which has representatives from other government agencies, including the Singapore Police Force (**SPF**), Immigration & Checkpoints Authority (**ICA**), and Attorney General’s Chambers (**AGC**). The Singapore TIP Taskforce works closely with various stakeholders, such as non-governmental organizations (**NGOs**), businesses, civil society organizations (**CSOs**), academic institutions, and members of the public in developing and realizing plans and strategies to combat TIP. It established a National Plan of Action (2012–

<sup>6</sup> U. S. Dep’t of State, Trafficking in Persons Report – Singapore (28 June 2018), available at: <https://www.refworld.org/docid/5b3e0a8a4.html>.

<sup>7</sup> U.S. Dep’t of State, Trafficking in Persons Report 444 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

<sup>8</sup> Section 12(1) of the Employment Agencies Rules 2011.

<sup>9</sup> See Transient Workers Count Too, “A joint statement by Transient Workers Count Too (**TWC2**) and Humanitarian Organisation for Migration Economics (**HOME**): Response to Post-Circuit Breaker Amendments to the Employment of Foreign Manpower (Work Passes) Regulations” (29 June 2020), available at: <https://twc2.org.sg/2020/06/29/post-covid-law-makes-migrant-workers-prisoners-of-employers/>.

<sup>10</sup> See U. S. Dep’t of State, Trafficking in Persons Report – Singapore (28 June 2018), available at: <https://www.refworld.org/docid/5b3e0a8a4.html>.

<sup>11</sup> The Strait Times, “Inaccuracies in annual US trafficking in persons report: Singapore” (Article, 24 July 2019), available at: <https://www.straitstimes.com/singapore/inaccuracies-in-annual-us-trafficking-report-singapore>.

<sup>12</sup> U.S. Dep’t of State, Trafficking in Persons Report 441-444 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

2015) (**NPA**) in 2012, and then the National Approach Against TIP (2016–2026) (**National Approach**) in 2016.<sup>13</sup>

The NPA served as a roadmap for the Singapore TIP Taskforce in building its capabilities to fight TIP in Singapore from 2012 to 2015. It set forth the “4Ps” strategy of Prevention, Prosecution, Protection, and Partnership.

- **Prevention:** raising of general awareness and prompt action by stakeholders, increasing the likelihood of detection and reporting through education, conducting proactive checks to deter potential traffickers, documenting workers, and active enforcement of labour regulations;
- **Prosecution:** enhanced enforcement under legislation, including the Penal Code (Cap. 224) (**Penal Code**), Women’s Charter (Cap. 353) (**Women’s Charter**), Employment of Foreign Manpower Act (Cap. 91A) (**EFMA**), and Singapore’s Employment Agencies Act (Cap. 92) (**EEA**), to increase the likelihood that perpetrators are punished;
- **Protection:** providing care and assistance to victims and victim-centred protection measures;
- **Partnership:** information sharing, multinational cooperation, collaboration with source countries (including investigation assistance), development of proactive safeguards to prevent exploitation of victims in source countries, regular meetings with embassies, and partnering with domestic and international NGOs.<sup>14</sup>

A total of 31 specific initiatives under the NPA were reviewed and completed. One key milestone was the enactment of the Prevention of Human Trafficking Act (Cap. 45) (**PHTA**), which was Singapore’s first legislation dedicated to preventing and prosecuting TIP. Other initiatives include:

- training trainee teachers and frontline officers from the ICA, MOM, and MHA in identifying and dealing with TIP cases and issues;
- providing SPF and MOM frontline officers with TIP information cards to better identify and respond to potential TIP victims;
- establishing special units in the SPF, MOM, and AGC to investigate and prosecute TIP cases;
- protecting informers to incentivize reporting of potential TIP crimes; and
- establishing the Temporary Job Scheme for TIP to provide TIP victims, who are assisting with TIP investigations and prosecutions and are willing and able to work, with employment opportunities.<sup>15</sup>

<sup>13</sup> Singapore Inter-Agency Taskforce on Trafficking in Persons, *National Approach Against Trafficking in Persons (2016–2026)*, available at: <https://www.mom.gov.sg/-/media/mom/documents/foreign-manpower/trafficking/national-approach-against-trafficking-in-persons.pdf>, at pages 4 to 8.

<sup>14</sup> See Singapore Inter-Agency Taskforce on Trafficking in Persons, *National Plan of Action Against Trafficking in Persons (2012–2015)*, available at: <https://www.mom.gov.sg/-/media/mom/documents/foreign-manpower/trafficking/npa-against-trafficking-in-persons-2012-2015.pdf>.

<sup>15</sup> Singapore Inter-Agency Taskforce on Trafficking in Persons, *National Approach Against Trafficking in Persons (2016–2026)*, available at: <https://www.mom.gov.sg/-/media/mom/documents/foreign-manpower/trafficking/national-approach-against-trafficking-in-persons.pdf>, at page 5.

After completing the specific initiatives under the NPA, the longer-term National Approach expanded upon the “4Ps” from the NPA. It has several goals:

Framework	Desired Outcomes
<b>PREVENTION of human trafficking</b>	A public that is aware of TIP crimes and actively takes steps to prevent, combat, and suppress TIP. Government officials and stakeholders who are well trained, competent, and professional in identifying and dealing with TIP cases.
<b>PROSECUTION of offenders</b>	An effective end-to-end criminal justice response to TIP crimes, involving comprehensive investigations and prosecution of all offenders who may be involved in the trafficking or exploitation of victims.
<b>PROTECTION of victims</b>	An appropriate victim care and support framework that looks after the needs of all victims of trafficking.
<b>Working in PARTNERSHIP with stakeholders domestically and internationally</b>	A strong system of both domestic and international stakeholders to put forth a “whole-of-Singapore” response to TIP.

Chart 2<sup>16</sup>

### 1.2.1. Prevention

The National Approach identified three priority areas to achieve the first P (Prevention):

**Building Awareness:** The Singapore TIP Taskforce is building awareness of the risk of TIP amongst the general public and educating migrant worker communities on TIP crimes and channels for TIP victims to seek assistance. The TIP Public Awareness Grant is also used to support CSOs and individuals with good ideas to develop activities to increase awareness of TIP.<sup>17</sup>

**Reporting TIP Cases:** The Singapore TIP Taskforce will work with CSOs to reduce impediments to reporting TIP crimes and assist victims who may be afraid to approach authorities for help. Existing channels (including reporting to the SPF and MOM’s customer service hotline) will be publicized to encourage reporting.<sup>18</sup>

**Enforcing Against TIP:** The ICA will remain vigilant in detecting potential trafficked victims at checkpoints, and the SPF will continue to conduct enforcement at entertainment outlets and other areas known to attract “vice activities” so that sex trafficking can be detected early. The MOM will also continue to enforce the PHTA and other related crimes and will publish the successful prosecution of TIP cases in mainstream media (with due measures taken to protect the identity of victims), to deter future labour TIP offences.<sup>19</sup>

<sup>16</sup> *Id.* at page 9.

<sup>17</sup> *Id.* at page 11.

<sup>18</sup> *Id.* at page 12.

<sup>19</sup> *Id.* at page 12.

### 1.2.2. Prosecution

Singapore has established a robust legal framework to tackle TIP through the PHTA, as supported through the Penal Code, Women’s Charter, Singapore Immigration Act (Cap. 133) (**Singapore Immigration Act**), Children and Young Persons Act, and employment-related legislation.

Since the establishment of the PHTA, the MOM and SPF have investigated 260 cases of alleged sex and labour trafficking and prosecuted 12 cases: seven concluded with convictions under the PHTA, one concluded with a conviction under the Women’s Charter, and the remaining are on-going.<sup>20</sup>

In 2016, the first charge under the PHTA was made against Ms. Khema Bhatta and her husband, Mr. Balakrishnan Jaganathan, for exploiting and trafficking seven performing artists at their pub and withholding the performers’ passports.<sup>21</sup> Ms. Bhatta was acquitted<sup>22</sup> and Mr. Jaganathan’s case is still pending.

The first sentence under the PHTA was handed down in February 2020 in *Public Prosecutor v. Bhattacharya Priyanka Rajesh and another* [2020] SGDC 124 (**Bhattacharya**). As discussed in Sections 3.2.1. and 7.3.1., Malkar Savlaram Anant and his wife Priyanka Bhattacharya Rajesh were each sentenced to five years and six months in jail and a SGD 7,500 fine for exploiting three workers and coaxing one of them into prostituting herself.<sup>23</sup>

The Singapore TIP Taskforce intends to enhance enforcement tools and investigation processes and to fast track cases and closure for victims. Training may also be extended to legal professionals and social workers who assist TIP victims, and the Singapore TIP Taskforce will work with CSOs to explore ways for TIP victims to receive appropriate remedies (including compensation).<sup>24</sup>

### 1.2.3. Support and care for victims

Under the PHTA, the Director-General of Social Welfare may provide trafficked victims with assistance as practicable and necessary, including temporary shelter and counselling services, or appoint a public officer or authorize any other person to provide such assistance.<sup>25</sup> The National Approach provides for the training of frontline officers and victim care providers on how to treat victims of TIP with empathy and dignity and ensure that their needs are met.<sup>26</sup>

<sup>20</sup> Singapore Parliamentary Debates, MP Christopher de Souza, “Measures to Detect and Prosecute Human Trafficking Offenders and Help Schemes in Place for Victims of Such Crimes” (Written Answers to Questions), (10 May 2021), Vol. 95, available at: <https://sprs.parl.gov.sg/search/sprs3topic?reportid=written-answer-7675>.

<sup>21</sup> *Public Prosecutor v. Khema Bhatta* [2020] SGDC 148.

<sup>22</sup> The acquittal is now on appeal by the prosecution.

<sup>23</sup> *Bhattacharya*.

<sup>24</sup> Singapore Inter-Agency Taskforce on Trafficking in Persons, *National Approach Against Trafficking in Persons* (2016–2026), available at: <https://www.mom.gov.sg/-/media/mom/documents/foreign-manpower/trafficking/national-approach-against-trafficking-in-persons.pdf>, at page 13.

<sup>25</sup> Section 19(2) of the PHTA.

<sup>26</sup> Singapore Inter-Agency Taskforce on Trafficking in Persons, *National Approach Against Trafficking in Persons* (2016–2026), available at: <https://www.mom.gov.sg/-/media/mom/documents/foreign-manpower/trafficking/national-approach-against-trafficking-in-persons.pdf>, at page 14.

#### 1.2.4. Rehabilitation and reintegration of victims

Further, the Singapore TIP Taskforce considers that temporary employment opportunities for TIP victims are important in their rehabilitation.<sup>27</sup> To this end, Government agencies have the power to issue special passes to legitimize victims' stay in Singapore when investigations are ongoing. The Singapore Government also has established the Temporary Job Scheme to allow employers to employ victims who remain in Singapore to assist with an investigation and prosecution and who are able and willing to work.<sup>28</sup>

#### 1.2.5. Protection of victims and informers

In addition to TIP victim protection, the PHTA also provides measures to protect the identity and safety of informers and trafficked victims to encourage reporting of TIP activities.<sup>29</sup> These include making in-camera court proceedings mandatory for child victims and an option for adult victims, as well as media gag orders for victims and informers of sexual exploitation offences.<sup>30</sup>

#### 1.2.6. Partnerships

The National Approach provides that the Singapore TIP Taskforce will continue to build partnerships with other countries and international organizations to share best practices, enhance information sharing, and strengthen networks. It suggests that local law enforcement agencies facilitate the exchange of information with international counterparts, such as the United Nations Office on Drugs and Crime and INTERPOL, which train the SPF, MOM, and ICA on detecting potential cases of TIP and managing victims of TIP in a sensitive way.<sup>31</sup> It also suggests that the Singapore TIP Taskforce increase engagement with embassies and foreign missions based in Singapore to better understand the issues faced by their nationals as well as industry associations and companies to develop guidelines and audit mechanisms.

The Singapore Government has extended support and funds to HAGAR, an international NGO that helps free communities from and heal victims of human trafficking,<sup>32</sup> slavery, and abuse, and Good Shepard Centre, which provides a safe haven for abused women in Singapore.<sup>33</sup>

Moving forward, the Singapore TIP Taskforce plans to consider setting up a working group of diverse stakeholders to discuss ways to enhance the Singapore TIP Taskforce efforts.<sup>34</sup>

---

<sup>27</sup> *Id.*

<sup>28</sup> The Strait Times, "Foreign workers may work temporarily while assisting in investigations," (17 January 2017), available at: <https://www.straitstimes.com/forum/letters-on-the-web/foreign-workers-may-work-temporarily-while-assisting-in-investigations>.

<sup>29</sup> Section 21 of the PHTA.

<sup>30</sup> Singapore Parliamentary Debates, MP Christopher de Souza, "Measures to Detect and Prosecute Human Trafficking Offenders and Help Schemes in Place for Victims of Such Crimes" (Written Answers to Questions), (10 May 2021), Vol. 95, available at: <https://sprs.parl.gov.sg/search/sprs3topic?reportid=written-answer-7675>.

<sup>31</sup> *Id.*

<sup>32</sup> The official website of Hagar, "Our Vision," available at: <https://hagar.org.sg/about-us/#our-mission> [accessed on 25 May 2021].

<sup>33</sup> The official website of Marymount Centre, "Good Shepherd Centre," available at: <https://marymountctr.org.sg/good-shepherd-centre/> [accessed on 25 May 2021].

<sup>34</sup> Singapore Inter-Agency Taskforce on Trafficking in Persons, *National Approach Against Trafficking in Persons* (2016–2026), available at: <https://www.mom.gov.sg/-/media/mom/documents/foreign-manpower/trafficking/national-approach-against-trafficking-in-persons.pdf>, at page 17.

### 1.3. Singapore’s Employment Policy

The MOM plays a key role in Singapore’s anti-TIP efforts. The MOM oversees the sponsorship and issuance of foreign workers’ visas and work permits, and continues to prosecute employers who breach obligations under Singapore’s labour and employment laws, such as the EFMA. Recently, the Singapore Government implemented a number of measures to protect foreign workers, including requiring all low-wage foreign workers to take part in a “settling-in program” to educate them on their rights.

Singapore does not have a law setting a minimum wage. While there is pressure on the Singapore Government to implement a minimum wage, the Singapore Government and the MOM have stated that it is against “*national policy*” to prescribe a minimum wage.<sup>35</sup> Singapore prides itself on being a merit-based society. Rather than prescribing a minimum wage, the Singapore Government has sought to empower its people through initiatives, such as SkillsFuture and Singapore’s Progressive Wage Model, which enable low-wage workers in certain industries to increase their wages by upgrading skills and improving productivity.

### 1.4. Singapore’s Legal Policy

Since the formation of the Singapore TIP Taskforce in 2010, the Singapore Government has taken a number of key steps to address TIP issues and bring Singapore’s domestic regime in line with global standards. Singapore acceded to a number of international and regional instruments relating to TIP, including, in 2015, the UN TIP Protocol and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (**ACTIP**).

The introduction of PHTA, in March 2015, aligned Singapore’s domestic anti-human trafficking laws more closely with international standards. The PHTA defines “trafficking in persons” consistently with the definition used in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (**UN TIP Protocol**) and the United Nations Office on Drugs and Crime’s (**UNODC**) Model Law against Trafficking in Persons (**UNODC Model Law**).

---

<sup>35</sup> The official website of the MOM, “Is there a prescribed minimum wage for foreign workers in Singapore?”, available at: <https://www.mom.gov.sg/faq/work-permit-for-foreign-worker/is-there-a-prescribed-minimum-wage-for-foreign-workers-in-singapore>.

## 2. OVERVIEW OF SINGAPORE’S LEGAL APPROACH TO COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING

---

### 2.1. Singapore’s Regional and International Law Obligations

#### 2.1.1. *Fundamental human rights*

Singapore has ratified several core international treaties relating to human rights, such as the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities, among others. Singapore has not, however, ratified the International Covenant on Civil and Political Rights or the International Convention on Economic, Social and Cultural Rights.<sup>36</sup>

#### 2.1.2. *Slavery and trafficking*

Singapore has not signed the core conventions relating to slavery, forced labour, and trafficking. Singapore is not a party to the Slavery Convention (1926) or the Protocol amending the Slavery Convention (1953). However, Singapore has acceded to, but not ratified, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956).

Singapore signed and ratified the Worst Forms of Child Labour Convention in 2001. While Singapore signed and ratified the Abolition of Forced Labour Convention in October 1965, it denounced this convention in April 1979<sup>37</sup> after the International Labour Organisation’s Committee of Experts on the Application of Conventions and Recommendations (**Committee of Experts**) found that several of Singapore’s laws from that time contravened the Abolition of Forced Labour Convention.<sup>38</sup>

Singapore has acceded to the UN TIP Protocol<sup>39</sup> and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949).

Appendix 1 has a table outlining Singapore’s status on the international instruments relating to modern slavery.

#### 2.1.3. *Effect under Singapore’s law*

As Singapore is a common law jurisdiction, international sources of law (such as international treaties and conventions) do not have direct legal effect in Singapore unless the legislature first passes them into

<sup>36</sup> UN Human Rights, UN Treaty Body Database, available at:

[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=157&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=157&Lang=EN).

<sup>37</sup> International Labour Organisation, Ratifications of C106 – Abolition of Forced Labour Convention 1957 (No. 105), available at:

[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:312250](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312250).

<sup>38</sup> International Labour Conference No. 60 1975, *Summary of Reports on Ratified Conventions*, Report III (Part 1), at pages 197 to 198.

<sup>39</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, available at:

[https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=en). When signing the UN TIP Protocol, the Singapore Government declared that “nothing in the Protocol shall impose obligations on Singapore to admit or retain within its territory, persons in respect of whom Singapore would not otherwise have an obligation to admit or retain within its territory.” Singapore made a reservation with respect to the dispute resolution clause under Article 15, paragraph 2 of the UN TIP Protocol.

domestic law or the judiciary pronounces them as Singapore law.<sup>40</sup> The Singapore courts generally adhere to the doctrine that they may invoke customary international law as part of the common law, subject to domestic statutes and the Constitution of the Republic of Singapore (**Singapore Constitution**).<sup>41</sup>

## 2.2. Human Rights Protections Under Singapore’s Law

Part IV of the Singapore Constitution prohibits slavery and forced labour (Article 10), and recognizes rights to life and personal liberty (Article 9). Legislation, such as the PHTA, has more specific prohibitions against slavery and human trafficking.

## 2.3. Criminalization of Modern Slavery

The PHTA makes TIP offences criminal and protects TIP victims and informers. The law also makes it a crime to abet TIP and to knowingly profit from such activities. Severe penalties are prescribed to reflect the seriousness of the crime and to strongly deter potential offenders. The Penal Code, EFMA, Children and Young Persons Act (Cap. 38) (**Children and Young Persons Act**), and the Women’s Charter may address cases that do not fulfil the elements required to prove an offence under the PHTA (*i.e.*, “Act,” “Means,” and “Purpose”).<sup>42</sup>

## 2.4. Supply Chain Reporting

No legislation or policies require reporting of human trafficking in supply chains or oblige private businesses to control their supply chains to hinder human trafficking.

## 2.5. Investigation, Prosecution, and Enforcement

### 2.5.1. Investigation and prosecution of criminal offenses

The AGC institutes criminal prosecutions on behalf of the State. The Attorney General is independent when acting in the capacity of public prosecutor and is not subject to the government’s control. Several deputy public prosecutors who act as officers of the Crime Division assist the Attorney General.<sup>43</sup> The Crime Division is responsible for prosecuting criminal offences in the State Courts and High Court of Singapore and handling applications for judicial review of criminal matters.<sup>44</sup> The deputy public prosecutors initiate

---

<sup>40</sup> *Legal Systems in Singapore: overview, Main Sources of law*, Practical Law by Thomson Reuters, available at: [https://uk.practicallaw.thomsonreuters.com/w-008-9647?transitionType=Default&contextData=\(sc.Default\)&firstPage=true#co\\_anchor\\_a884580](https://uk.practicallaw.thomsonreuters.com/w-008-9647?transitionType=Default&contextData=(sc.Default)&firstPage=true#co_anchor_a884580).

<sup>41</sup> *Approach to International Law in Singapore Domestic Law*, ASEAN Judiciaries Portal, available at: <https://cacj-ajp.org/singapore/legal-system/singapore-laws/international-law-in-singapore/approach-to-international-law-in-singapore-domestic-law/>.

<sup>42</sup> The official website of the AGC, “Singapore’s efforts in combating trafficking in persons: Speech by the Attorney-General of the Republic of Singapore, Lucien Wong, S.C.,” 5–8 Nov 2019, available at: <https://www.agc.gov.sg/docs/default-source/newsroom-documents/speeches/speech-by-attorney-general-lucien-wong-s-c-at-the-12th-china-asean-prosecutors-general-conference-2019.pdf>.

<sup>43</sup> The official website of the AGC, “Overview of Functions,” available at: <https://www.agc.gov.sg/our-roles/public-prosecutor/public-prosecutor-overview-of-functions>.

<sup>44</sup> *Id.*

proceedings and can also exercise their prosecutorial discretion to terminate proceedings before or during a trial.<sup>45</sup>

The public prosecutor must consent to the initiation of a prosecution for a PHTA offence, and a district court has jurisdiction over any offence under the PHTA.<sup>46</sup>

### 2.5.2. *Mutual assistance/international cooperation*

The International Cooperation Department is Singapore’s primary law enforcement branch that enables global police cooperation.<sup>47</sup> The International Cooperation Department also performs significant functions for the SPF.<sup>48</sup> Within the International Cooperation Department, Singapore’s INTERPOL National Central Bureau (**NCB**) enables the exchange of law enforcement information and intelligence and collaboration between INTERPOL and Singapore agencies.<sup>49</sup> The NCB further involves itself and supports global INTERPOL operations in Singapore.<sup>50</sup>

The AGC is primarily responsible for mutual legal assistance in criminal matters.<sup>51</sup> In compliance with the Mutual Assistance in Criminal Matters Act (Cap. 190A) and other applicable treaties, the AGC officers in the International Affairs Division work on formal requests for assistance.<sup>52</sup> Singapore is a founding member of the Association of Southeast Asian Nations (**ASEAN**) and a party to the Treaty on Mutual Legal Assistance in Criminal Matters among like-minded ASEAN Member Countries.

## 3. SINGAPORE’S FEDERAL CRIMINAL OFFENSES RELATING TO SLAVERY, SLAVERY-LIKE CONDITIONS, AND HUMAN TRAFFICKING

---

### 3.1. Overview of Criminal Offenses

The PHTA is the main framework criminalising human trafficking offences where the victim is involuntarily trafficked for the purpose of exploitation. The PHTA defines the term “exploitation” broadly to encompass (i) sexual exploitation, (ii) forced labour, (iii) slavery, (iv) slavery-like practices, (v) servitude, and (vi) organ removal.<sup>53</sup>

---

<sup>45</sup> Article 35(8) of the Singapore Constitution.

<sup>46</sup> Sections 22 and 23(1) of the PHTA.

<sup>47</sup> The official website of INTERPOL, “How INTERPOL supports Singapore to tackle international crime,” available at: <https://www.interpol.int/en/Who-we-are/Member-countries/Asia-South-Pacific/SINGAPORE>.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> The official website of the AGC, “Mutual Legal Assistance,” available at: <https://www.agc.gov.sg/our-roles/international-law-advisor/mutual-legal-assistance>.

<sup>52</sup> *Id.*

<sup>53</sup> Section 2 of the PHTA.

Where the trafficking involves the exploitation of a child (under 18 years old), the trafficker will still be criminally liable even if there was no coercion of the victim or the victim consented to the trafficking.<sup>54</sup> The Penal Code and the Children and Young Persons Act also prohibit child exploitation.<sup>55</sup>

The PHTA does not apply when adult victims are voluntarily smuggled into Singapore. However, the Singapore Immigration Act makes such smuggling a crime. The EFMA indirectly targets human trafficking and smuggling by making the illegal employment of trafficked victims a crime, because they will not have valid work passes and papers. These prohibitions are explained further in Section 5.1.2.



## 3.2. Slavery Offenses Under the Criminal Code

### 3.2.1. General

The PHTA provides three categories of criminal offences related to human trafficking:

- a. Human trafficking;<sup>56</sup>
- b. Abetting human trafficking;<sup>57</sup> and
- c. Receiving payment in connection with the exploitation of a trafficked victim.<sup>58</sup>

In addition to these three offences, the PHTA makes it a crime for anyone to publish the name, address, or photograph of the trafficking victim or to do anything that is likely to lead to the identification of the

<sup>54</sup> Section 3(3)(a) of the PHTA.

<sup>55</sup> See e.g., Section 7 of the Children and Young Persons Act; Section 376AA to 376EE of the Penal Code.

<sup>56</sup> Section 3 of the PHTA.

<sup>57</sup> Section 5 of the PHTA.

<sup>58</sup> Section 6 of the PHTA.

victim.<sup>59</sup> The offender shall be liable on conviction to a fine not exceeding SGD 5,000, imprisonment for a term not exceeding three years, or both.<sup>60</sup>

## **BHATTACHARYA CASE – THE FIRST CONVICTION UNDER THE PHTA**

This landmark case is the first conviction of a human trafficking case in Singapore under the PHTA.

Malkar and Priyanka, a husband and wife, had jointly managed two entertainment clubs. The clubs had employed performing artists from Bangladesh whom they kept in an apartment. The couple had jointly coerced one of the performing artists into providing sexual services to a club's patrons for revenue. They deceived her into providing sexual services by telling her that half of the earnings would go to her.

The court found that Malkar and Priyanka had, in breach of Section 3(1) of the PHTA, (i) "harboured" the victim, (ii) abused their power, and (iii) exploited her (servitude). The court defined the terms "harbour" and "abuse of power," which the PHTA does not define. The court defined "harbour" as "to give food or shelter" and included "assisting a person to evade apprehension." The court defined "abuse of power" to include the employers' power over employees, and it found that an abuse of power was manifested in several ways:

- restriction and constant supervision of movements;
- confiscation of passports and work permits;
- confiscation of mobile phones;
- financial dependence;
- difficult work conditions;
- climate of fear; and
- financial penalty to terminate contract.

The Court also found that there was exploitation in the form of "servitude," which the PHTA defines as "any condition or obligation, not authorised by any written law, to work or render services from which the individual cannot escape or which the individual is not free to change." The Court held that the various onerous working conditions satisfied the condition of "servitude" beyond a reasonable doubt.

The Court imposed four years of imprisonment for the PHTA charge and a total fine amount of SGD 15,000.

### **3.2.1.1 Human Trafficking**

Section 3(1) of the PHTA sets forth three elements for the offence of human trafficking: the (i) Act, (ii) Means, and (iii) Purpose. Each of these elements is further explained:

#### **Act**

Section 3(1) prohibits a person from recruiting, transporting, transferring, harbouring (providing food or shelter, including assisting a person to evade apprehension), or receiving an individual (other than a child)

---

<sup>59</sup> Section 18(2) of the PHTA.

<sup>60</sup> Section 18(4) of the PHTA.

for the purpose of exploitation (whether in Singapore or elsewhere) through the “Means” set out in the PHTA.

### Means

Section 3(1) prohibits several “Means”:

- Threat or use of force, or any other form of coercion;
- Abduction;
- Fraud or deception;
- Abuse of power;
- Abuse of the individual’s position of vulnerability; or
- Giving to, or the receipt by, another person having control over that individual of any money or other benefit to secure that other person’s consent.<sup>61</sup>

### Purpose of Exploitation

Section 3(1) prohibits acting to exploit the victim for a range of slavery and slavery-like purposes. “Exploitation” has a broad definition under Section 2 of the PHTA and includes:

- Sexual exploitation;
- Forced labour;
- Slavery;
- Any practice similar to slavery (debt bondage, serfdom, or any servile form of marriage);
- Servitude (meaning any condition or obligation, not authorised by any written law, to work or provide services from which the individual cannot escape or which the individual is not free to change); or
- Removal of an organ.

In contrast to other jurisdictions in the Asia-Pacific region, the exploitation of trafficked victims for the purpose of putting them into servitude, forced labour, and debt bondage can constitute a human trafficking offence under Section 3(1) of the PHTA.

## RAJENDRAN CASE – THE PURPOSE OF SEXUAL EXPLOITATION

This case involved two owners of a club who procured and recruited Bangladeshi and Hindi performers. One of the co-owners threatened one of the victims with bodily harm in an attempt to coerce prostitution. Even though the victim did not engage in the sexual activity, the Court held the owner liable under the charge of trafficking in persons under Section 3(1) of the PHTA. The Court sentenced him to 14 months of imprisonment and imposed a fine of SGD 2,000. The Court noted that the fine was the amount that the

---

<sup>61</sup> Section 3(1) of the PHTA.

victim would have received for engaging in the forced sexual activity (*Public Prosecutor v. Rajendran s/o Nagarethinam and another* [2020] SGDC 156).

#### **If the victim is a child**

Victims who are children (under 18 years old) will be considered trafficked for the purposes of the PHTA, even if the offender took no steps to coerce them or abuse their power over the victim (*i.e.*, did not employ any of the Means mentioned above) when recruiting them. It is also irrelevant that the offender was the victim's parent, or that the victim had consented to being recruited.<sup>62</sup>

#### **Aggravating Factors**

The court may take into account a number of aggravating factors when determining the appropriate punishment pursuant to Section 4(2) of the PHTA:

- the offence involved serious injury to or the death of the trafficked victim or another individual (including death by suicide);
- the trafficked victim was particularly vulnerable due to pregnancy, illness, infirmity, disability, or any other reason, and the offender was aware of the trafficked victim's particular vulnerability;
- the trafficked victim was a child;
- the offence exposed the trafficked victim to a life-threatening illness;
- the offence involved actual or threatened use of a weapon or drug;
- the offender was a public servant;
- the offender was the trafficked victim's spouse or conjugal partner; and
- the offender was abusing a position of trust or authority in relation to the trafficked victim.<sup>63</sup>

#### **3.2.1.2 Abetting human trafficking**

According to Section 5 of the PHTA, an abettor is one who:<sup>64</sup>

- provides instruction to another person to commit trafficking;
- provides or arranges any form of financial assistance, transport, shelter, accommodation, or any other facility with the intention of facilitating trafficking; or
- with the intention of facilitating the commission of the offence against the individual:
  - participates or assists in the recruitment, transport, transfer, harbouring, or receiving of an individual;

---

<sup>62</sup> Section 3(2) and (3) of the PHTA.

<sup>63</sup> Section 4(2) of the PHTA.

<sup>64</sup> Section 5 of the PHTA.

- assists or employs a trafficker; or
- does any act to promote or in furtherance of the actual or intended exploitation of the individual.

Under the Penal Code, the abettor of a particular offence is generally punished with the punishment provided for the offence.<sup>65</sup>

## BSR CASE – DOMESTIC TRAFFICKING

In 2019, a man was convicted of knowingly receiving payments in connection with exploitation under Section 6 of the PHTA, trafficking in persons under Section 3 of the PHTA, and two other sexual offences under the Penal Code. The PHTA offences arose because the accused threatened and violently forced his wife to prostitute herself and then received payment from her forced prostitution.

The accused's actions fell within the ambit of both the Women's Charter and the PHTA. The Prosecutor decided to charge the accused under the PHTA because of its harsher sentences.

The Court found that the accused's conduct satisfied Section 3(1) of the PHTA, which includes the threat or use of force for the purpose of exploitation. Section 2 of the PHTA defines "exploitation" to include "sexual exploitation," which in turn includes prostitution.

While the Court noted that the driving force for the PHTA was transnational TIP, it held that the PHTA prohibits all forms of TIP and applies equally to domestic trafficking.

The Court described the facts of the case as "monstrous" and held that the prolonged violence the accused inflicted on his wife to force her into prostitution pointed to a high level of culpability. The facts that the TIP victim was the offender's wife and that the offender had used a weapon were, as Section 4(2) of the PHTA provides, taken into account as aggravating factors.

Accordingly, the Court imposed a global sentence of 25 and one-half years of imprisonment, 24 strokes of the cane (the maximum number of strokes allowed under the Penal Code), and a SGD 12,000 fine. This case indicates that the PHTA will be the preferred statute to prosecute domestic TIP cases involving the sexual exploitation of vulnerable women rather than the Women's Charter, and that Singapore Courts will impose harsh punishments in such cases (*Public Prosecutor v. BSR* [2019] SGHC 64).

### 3.2.1.3 Receiving payment in connection with exploitation of a trafficked victim

According to Section 6 of the PHTA, any person who knowingly receives any payment in connection with the actual or intended exploitation in Singapore of a trafficked victim shall be guilty of an offence. Even if a person has not directly been involved in the trafficking process, a person may be liable for this offence if the person has benefited financially from it with the knowledge that the person has been trafficked. Some typical examples are pimps and labour agents.

All three offences carry the same maximum penalty of 10 years in jail, a fine not exceeding SGD 100,000, and up to six strokes of the cane. A repeat offender faces stiffer penalties, with the maximum penalties being 1.5 times (50%) greater than for a first offence. Section 109 of the Penal Code states that the abettor of a particular offence is subject to the same punishment as the offender (if there is no express provision in the Penal Code for abetting). The Criminal Procedure Code (Cap. 68) (CPC) forbids women and men over 50

---

<sup>65</sup> Chapter V of the Penal Code.

years of age from a sentence of caning.<sup>66</sup> For these categories of persons, the court may impose a term of imprisonment not exceeding 12 months in lieu of caning.<sup>67</sup>

HUMAN TRAFFICKING PENALTIES IN SINGAPORE	Duration of imprisonment	Caning	Amount of the fine
a. TIP offence			
First offence	Not exceeding 10 years	Not exceeding 6 strokes	Not exceeding SGD 100,000
Second or subsequent offence	Not exceeding 15 years	Not exceeding 9 strokes	Not exceeding SGD 150,000
b. Abetting human trafficking	Same as human trafficking offence	Same as human trafficking offence	Same as human trafficking offence
c. Receiving payments in connection with exploitation of trafficked victims	Same as human trafficking offence	Same as human trafficking offence	Same as human trafficking offence

### 3.2.2. Extraterritorial application

The PHTA does not have extraterritorial application. However, Section 3(1) of the PHTA applies where the purpose of the TIP is for exploitation outside of Singapore.

## 3.3. Slavery-Like Offenses in Singapore’s Legal Order

### 3.3.1. Servitude

Article 10 of the Singapore Constitution prohibits slavery generally.<sup>68</sup> The Penal Code also prohibits dealing in slaves:

HUMAN TRAFFICKING PENALTIES IN SINGAPORE	Definition of Offence	Penalty / Punishment
Section 370 (Buying or disposing of any person as a slave)	<i>“Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave”</i>	Imprisonment for a term up to 7 years; and a fine
Section 371 (Habitual dealing in slaves)	<i>“Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves”</i>	Imprisonment for life or for a term not exceeding 10 years; and a fine
Section 367 (Kidnapping or abducting in order to subject a	<i>“Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt</i>	Imprisonment for a term not exceeding 10 years; and a fine or caning

<sup>66</sup> Section 325(1) of the CPC.

<sup>67</sup> Section 325(2) of the CPC.

<sup>68</sup> Article 10(1) of the Singapore Constitution: “No person shall be held in slavery.”

HUMAN TRAFFICKING PENALTIES IN SINGAPORE	Definition of Offence	Penalty / Punishment
person to grievous hurt, slavery, etc.)	<i>or slavery, or to non-consensual penile penetration of the anus or mouth, or knowing it to be likely that such person will be so subjected or disposed of</i>	

Slavery and the slave trade are also a form of exploitation that can be a human trafficking offence under Section 3(1) of the PHTA. Refer to Section 3.2.1. for further information.

### 3.3.2. *Forced labor*

Article 10(2) of the Singapore Constitution prohibits any form of forced labour except for compulsory national service. In 1988, a Singapore citizen defended a criminal case against him for failing to perform national service by claiming that his assignment to national service in the Construction Brigade by the Minister for Home Affairs contravened Article 10(2) of the Singapore Constitution and amounted to forced labour.<sup>69</sup> The Singapore High Court dismissed the argument and held that it was constitutional for the Singapore Parliament to delegate its power to assignment citizens to national service.<sup>70</sup>

Section 374 of the Penal Code penalizes the unlawful compulsion of any person to labour against his or her will. The punishment for an offence under Section 374 of the Penal Code is up to one year of imprisonment or a fine or both. To date, there is no record of any convictions under Section 374 of the Penal Code.

Singapore’s employment laws also contain a number of offences, punishable by fines or imprisonment, for employers who do not grant their employees certain rights and entitlements (refer to Section 5).

### 3.3.3. *Deceptive recruiting for labor or services*

Unlike some other jurisdictions in the Asia-Pacific region, Singapore does not penalize “deceptive recruiting,” though deceptive recruiting could fall within “fraud or deception.” Section 3(1)(c) of the PHTA defines “fraud or deception” as one of the “Means” through which a person can be liable for a human trafficking offence.

It is also an offence (punishable with up to 10 years of imprisonment and a fine) under Section 373A(a) of the Penal Code to bring or assist in bringing a woman by any “*false pretence, false representation, or fraudulent or deceitful means,*” into Singapore with the intention that she may be employed or used as a prostitute.

### 3.3.4. *Early and forced marriage*

Trafficking a victim for the purpose of early or forced marriage may be sexual exploitation or a “servile form of marriage” under Section 2 of the PHTA. Therefore, it may be a human trafficking offence under Section 3(1) of the PHTA.

Section 366 of the Penal Code outlaws the kidnapping or abduction of a woman to be forced into marriage. Section 366 also forbids the kidnapping or abduction of a woman where she is forced into sexual intercourse or prostitution. Section 366 imposes a penalty of imprisonment of up to 10 years as well as a fine or caning.

<sup>69</sup> See *Cheong Seok Leng v. Public Prosecutor* [1988] 2 MLJ 481.

<sup>70</sup> *Id.*

Section 15 of the Children and Young Persons Act protects females below the age of 18 who have been illegally detained. It prevents them from entering into a marriage without the prior consent of a protector (a public officer or a person authorized by the Director-General to exercise power and perform the duties of a “protector”).<sup>71</sup>

Section 141(1) of the Women’s Charter prohibits trafficking in women and girls. It punishes any person who buys, sells, procures, traffics, or transports to or from Singapore a woman or girl for the purpose of trafficking with a fine not exceeding SGD 100,000 and imprisonment up to seven years.

Only the PHTA protects men or boys who are forced into marriage or prostitution. The PHTA is agnostic to the gender of victims of sexual exploitation.

### 3.3.5. *Debt bondage*

While Singapore does not have criminal laws that directly address debt bondage, anyone who traffics another person for the purpose of placing that person under a debt bondage arrangement may be found guilty of the offence of TIP under the PHTA. This is because Section 2 of the PHTA defines “debt bondage” as a form of “exploitation” and the offence of TIP under the PHTA involves the trafficking in persons for the purposes of exploitation (refer to Section 3.2.1.1.). In addition, it is an offence under the EFMA (punishable by up to two years of imprisonment, a fine of up to SGD 30,000, or both) to make a deduction from a foreign employee’s salary in consideration for the foreign employee’s employment or continued employment (refer to Section 5.3.3 below).

### 3.3.6. *Any other relevant offenses*

**Serfdom:** Under the PHTA, “serfdom” is considered a form of “exploitation” and, as a result, it is an offence under the PHTA to traffic in persons for the purpose of placing them into serfdom. Section 2 of the PHTA defines “serfdom” as the condition or status of a tenant who is bound to live and labour on land belonging to another person and is not free to change that condition or status.

**Selling or buying a minor or a woman for the purposes of prostitution:** Sections 372, 373, and 373A of the Penal Code make it an offence under Singapore law to sell, let to hire, or hire, buy, or otherwise obtain possession of any person under 21 years of age or any woman with the intention that that person shall be employed or used for the purpose of prostitution. All three offences are punishable with up to 10 years of imprisonment and a fine.

### 3.3.7. *Extraterritorial application of the offenses*

Refer to Section 3.2.2.

## 3.4. Human Trafficking/Smuggling-Related Criminal Offenses

### 3.4.1. *International and domestic trafficking/smuggling of people*

Migrant smuggling is the act of transporting people for the purpose of illegal entry into a country. TIP requires an additional element of exploitation, such as smuggling people for the purpose of sexual exploitation.

---

<sup>71</sup> Section 2 of the Children and Young Persons Act. *See also* Section 3(3) of the Children and Young Persons Act.

Section 57(1)(c) of the Singapore Immigration Act makes it a crime to “engage[] in the business or trade of conveying to or out of Singapore in or on any vehicle, vessel, aircraft or train any person whom he knows or has reasonable grounds for believing is a prohibited immigrant.”

The punishment for a person who is found guilty of smuggling under Section 57(1)(c) is, pursuant to Section 57(1)(iii) of the Singapore Immigration Act, between two and five years of imprisonment and at least three strokes of the cane.<sup>72</sup> Any person who is found to have engaged in a conspiracy to facilitate, or intentionally aids, another person entering Singapore illegally may be sentenced to between six months and two years of imprisonment and three or more strokes of the cane.<sup>73</sup>

### **3.4.2. *International and domestic trafficking in children***

In addition to Section 3(2) of the PHTA, the smuggling of children either domestically or internationally is outlawed under Section 12(1) of the Children and Young Persons Act. It punishes anyone who participates in a transaction involving the transfer of a child or young person in return for valuable consideration (*i.e.*, payment) with imprisonment not exceeding four years.<sup>74</sup>

Section 12(2) of the Children and Young Persons Act also punishes anyone who has custody or possession of a person under the age of 18 for whom they paid something of value. The penalty is either a fine not exceeding SGD 10,000, imprisonment up to five years, or both.

These two provisions seek to reduce the demand for and supply of smuggling of children by punishing those involved in transferring the smuggled children and those who are buying the smuggled children.

### **3.4.3. *Victim harboring***

Singapore has no applicable laws.

### **3.4.4. *Extraterritorial application of human trafficking and smuggling offenses***

Refer to Section 3.2.2.

### **3.4.5. *International and domestic organ trafficking***

A trafficker who engages in TIP for the purpose of selling organs violates anti-trafficking and organ trading laws. Section 3(1) of the PHTA makes it a crime to engage in unlawful organ trafficking. Section 14(2A) of the Human Organ Transplant Act (Cap. 131A) (**HOTA**) also prohibits five categories of organ trading:

1. Any person who gives or offers valuable consideration for the sale or supply of, or for an offer to sell or supply, any organ from the body of another person other than for the purpose of transplantation to the person’s body.
2. Any person who receives valuable consideration for the sale or supply of, or for an offer to sell or supply, any organ from the body of another person.

<sup>72</sup> See also Section 330(1) of the CPC, which provides that multiple strokes of the cane must be inflicted on the offender at once and may not be inflicted in instalments over a period of time.

<sup>73</sup> Section 57(aa) and (ia) of the Singapore Immigration Act and Section 107(1)(b) and (c) of the Penal Code.

<sup>74</sup> Section 12(1) of the Children and Young Persons Act.

3. Any person who offers to sell or supply any organ from the body of another person for valuable consideration.
4. Any person who initiates or negotiates any contract or arrangement for the sale or supply of, or for an offer to sell or supply, any organ from the body of another person for valuable consideration, other than for the purpose of transplantation to the person’s body.
5. Any person who takes part in the management or control of a corporation or unincorporated entity whose activities include the initiation or negotiation of any such prohibited contract or arrangement.

Each offence is subject to a fine not exceeding SGD 100,000, imprisonment up to 10 years, or both.<sup>75</sup>

### WANG CHIN SING CASE – MIDDLEMEN IN ORGAN TRAFFICKING

This case involved the appeal of a middleman who brokered and abetted arrangements for illegal kidney transplants from living Indonesian donors. The Singapore High Court stated that “[w]hile the HOTA did not single out the role of the middleman, the middleman’s role should, as a matter of sentencing policy, be accorded prominence.”

The Court further noted that, “in Singapore as the law now stands, any middleman who seeks to secure for himself any form of commercial advantage has absolutely no legitimate role to play in the process of donor or organ matching and transfer.”

As result, the Court affirmed the sentencing of the middleman with “the unambiguous message that organ trafficking will not be tolerated in Singapore” (*Wang Chin Sing v. Public Prosecutor* [2008] SGHC 215).

## 3.5. Online Exploitation of Children Offenses

The Penal Code makes the online exploitation of children a crime and lists various offences related to child pornography in Sections 377BG to 377BK, including:

- Using or involving a child in the production of child abuse material;<sup>76</sup>
- Producing child abuse material;<sup>77</sup>
- Distributing or selling child abuse material;<sup>78</sup>
- Advertising or seeking child abuse material;<sup>79</sup> and
- Possession of or gaining access to child abuse material.<sup>80</sup>

---

<sup>75</sup> Section 14(2A) of the HOTA.

<sup>76</sup> Section 377BG of the Penal Code.

<sup>77</sup> Section 377BH of the Penal Code.

<sup>78</sup> Section 377BI of the Penal Code.

<sup>79</sup> Section 377BJ of the Penal Code.

<sup>80</sup> Section 377BK of the Penal Code.

### 3.6. Child Sex Tourism Offenses

The PHTA specifies criminal offences for the trafficking of children for the purpose of sexual exploitation.

Section 376B of the Penal Code addresses domestic child sex tourism in Singapore by making commercial sex with a minor under 18 years of age a crime. Anyone who obtains by payment the sexual services of a person under 18 years of age shall be punished with imprisonment up to seven years, a fine, or both. For example, in 2014, a man was convicted under Section 376B(1) of the Penal Code after procuring a minor female from an online vice ring to engage in commercial sex and paying for her service.<sup>81</sup>

Under Section 377D(1), a reasonable mistake of a minor's age is not a defence to any charge of a sexual offence. However, a reasonable mistaken belief that the minor was 18 years of age or older is a valid defence to a charge of a sexual offence that depends on the fact that the victim is between 16 and 18 years of age (*e.g.*, exploitation by abusive material of a minor who is 16 years of age or older, but below 18 years of age, under Section 377BL of the Penal Code).<sup>82</sup> This defence is not available if (i) the accused was previously charged with sexual offences relating to minors<sup>83</sup> or (ii) the accused failed to take all reasonable steps to verify that the minor was at least 18 years of age.<sup>84</sup>

The Penal Code also addresses child sex tourism outside of Singapore by Singapore nationals. Section 376C of the Penal Code penalises any Singapore citizen or permanent resident who obtains, outside of Singapore, by payment, the sexual services of a person under 18 years of age. It imposes the same penalty as Section 376B (discussed above).

Apart from punishing the act of engaging in child sex, the Penal Code also prohibits the organisation or facilitation of overseas child sex tourism. Under Section 376D, any person who (i) organises travel arrangements for or on behalf of any other person to facilitate child sex tourism (whether or not that other person has engaged in child sex); (ii) transports anyone to a place outside of Singapore to facilitate the commission of child sex tourism (whether or not that other person has engaged in child sex); or (iii) prints, publishes, or distributes any information that is intended to promote child sex tourism, is guilty of an offence.

An offence under Section 376D shall be punished with imprisonment up to 10 years, a fine, or both.<sup>85</sup>

#### MICHAEL FRANK CASE – CHILD SEX TOURISM

The appellant was charged under Section 376D(1)(c) for distributing information about child sex tours to undercover officers through communication channels such as Yahoo Messenger and discussing in person with the officers and other witnesses matters relating to commercial sex tours.

The appellant was sentenced to 36 and 30 months of imprisonment to run consecutively. The appellant argued that the sentence should be vacated because “no victim was harmed, no follow-up action occurred, no outcome arose from the discussions, and no danger was posed to any parties.”

But the Court affirmed the lower court's decision, stating that “[o]n a plain reading, all that is required to make out an offence under s 376D(1)(c) of the Penal Code is indeed distribution, accompanied only by an

<sup>81</sup> *Leu Xing-Long v. Public Prosecutor* [2014] SGHC 193.

<sup>82</sup> Section 377(D)(2) of the Penal Code.

<sup>83</sup> Section 377D(3)(a) of the Penal Code.

<sup>84</sup> Section 377D(3)(b) of the Penal Code.

<sup>85</sup> Section 376D(3) of the Penal Code.

intention to promote conduct that would constitute an offence under s 376C of the Penal Code, or an intention to assist any other person to engage in such conduct.”

Furthermore, the Court emphasized in its decision the heinous nature of child sex tourism:

I pause at this point to underscore the heinous and egregious nature of acts involving the abuse and sexual exploitation of minors. Promoting and facilitating such acts contributes to a deplorable array of evils, and the victims, who are oftentimes coerced into the industry, suffer traumatic and unspeakable harm. The seriousness of the offence under s 376D of the Penal Code is reflected in its weighty maximum sentence, and courts should not hesitate to apply the full force of the law where the facts and circumstances call for it. Miscreants who seek to foist their own deviant sexual tendencies on mere children and abuse them for carnal purposes should be made fully aware that their despicable acts are viewed with the strongest opprobrium.

### 3.7. Anti-Money Laundering and Counter-Terrorism Financing Laws

#### 3.7.1. Overview

The primary legislation prohibiting anti-money laundering (**AML**) is the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) (**CDSA**) and regulations issued pursuant to the CDSA. The primary legislation authorizing Singapore’s counter-financing of terrorism (**CFT**) is the Terrorism (Suppression of Financing) Act (Cap. 325) (**TSFA**), which gives effect to the International Convention for the Suppression of the Financing of Terrorism.

In 2019, the Singapore Government passed the Serious Crimes and Counter-Terrorism (Amendment) Act 2018 (**SCCT Amendment Act**) to enhance Singapore’s AML and CFT framework and to combat money laundering and terrorism financing by corporations and by professional service providers and individuals in Singapore who act as mules for overseas organised syndicates.<sup>86</sup>

#### 3.7.2. Anti-money laundering and counter-terrorism financing legislation

The Singapore Government, particularly the Monetary Authority of Singapore (**MAS**), is acutely aware of the risk of money laundering and terrorism in Singapore and has taken a tough stance against both.

Financial institutions (*e.g.*, banks, insurers, and financial advisors) and certain designated businesses (*e.g.*, casino operators, legal practitioners, and money lenders) in Singapore have specific AML obligations set out in statutes, regulations, and MAS guidelines.<sup>87</sup> Singapore law also obligates all legal persons (whether a company or individual) to file a Cash Movement Report before transferring more than SGD 20,000 in or out of Singapore,<sup>88</sup> and to file a report to the Suspicious Transaction Reporting Office (**STRO**) if the person knows, or has reasonable grounds to suspect, that certain property represents the proceeds of drug dealing or criminal conduct.<sup>89</sup>

When the Singapore Government passed the SCCT Amendment Act in 2019, there had been around 70 money laundering convictions under the CDSA annually for the previous five years, and six foreign nationals

<sup>86</sup> Singapore Parliament, MP Josephine Teo, “Serious Crimes and Counter-Terrorism (Miscellaneous Amendments) Bill,” (Second Reading Speech), (19 November 2018), Vol. 94, available at: <https://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-331>.

<sup>87</sup> See, for example, MAS’s recommendations to inspected banks and supervisory expectations: “Guidelines for Effective AML/CFT Transaction Monitoring Controls,” available at: <https://www.mas.gov.sg/regulation/guidance/guidance-for-effective-amlcft-tm-controls>.

<sup>88</sup> Section 48C of the CDSA.

<sup>89</sup> Section 39 of the CDSA.

were convicted of terrorism financing in 2016.<sup>90</sup> The SCCT Amendment Act, *inter alia*, increased the penalties for a number of offences relating to money laundering, including increasing the maximum fine for companies that are convicted of money laundering under the CDSA from SGD 1,000,000 to the higher of SGD 1,000,000 or twice the value of the property involved.

The punishment for contravening the CFT provisions under the TSFA, such as providing or collecting property for terrorist acts,<sup>91</sup> is, for individuals, a fine of up to SGD 500,000 or a maximum of 10 years of imprisonment or, for companies, a fine of up to SGD 1,000,000 or twice the value of the property involved.<sup>92</sup>

### 3.7.3. Proceeds of crime in Singapore

The CDSA was passed in 2000 to expand the Drug Trafficking (Confiscation of Benefits) Act 1992 to non-drug related criminal offences. Sections 43 to 47AA of the CDSA define the offences that involve the handling of the proceeds of crime. These provisions prohibit: (i) assisting another to retain the benefits from criminal conduct,<sup>93</sup> (ii) concealing or transferring benefits from criminal conduct,<sup>94</sup> (iii) acquiring, possessing, or using benefits of criminal conduct,<sup>95</sup> and (iv) possessing or using property reasonably suspected to be benefits from drug dealing or criminal conduct.<sup>96</sup> The CDSA is not confined to property in Singapore; it applies to property that represents the proceeds of crime in Singapore or elsewhere.<sup>97</sup>

For the first three offences, individual offenders may be liable for a fine not exceeding SGD 500,000, imprisonment up to 10 years, or both. Company offenders may be liable for a fine not exceeding SGD 1,000,000 or twice the value of the benefits of the criminal conduct.<sup>98</sup> Offenders found guilty of the fourth offence may be subject to lesser penalties, including, for individuals, a fine not exceeding SGD 150,000, imprisonment up to three years, or both,<sup>99</sup> and for companies a fine not exceeding SGD 300,000.<sup>100</sup> Upon conviction of an offence under Sections 43 to 47AA of the CDSA, the Public Prosecutor/Attorney General may also apply to the court for an order to confiscate the offender's benefits derived from the offence.<sup>101</sup>

Under Section 2 of the CDSA, "criminal conduct" is defined as "doing or being concerned in, whether in Singapore or elsewhere, any act constituting a serious offence or a foreign serious offence." Therefore, the CDSA offences apply only where a person derives certain benefits from doing, or being concerned in, any act that constitutes a serious offence under Singapore or foreign law.<sup>102</sup> The types of non-drug related

<sup>90</sup> Singapore Parliament, MP Josephine Teo, "Serious Crimes and Counter-Terrorism (Miscellaneous Amendments) Bill" (Second Reading Speech), (19 November 2018), Vol. 94, available at: <https://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-331>.

<sup>91</sup> Section 3 of the TSFA.

<sup>92</sup> Section 6A of the TSFA.

<sup>93</sup> Section 44 of the CDSA.

<sup>94</sup> Sections 47(1)-(2) of the CDSA.

<sup>95</sup> Section 47(3) of the CDSA.

<sup>96</sup> Section 47AA of the CDSA.

<sup>97</sup> Section 3(5) of the CDSA.

<sup>98</sup> Sections 44(5)(b) and 47(6)(b) of the CDSA.

<sup>99</sup> Section 47AA(2)(a) of the CDSA.

<sup>100</sup> Section 47AA(2)(b) of the CDSA.

<sup>101</sup> See Section 5 of the CDSA.

<sup>102</sup> Section 2 of the CDSA. To prove an offence under Sections 43 to 47AA of the CDSA, the prosecution does not need to prove the particulars of the offence from which the benefits arose (*see* Section 47A(1) of the CDSA). Rather, the prosecution only needs to prove that the offender knew or had reasonable grounds to believe that all or part of the property involved in the criminal conduct or drug dealing represents the benefits from a serious offence *generally* (*see* Sections 47A(2)–(3) of the CDSA).

offences that constitute a “serious offence” for the purposes of the CDSA are listed in the Second Schedule of the CDSA. They include trafficking of persons and receiving payments in connection with the exploitation of trafficked victims under Sections 3 and 6 of the PHTA and certain offences under the Women’s Charter (such as trafficking in women and girls and offences relating to prostitution).

#### 3.7.4. *Impact of the regime on modern slavery*

There has not been a conviction under the CDSA for money laundering offences relating to TIP. The CDSA regulations require individuals and companies to file a Cash Movement Report to the STRO only when making international transfers in or out of Singapore of SGD 20,000 or more.<sup>103</sup> TIP activities could easily take place by transferring smaller amounts.

If there were to be a conviction under the CDSA for money laundering of proceeds of TIP activities, the Singapore courts would likely adopt a strong stance when sentencing the offender. Because much of Singapore’s international trade depends on having clean financial institutions, the Singapore courts have demonstrated a willingness to impose hefty sentences on money launderers to preserve the integrity of Singapore’s financial institutions. For example, when sentencing two offenders under the CDSA for receiving and laundering large sums of money obtained through police impersonation scams, the Singapore District Court noted that:<sup>104</sup>

*“offences of money-laundering harm the reputation and integrity of [Singapore’s] financial systems. Therefore, it is imperative to deter and stamp out money-laundering offences by imposing sufficient deterrent sentences.”*

As an alternative to charging a trafficker for dealing with the proceeds of crime under the CDSA, a Public Prosecutor may press charges under Section 6 of the PHTA, which makes it a crime to receive payments in connection with exploitation of trafficked victims. The Public Prosecutor may prefer to use the PHTA’s harsher sentences (*e.g.*, 10 to 15 years of imprisonment and up to six strokes of the cane).<sup>105</sup>

## 4. SINGAPORE’S SUPPLY CHAIN REPORTING LEGISLATION

---

No legislation requires Singapore companies to report on their supply chain processes with respect to human trafficking.

The PHTA is the main legislation targeting modern slavery in Singapore. It defines forced labour and sex and labour trafficking as crimes. However, the PHTA does not impose a reporting requirement for corporations. Nonetheless, many Singapore-incorporated companies already publish modern slavery statements in accordance with the requirements of other jurisdictions in which they operate, such as the Modern Slavery Act 2015 in the United Kingdom or the Modern Slavery Act 2019 (Cth) in Australia. It remains to be seen whether Singapore will follow suit and adopt its own modern slavery reporting law.

---

For benefits derived from criminal conduct that constitutes an offence under foreign law, the prosecution will need to adduce some evidence to satisfy every element of the offence (*see* Section 47A(3) of the CDSA).

<sup>103</sup> See The official website of the SPF, “Suspicious Transaction Reporting Office (STRO) – Cross Border Cash Movement Reporting,” available at: <https://www.police.gov.sg/Advisories/Crime/Commercial-Crimes/Suspicious-Transaction-Reporting-Office>.

<sup>104</sup> *Public Prosecutor v. Chow Zhi Hong and another* [2020] SGDC 279, at [200].

<sup>105</sup> Refer to Section 3.2.1.3.

## 5. FORCED LABOR: OVERVIEW OF SINGAPORE’S APPLICABLE EMPLOYMENT AND MIGRATION LAWS

---

### 5.1. Employment Law Rights for Victims of Human Trafficking and Forced Labor

No Singapore employment-related legislation directly addresses TIP and forced labour. Nevertheless, victims may have certain protections and rights under Singapore’s employment legislation, and human traffickers and exploiters of forced labour may be found guilty of offences under such legislation.

#### 5.1.1. *Singapore’s Employment Act (Cap. 91) (EA)*

The primary legislation governing employment matters in Singapore is the EA, which sets out certain minimum terms and conditions of service to which employees covered by the EA in Singapore are generally entitled. These terms include minimum days of annual leave, timely payment of salary, and statutory protection against wrongful dismissal.<sup>106</sup> The EA covers employees working under a contract of service with an employer.<sup>107</sup> However, the EA does not cover several categories of workers:

- i. Seafarers (employed or engaged or working in any capacity on board a ship unless the worker falls under an exception);<sup>108</sup>
- ii. Domestic workers (employed in connection with domestic services at any private premises);<sup>109</sup>
- iii. Statutory board employees or civil servants;<sup>110</sup> and
- iv. Any class of persons that the MOM may have excluded from the EA.<sup>111</sup>

An employer who fails to comply with the EA’s requirements may be found guilty of an offence and subject to fines and imprisonment. Section 5.2. discusses the applicability of this statutory regime to victims of forced labour and human trafficking.

#### 5.1.2. *Singapore’s Employment of Foreign Manpower Act (EFMA)*

The EFMA contains employers’ rights and obligations regarding their foreign employees.<sup>112</sup> The Act covers the employment of any person who has a work pass (*i.e.*, an Employment Pass, S Pass, or Work Permit) issued from the MOM, including foreign domestic workers.<sup>113</sup> Under the EFMA, it is an offence (a) for any

---

<sup>106</sup> The official website of the MOM, “Amendments to the Employment Act,” available at: <https://www.mom.gov.sg/employment-practices/employment-act/amendments-to-the-act>.

<sup>107</sup> The official website of the MOM, “Employment Act: who it covers,” available at: <https://www.mom.gov.sg/employment-practices/employment-act/who-is-covered>.

<sup>108</sup> Section 2 of the EA (definition of “seafarer”).

<sup>109</sup> Section 2 of the EA (definition of “domestic worker”).

<sup>110</sup> The official website of the MOM, “Employment Act: who it covers,” available at: <https://www.mom.gov.sg/employment-practices/employment-act/who-is-covered>.

<sup>111</sup> Section 2 of the EA (definition of “employee”).

<sup>112</sup> The official website of the MOM, “Employment Act: who it covers,” available at: <https://www.mom.gov.sg/employment-practices/employment-act/who-is-covered>.

<sup>113</sup> *Id.*

person to employ a foreign employee who does not have a valid work pass, and (b) for any occupier of any workplace who controls access to the workplace to permit any foreigner who is not a resident of Singapore and does not have a valid work pass from entering or remaining at the workplace to work.<sup>114</sup> Under the EFMA, it is presumed that the occupier of the premises at which the foreigner is found: (1) controls access to the workplace; (2) permitted the foreign employee to enter or remain; and (3) knew the foreign employee did not have valid work pass.<sup>115</sup>

Notably, the EFMA prohibits (and prescribes as an offence) the deduction from a foreign employee’s salary, or the demand or receipt by any person directly or indirectly (in Singapore or outside Singapore) from a foreign employee, of any sum or benefit as consideration or as a condition for the employment or continued employment of that foreign employee or as a financial guarantee for the employment of such foreign employee, whether such employment is by the offending employer or some other person.<sup>116</sup> A person guilty of any of these offences will be subject to fines and imprisonment.<sup>117</sup>

(Hartung, *Michael Frank v. Public Prosecutor* [2020] SGHC 250).

The EFMA targets the ancillary effects of human trafficking and smuggling, such as the illegal employment of trafficked foreign employees who, because of being illegally trafficked, do not have a valid work pass.

This table lists the penalties for offences under the EFMA:<sup>118</sup>

OFFENCE UNDER THE EFMA	Penalty
<p><b>Section 5(1)</b> Employing a foreign employee without a valid work pass.</p>	<ul style="list-style-type: none"> <li>• A fine between SGD 5,000 and SGD 30,000, imprisonment for up to one year, or both.</li> <li>• For subsequent convictions, offenders face a mandatory imprisonment for a period of not less than one month and not more than 12 months and a fine between SGD 10,000 and SGD 30,000.<sup>119</sup></li> </ul>
<p><b>Section 6A(1)</b> No occupier of a workplace who controls access to the workplace shall permit any foreign employee without a work pass to enter or remain at the workplace to work.</p>	<ul style="list-style-type: none"> <li>• A fine not exceeding SGD 15,000, imprisonment for a term not exceeding 12 months, or both.</li> <li>• For subsequent convictions, offenders face a fine not exceeding SGD 30,000, imprisonment for a term not exceeding two years, or both.<sup>120</sup></li> </ul>
<p><b>Section 22(d)</b></p>	<ul style="list-style-type: none"> <li>• A fine up to SGD 20,000, imprisonment up to two years, or both.<sup>121</sup></li> </ul> <p>Any employer, foreign employee, self-employed foreigner, or any agent involved in the employment of the foreign employee or the</p>

<sup>114</sup> Sections 5 and 6A of the EFMA.

<sup>115</sup> Section 6A(2) of the EFMA.

<sup>116</sup> Section 22A(1) of the EFMA.

<sup>117</sup> Section 22A(2) of the EFMA. Persons found liable for the offence under Section 22A(1) of the EFMA shall be liable to a fine not exceeding SGD 30,000, to imprisonment for a term not exceeding two years, or both.

<sup>118</sup> The official website of the MOM, “Employment of Foreign Manpower Act,” available at: <https://www.mom.gov.sg/legislation/employment-of-foreign-manpower-act>.

<sup>119</sup> Section 5(6) of the EFMA.

<sup>120</sup> Section 6A(6) of the EFMA.

<sup>121</sup> Section 22(1)(ii) of the EFMA.

OFFENCE UNDER THE EFMA	Penalty
Making a false statement or providing false information in any application or renewal of a work pass.	engagement of the self-employed foreigner, who knows, or has reason to believe, that this offence has been committed and intentionally omits to furnish any information to the Controller: <ul style="list-style-type: none"> <li>• A fine up to SGD 10,000, to imprisonment up to one year, or both.<sup>122</sup></li> </ul>
<b>Section 22A(1)</b> Receiving money in connection with the employment of a foreign employee.	<ul style="list-style-type: none"> <li>• A fine up to SGD 30,000, imprisonment up to two years, or both.<sup>123</sup></li> </ul>
<b>Section 22B(1)</b> Obtaining a work pass for a foreign employee for a business that does not exist, is not in operation, or does not require the employment of the foreign employee and failing to employ the foreign employee.	<ul style="list-style-type: none"> <li>• Imprisonment for a presumptive minimum term of not less than six months and not more than two years and a fine not exceeding SGD 6,000.<sup>124</sup></li> <li>• Offenders may also receive caning if charged with more than five offences and if convicted of at least six of those offences at the same trial.<sup>125</sup></li> </ul>

### 5.1.3. Singapore’s Employment Agencies Act (Cap. 92) (EAA)

The EAA regulates employment agencies—or the “middlemen”—in employment relationships, which is not an uncommon arrangement in the context of human trafficking and forced labour. Amongst other things, the EAA and its regulations prohibit employment agency personnel from causing, inducing, or assisting foreign employees from entering Singapore to seek employment unless the employer has obtained in-principle approval from the Controller of Work Passes. It also obligates employment agencies to ensure that the passport and identification documents of foreign employees are returned directly to them as soon as possible.<sup>126</sup>

The EAA also imposes rules on the fees charged by employment agencies. Employment agencies may charge fees as long as they comply with these rules. Taken together, these rules limit the ability of “middlemen” to act in human trafficking and forced labour arrangements. These rules allow for regulatory oversight, and enable the conviction of “middlemen” who operate unlawfully. The EAA also empowers employment agency inspectors to (amongst other things) arrest, seize weapons, pursue, search, and require the production of information, all of which can facilitate (if necessary) the collection of evidence of potential human trafficking or forced labour arrangements.<sup>127</sup>

In 2019, the government charged 84 people with illegal employment agent activities under the EAA. A recent investigation conducted by the Strait Time’s CloseUp found that a large number of illegal employment agent activities take place undercover and that a majority of foreign workers are paying fees to their employer or an employment agency to find employment in Singapore. While the MOM has been using data analytics to track suspicious hiring practices, CloseUp suggested that Singapore open an online

<sup>122</sup> Section 22(2) of the EFMA.

<sup>123</sup> Section 22A(2) of the EFMA.

<sup>124</sup> Section 22B(1) of the EFMA.

<sup>125</sup> Section 22B(2) of the EFMA.

<sup>126</sup> Rule 10 of the Employment Agencies Rules 2011.

<sup>127</sup> Sections 18 to 20 of the EAA.

job portal for foreign workers to obtain information about employment opportunities in Singapore and reduce their dependency on employment agencies.<sup>128</sup>

## 5.2. Applicability of Employment Legislation in the Context of Forced Labor or Trafficking

Whether any individual (including a victim of human trafficking or forced labour) will be considered an “employee” under the EA (and accordingly, protected under the EA) is ultimately a question of fact, except for certain classes of workers, such as seafarers and domestic workers, to whom the EA expressly does not apply. The EA defines an employee as a person who has entered into or works under a contract of service with an employer.<sup>129</sup> If an individual is not considered to be an “employee” under the EA, the individual’s employment contract with the employer, if any, governs.<sup>130</sup> A contract of service under the EA need not be express or written, and may be oral or implied, as long as an agreement establishes an employment relationship.

Victims of human trafficking or forced labour may not have a formal, written employment agreement with those who have trafficked or exploited them; in some cases, the victims have been coerced or forced into labour with the trafficker. Trafficked victims who have been forced against their will to work (*e.g.*, through threat, coercion, deception, or debt bondage) and who have not consented to the employment do not have a contract of service and, accordingly, would not fall within the EA’s scope.

The EFMA has a broader scope of protection than the EA. The EFMA considers a person to be under the “employ” of another (and therefore protected under the EFMA) if a person has been engaged or used for any work or training even if there is no contract of service or salary. That is often the case for victims of human trafficking.<sup>131</sup> Thus, under the EFMA, there is an employment relationship between the victims and the trafficker if the trafficker has engaged or used the victims for work, even if there is no contract of service or salary.<sup>132</sup>

However, if the victim receives some compensation, consents to the labour—*e.g.*, there may be an oral or implied agreement made (though on unclear or severely onerous terms against the victim)—and is under the trafficker’s control, the Singapore courts may find that there is a contract of service because of an employment relationship.<sup>133</sup> The victim would then be regarded as an employee under the EA.

Depending on the circumstances, victims of human trafficking or forced labour may have statutory rights as employees under the EA or the EFMA. If so, they may bring complaints to the MOM, or they may report offences against their human traffickers or the exploiters of their forced labour, for violations of the EA or the EFMA.

---

<sup>128</sup> See Strait Times, “ST CloseUp: How foreign workers are illegally recruited in Singapore,” available at: <https://www.straitstimes.com/singapore/migrant-burden-how-foreign-workers-are-illegally-recruited-in-singapore>.

<sup>129</sup> Section 2 of the EA.

<sup>130</sup> The official website of the MOM, “Employment Act: who it covers,” available at: <https://www.mom.gov.sg/employment-practices/employment-act/who-is-covered>.

<sup>131</sup> Section 2 of the EFMA.

<sup>132</sup> *Public Prosecutor v. Dow Flora (S) Pte Limited* [2008] SGDC 257, at [34]–[35], [70]. See also *Tamilkodi v. Public Prosecutor* [1999] SGHC 19, at [20].

<sup>133</sup> See *Public Prosecutor v. Chan Lian Chai* [2011] SGDC 438 at [25].

### 5.3. Statutory Rights

The primary legislation governing minimum terms and conditions of employment in Singapore is the EA. The EFMA and EAA may also be relevant.

#### 5.3.1. *Rights to minimum wages, entitlements, and other applicable minimum standards*

No general, overarching statute prescribes a minimum wage in Singapore. However, the tripartite committees (made up of unions, employers, and the Singapore Government) have developed a Progressive Wage Model, which is aimed at helping “to uplift low wage workers.” This Model applies to the cleaning, security, and landscape sectors.<sup>134</sup>

The EA also prescribes certain minimum employee entitlements, such as annual leave, sick leave, rest days, hours of work, overtime, maternity leave, and termination notice periods. As for foreign domestic workers who are not covered under the EA, the EFMA regulates their minimum entitlements, including a weekly rest day,<sup>135</sup> medical care, and adequate accommodations and food.<sup>136</sup> Under the Employment of Foreign Manpower (Work Passes) Regulations 2012, an employer shall pay no less than the fixed monthly salary due to a foreign employee no later than seven days after the last day of the salary period.<sup>137</sup>

#### 5.3.2. *Claims available in relation to misrepresentations and “sham” arrangements*

Singapore has no applicable laws.

#### 5.3.3. *Claims available in relation to unlawful deductions, loans, and debt bondage*

Under the EA, an employer is permitted to make only specifically authorized deductions from an employee’s salary.<sup>138</sup>

The EFMA also prohibits (and prescribes as an offence) the deduction from a foreign employee’s salary, or the demand or receipt by any person directly or indirectly (in Singapore or outside Singapore) from a foreign employee, of any sum or benefit as a condition or guarantee for the foreign employee’s employment or continued employment, whether such employment is by the alleged offender or some other person.<sup>139</sup>

#### 5.3.4. *Remedies*

Generally, an offender who is found guilty of violating the EA, EFMA, or EAA is subject to fines and imprisonment (but not civil remedies, such as damages payable to the victims). For offences under the EA,

<sup>134</sup> The official website of the MOM, “What is the Progressive Wage Model,” available at: <https://www.mom.gov.sg/employment-practices/progressive-wage-model/what-is-pwm>.

<sup>135</sup> The official website of the MOM, “Rest days and well-being for foreign domestic worker,” available at: <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/employers-guide/rest-days-and-well-being>.

<sup>136</sup> *Id.*; The official website of the MOM, “How to employ an FDW,” available at: <https://www.mom.gov.sg/-/media/mom/documents/publications/guides/how-to-employ-an-fdw.pdf>.

<sup>137</sup> *E.g.*, Employment of Foreign Manpower (Work Passes) Regulations 2012, FOURTH SCHEDULE: Conditions and Regulatory Conditions of Work Permit; SIXTH SCHEDULE: Conditions and Regulatory Conditions of Employment Pass.

<sup>138</sup> Section 26 of the EA.

<sup>139</sup> Section 22A of the EFMA.

however, the Singapore courts have discretion to direct payment of all or part of a fine or other relevant sum to the complaining employee.<sup>140</sup>

Under Section 22(1) of the EFMA, an employer to whom a work pass applies who contravenes any condition (other than a regulatory condition) of the work pass or in-principle approval of the application for the work pass shall be guilty of an offence and liable for a fine not exceeding SGD 10,000, imprisonment up to 12 months, or both.<sup>141</sup>

For example, in January 2021, a prominent local cupcake chain, Twelve Cupcakes, was fined SGD 119,500 for underpaying the agreed salaries to its foreign employees for approximately two years.<sup>142</sup> The company violated the conditions of the foreign employees' work pass conditions, which in turn violated the EFMA.<sup>143</sup> The company pleaded guilty to the charges against it under the EFMA.<sup>144</sup> The two co-founders, Ms. Jaime Teo and Mr. Daniel Ong, who both pled guilty to 10 charges under the EFMA for underpaying their employees and failing to pay employees on time, were also fined SGD 65,000 each. While Ms. Teo and Mr. Ong did not manage the employment of their employees, they admitted to signing off on documents, prepared by a third-party agency, "without a second glance" and were held responsible for the agency's violations of the EFMA.<sup>145</sup>

In another case involving a failure to pay foreign workers, a court stated, "[w]hile it is necessary to be sensitive to the specific factual matrix of every case, the general principle must be that employers who persistently fail to pay the salaries of their foreign workers will ordinarily face custodial sentences."<sup>146</sup> As a result, the court dismissed an appeal from a district judge's sentencing of imprisonment for one week per charge with four charges to run consecutively.<sup>147</sup> The court also observed:

*Foreign workers are unquestionably not chattel like the slaves of less enlightened times. Like any other employees, they have basic rights that must be strictly respected. . . Unskilled foreign workers, in particular, cannot ordinarily seek alternative employment, often have difficulties communicating, are reliant on their employers for appropriate accommodation, have no financial safety net and are therefore especially vulnerable. They are, in a nutshell, entirely dependent on their employers for both their financial security and welfare. A cavalier failure by an employer to appreciate the serious responsibilities concerning these workers' welfare can have profoundly unpleasant consequences.*<sup>148</sup>

The Employment Claims Act 2016 (No. 21 of 2016) (ECA) also establishes the Employment Claims Tribunal (ECT). Under the ECA, any contractual provision seeking to restrict the tribunal's jurisdiction or to prevent

<sup>140</sup> Section 134 of the EA.

<sup>141</sup> Sections 22(1)(a) and 22(1)(i) of the EFMA.

<sup>142</sup> Channel News Asia, "Twelve Cupcakes fined SGD 119,500 for underpaying foreign employees," available at: <https://www.channelnewsasia.com/news/singapore/twelve-cupcakes-fined-underpaying-foreign-employees-13943328>.

<sup>143</sup> See Section 5(3) of the EFMA: "No person shall employ a foreign employee otherwise than in accordance with the conditions of the foreign employee's work pass."

<sup>144</sup> Channel News Asia, "Twelve Cupcakes fined SGD 119,500 for underpaying foreign employees," available at: <https://www.channelnewsasia.com/news/singapore/twelve-cupcakes-fined-underpaying-foreign-employees-13943328>.

<sup>145</sup> Today, "Twelve Cupcakes co-founder Daniel Ong fined SGD 65,000 for underpaying foreign employees over 3 years," available at: <https://www.todayonline.com/singapore/twelve-cupcakes-co-founder-daniel-ong-fined-s65000-underpaying-foreign-employees>.

<sup>146</sup> *Lee Chiang Theng v. Public Prosecutor and other matters* [2011] SGHC 252, at [35].

<sup>147</sup> *Id.* at [41]–[43].

<sup>148</sup> *Id.* at [1].

a person from making a claim or appeal under the ECA is void. However, the ECT has jurisdiction only over claims:

- 1) brought by an “employee” or class of employees (or a person entitled under any written law to receive an amount claimed (if any) in place of the employee); and
- 2) against a person liable under Section 65 of the EA for the employee’s salary.<sup>149</sup>

The ECA defines an “employee” as:

*an individual who has entered into and works under a contract of service with an employer and includes — (a) any employee of the Government within a category, class or description of such employees prescribed to be employees for the purposes of this Act; and (b) for an employment dispute relating to the termination of a contract of service or any mediation request submitted or claim made after the end of a contract of service, the former employee who worked under that contract of service even though the relationship between employee and employer has ended.*<sup>150</sup>

Accordingly, the ECA would not apply to protect many victims of human trafficking or forced labour.

Victims may enforce their civil rights and remedies for breach or non-performance of a contract of service by bringing a lawsuit in court. However, practically speaking, it is unlikely that victims of human trafficking or forced labour would have the knowledge, resources, or opportunity to bring a civil lawsuit in court proceedings against the human trafficker or exploiter of forced labour.<sup>151</sup>

#### 5.4. Rights to a Safe Workplace and Compensation Associated With Injuries or Illness

Employers in Singapore are subject to a statutory duty under the Workplace Safety and Health Act (Cap. 354A) (WSHA) to take those reasonably practicable and necessary measures to ensure the safety and health of their employees at work.<sup>152</sup> This includes providing and maintaining a safe work environment which, so far as is reasonably practicable, is without risk to health, and having adequate facilities and arrangements for the employees’ welfare at work, adequate safeguards for machinery and equipment, as well as adequate and necessary instruction, information, training, and supervision to perform the work.<sup>153</sup> Occupiers of workplaces are also required to take similar measures to ensure that the workplace is, so far as is reasonably practicable, safe and without risks to the health of any person within the premises.

It may be difficult for a TIP victim to claim the benefits of or enforce their rights under this Act. Under Section 6 of the WSHA, an “employee” means any person employed by an employer to do any work under a contract of service. Accordingly, the Act will not apply to victims of human trafficking or forced labour who are not “employees” within the meaning of the WSHA.

---

<sup>149</sup> Section 12 of the ECA.

<sup>150</sup> Article 2 of the ECT.

<sup>151</sup> One research study investigated migrant workers’ experiences in the Employment Claims Tribunal and collected responses regarding dealing with costs. See HOME, “Migrant Workers’ Access to Justice in Singapore’s Employment Claims Tribunal: Preliminary Findings of a Qualitative Study,” *Humanitarian Organization for Migration Economics* (Article, 2018), available at: <https://www.home.org.sg/s/Access-to-Justice-in-ECT.pdf>.

<sup>152</sup> Sections 11 and 12 of the WSHA.

<sup>153</sup> Section 12 of the WSHA.

The WSHA prohibits employers from deducting from their employees' remuneration, and from receiving any payment from any employee, the cost of anything the employers perform or provide under the WSHA to ensure their employees' safety, health, and welfare at work.<sup>154</sup> An employer's failure to comply with any of its statutory duties is an offence.<sup>155</sup>

Employers are also statutorily required under the Work Injury Compensation Act 2019 (No. 27 of 2019) (**WICA**) to compensate employees for their personal injuries arising out of an accident in the course of their employment (unless certain specified exemptions apply).<sup>156</sup> Compensation also is paid for an employee's incapacity or death resulting from a disease contracted while employed in certain occupations specified in the WICA.<sup>157</sup> Compensation is calculated based on the prescribed parameters and formula set out in the WICA.<sup>158</sup>

The WICA requires employers to insure and maintain insurance against all liabilities the employer may incur under the WICA for each employee.<sup>159</sup> Failure to comply is an offence subjecting the employer to fines or imprisonment.<sup>160</sup>

## 5.5. Access to Justice and Practical Issues Associated With Enforcing Social Legislation

The employment-related legislation largely provides for offences that will result in punishment (by the State) of a convicted human trafficker or exploiter of forced labour. They generally do not, however, provide direct recourse for a TIP victim. While victims may bring civil lawsuits, most victims are unlikely to have access to legal assistance, funds, resources, and opportunity to commence and sustain such lawsuits. As for the Employment Claims Tribunal provided under the ECA, some migrant workers have expressed barriers such as language, lack of evidence, and lack of awareness of the law and procedures.<sup>161</sup> As such, practical barriers limit the actual amount of recovery that victims are able to receive.

## 5.6. Interaction Between Employment Law and Migration

### 5.6.1. *Employment rights affected where employment is unlawful under migration law*

Victims of human trafficking or forced labour may be working in Singapore in breach of the EFMA or their work pass conditions. The EFMA also makes it an offence for foreign employees to work without a valid work pass; no distinction is made between forced and unforced labour. It is not clear whether such a breach of the EFMA or the work pass requirement would prevent the victim from bringing any lawsuits against the

---

<sup>154</sup> Section 18 of the WSHA.

<sup>155</sup> Section 20 of the WSHA.

<sup>156</sup> Section 7 of the WICA.

<sup>157</sup> Section 10 of the WICA.

<sup>158</sup> See First, Second, and Fourth Schedules of the WICA.

<sup>159</sup> Section 24 of the WICA.

<sup>160</sup> Section 25 of the WICA.

<sup>161</sup> HOME, "Migrant Workers' Access to Justice in Singapore's Employment Claims Tribunal: Preliminary Findings of a Qualitative Study," *Humanitarian Organization for Migration Economics* (Article, 2018), available at:

<https://static1.squarespace.com/static/5a12725612abd96b9c737354/t/5eba28cf823c6d68ccccef4d/1589258454383/Access+to+Justice+in+ECT.pdf>, page 34.

human trafficker or exploiter of forced labour, or whether the fact of forced labour would be a defence or mitigate against the breach.

However, the MOM or ICA can issue a special pass to legalise a TIP victim's stay in Singapore for specific purposes, such as assisting in investigations or to attend court.<sup>162</sup> The MOM may also place victims in suitable employment during the investigation of their cases.<sup>163</sup> However, they will still have to satisfy the work pass requirements,<sup>164</sup> such as the requirement that foreign workers come from an approved country<sup>165</sup> and, for foreign domestic workers, be over the age of 23 and have a minimum of eight years of formal education.<sup>166</sup>

### 5.6.2. *Rights/remedies available under applicable migration law and regulations*

Refer to Section 5.6.1.

### 5.6.3. *Employment rights where employment is under working visa programs*

Employers must comply with certain conditions that attach to every work pass issued to foreign employees working in Singapore.<sup>167</sup> The employer is responsible for the upkeep and maintenance of its foreign employees in Singapore, repatriation of foreign employees back to their home countries on cancellation of their work passes, and acceptable accommodations in Singapore.<sup>168</sup> These obligations are in addition to the minimum terms and conditions of employment under the EA (to the extent the foreign employee is covered under the EA).

## 5.7. Employment Laws and Child Labor

Singapore legislation regulates or prevents the employment of all children. Subject to limited exceptions, children below the age of 13 years cannot work in any occupation.<sup>169</sup> The United Nations Committee on the

<sup>162</sup> The official website of the ICA, "Special Pass Card," available at: <https://www.ica.gov.sg/public-education/special-pass-card>.

<sup>163</sup> The official website of the MOM, "Measures in place to help trafficked victims," available at: <https://www.mom.gov.sg/newsroom/press-replies/2016/0818-measures-in-place-to-help-trafficked-victims>.

<sup>164</sup> *Id.*

<sup>165</sup> The list of approved source countries/regions for foreign domestic works includes: Bangladesh, Cambodia, Hong Kong, India, Indonesia, Macau, Malaysia, Myanmar, Philippines, South Korea, Sri Lanka, Taiwan, and Thailand (see the official website of the MOM, "Foreign domestic worker eligibility," available at: <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/eligibility-and-requirements/fdw-eligibility>). The requirements for work permits for other semi-skilled foreign workers depend on the industry. For example, the list of approved source countries/regions for work permits for foreign workers in the construction industry include: Malaysia, People's Republic of China, India, Sri Lanka, Thailand, Bangladesh, Myanmar, Philippines, Hong Kong, Macau, South Korea, and Taiwan (see the official website of the MOM, "Construction sector: work permit requirements," available at: <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/sector-specific-rules/construction-sector-requirements>).

<sup>166</sup> The official website of the MOM, "Foreign domestic worker eligibility," available at: <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/eligibility-and-requirements/fdw-eligibility>.

<sup>167</sup> Section 5(3) of the EFMA.

<sup>168</sup> See, e.g., Employment of Foreign Manpower (Work Passes) Regulations 2012, FOURTH SCHEDULE: Conditions and Regulatory Conditions of Work Permit.

<sup>169</sup> Section 3 of the Employment (Children and Young Persons) Regulations.

Rights of the Child has expressed its concern that this minimum age threshold is too low<sup>170</sup> and has recommended that Singapore strengthen efforts to prevent the economic exploitation of children by raising the threshold to 15 years of age.<sup>171</sup>

Under Singapore law, children 13 years of age and older may be employed in light work in a non-industrial undertaking.<sup>172</sup> A child may also work in an industrial undertaking in which only members of the same family are employed.<sup>173</sup> There are certain other exceptions for children or young persons who are employed in work or apprentice programs approved and supervised by the Ministry of Education or the Institute of Technical Education.<sup>174</sup>

Further, a registered medical practitioner must certify that a young person (defined as an individual who is 16 years of age)<sup>175</sup> is medically fit to work in an industrial undertaking.<sup>176</sup>

In addition, no child or young person may be employed as a labourer during any part or all of the night.<sup>177</sup>

Any person who employs a child or young person in violation of these rules is guilty of an offence and subject to fines or imprisonment under the EA.<sup>178</sup>

## 6. GOVERNMENT PROCUREMENT RULES

---

### 6.1. Overview

Individual Ministries, Departments, and Statutory Boards carry out government procurement. Singapore's main legislation on public procurement gives effect to international treaties and trade agreements and focuses on the principles of openness, transparency, and value-for-money.

The legal framework for government procurement in Singapore does not address TIP or modern slavery. No Singapore legislation requires government procurement entities to ensure that their purchased goods and services are not a product of forced labour or TIP. Accordingly, Singapore does not have an overarching public procurement policy to prevent TIP and modern slavery.

### 6.2. Government Procurement Rules and Action Plan

The main legislation governing public procurement in Singapore is the Government Procurement Act (Cap. 120) (**GP Act**). Singapore has signed the World Trade Organization Agreement on Government Procurement

---

<sup>170</sup> UN Committee on the Rights of the Child (CRC), Consideration of reports submitted by States parties under Article 44 of the Convention: Convention on the Rights of the Child: concluding observations: Singapore, 4 May 2011, CRC/C/SGP/CO/2-3, available at: <https://www.refworld.org/docid/4dcb89f92.html> [accessed 20 May 2021], at para. 63.

<sup>171</sup> *Id.*

<sup>172</sup> Section 68(3) of the EA.

<sup>173</sup> Section 68(2) of the EA.

<sup>174</sup> Section 72 of the EA.

<sup>175</sup> Section 67A of the EA.

<sup>176</sup> Section 4 of the Employment (Children and Young Persons) Regulations.

<sup>177</sup> Section 5 of the Employment (Children and Young Persons) Regulations.

<sup>178</sup> Section 74 of the EA. A person found guilty of an offence under Part VIII (Employment of Children and Young Persons) of the EA shall be liable to a fine not exceeding SGD 5,000, to imprisonment for a term not exceeding two years, or both.

**(GP Agreement).**<sup>179</sup> The GP Act gives effect to the GP Agreement and applies its principles of, amongst others, non-discrimination and transparency. Three pieces of subsidiary legislation implement the GP Act: (i) the Government Procurement (Application) Order; (ii) the Government Procurement (Challenge Proceedings) Regulations; and (iii) the Government Procurement Regulations 2014. Neither the GP Act nor the subsidiary laws and regulations require government procurement entities to take into account TIP or modern slavery considerations when procuring goods and services.

### 6.3. Preventing of Human Trafficking Act 2014 (Cap. 45)

While the PHTA does not contain any specific obligations for government procurement entities, the fact that an offender is a public servant is an aggravating factor when sentencing the offender under the PHTA.<sup>180</sup> Consequently, the court may penalize public servants more severely for offences committed under the PHTA. There is also no immunity for public servants under Singapore statutory or common law for such offences, though section 7 of the Government Proceedings Act (Cap. 121) may preclude the Singapore Government itself from liability for any fines imposed on public servants for PHTA offences committed during the exercise of public duties.<sup>181</sup>

### 6.4. Standing Committee on Debarment

The Singapore Government may indirectly address TIP and modern slavery risks in government procurements by re-directing procurements away from supply chains with human trafficking and modern slavery risks.

The Standing Committee on Debarment (**SCOD**) can debar suppliers from future contracts with the Singapore Government if the contractor (i) provides false information, (ii) is found guilty of corruption, (iii) subcontracts work without authorization, (iv) violates safety regulations or requirements, or (v) otherwise compromises national security or the public interest. The national security and public interest limb in particular is very broad and could potentially cover TIP and modern slavery risks, depending on the facts and circumstances of any particular case.

## 7. RESTITUTION AND VICTIM COMPENSATION

---

### 7.1. Overview

While the PHTA sets out sanctions, including, but not limited to, fines of up to SGD 150,000, imprisonment, and caning, for TIP offences, it does not provide compensatory measures for victims of TIP (though it does provide for certain protections for sexually exploited trafficked victims and empowers the Director-General of Social Welfare to provide trafficked victims with such assistance as the Director-General considers practicable and necessary in the circumstances). Parliament noted that these discretionary victim support measures work alongside existing legislation—for example, Section 395 of the CPC makes it mandatory for

<sup>179</sup> World Trade Organization, “Agreement on Government Procurement: Parties, observers and accessions,” available at: [https://www.wto.org/english/tratop\\_e/gproc\\_e/memobs\\_e.htm](https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm) [last accessed Sept 2, 2020].

<sup>180</sup> Section 4(2)(f) of the PHTA. The definition of “public servant” under Section 21 of the Penal Code includes every officer whose duty is to “take, receive, keep or expend any property, on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue process.”

<sup>181</sup> Section 7 of the Government Proceedings Act (Cap. 121) provides that no proceedings, besides proceedings for breach of contract, may be brought against public officers (who are defined as employees of the Government) for acts or omissions done in exercise of public duties of the Government. Section 7(2) of the Government Proceedings Act (Cap. 121) stipulates that public duties include construction and maintenance of railways and public buildings and government procurement activities.

a court to consider whether to order compensation after convicting a person of an offence.<sup>182</sup> There is precedent (*refer to* Section 7.3.1.) for the Singapore courts to order offenders to pay victims of TIP compensation under the CPC. However, such compensation is confined to easily ascertainable damages and may be of a limited amount.<sup>183</sup>

Depending on the facts and circumstances, a trafficker may be found liable for damages for committing an offence under the Protection from Harassment Act (Cap. 256A) (**Harassment Act**).<sup>184</sup> A TIP victim may also have a claim in tort for battery, false imprisonment, deception, or other tortious conduct by the trafficker. A tort claim for common law damages may give the victim a greater chance of receiving adequate compensation for pain and suffering. However, whether a victim has the financial resources or access to legal advice to bring such claims will most likely depend on the availability of well-funded legal aid for TIP victims.

Statutes provide little opportunity for TIP victims to receive restitution or compensation. The compensation available from offenders under general regimes is also likely to be minimal, making it difficult for TIP victims to obtain compensation for pain and suffering, emotional distress, or any other less tangible losses.

## 7.2. Government Policy

Singapore does not have any government-funded compensation or legal aid program to assist in compensating victims of TIP. A number of non-government organisations in Singapore, such as the Humanitarian Organisation for Migration Economics (**HOME**), provide assistance, shelter, and food for abused domestic workers and legal aid for migrant workers. Additionally, the Singapore Government indicated in the National Approach that it would work with local civil society organisations to “explore ways for TIP victims to receive appropriate remedies including compensation from those convicted.”<sup>185</sup> A key pillar of the National Approach is the protection, rehabilitation, and re-integration of victims.

## 7.3. Statutory Compensation

### 7.3.1. Criminal Procedure Code (Cap. 68)

The CPC obliges Singapore courts to consider whether victims of a criminal offence are entitled to compensation.<sup>186</sup> Section 359 of the CPC provides that the court must order persons convicted of any offence to pay compensation to the person injured by the offence if the court considers it appropriate.

The Singapore Court of Appeal has described the compensation orders under Section 359 of the CPC as a “shortcut” to civil remedies for impecunious victims, such as domestic maids.<sup>187</sup> The purpose of compensation orders under Section 359 of the CPC is not to punish the offender but to provide victims of crime with readily and easily ascertainable amounts that would be obtainable in a civil lawsuit where a civil

<sup>182</sup> Singapore Parliamentary Debates, “Prevention of Human Trafficking Bill,” (3 November 2014), Vol. 92, available at: <https://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-119>.

<sup>183</sup> *Public Prosecutor v. Bhattacharya Priyanka Rajesh and another* [2020] SGDC 124.

<sup>184</sup> Section 11 of the Harassment Act.

<sup>185</sup> Singapore Inter-Agency Taskforce on Trafficking in Persons, *National Approach Against Trafficking in Persons* (2016–2026), available at: <https://www.mom.gov.sg/-/media/mom/documents/foreign-manpower/trafficking/national-approach-against-trafficking-in-persons.pdf>, at page 13.

<sup>186</sup> Sections 359(1) and (2) of the CPC.

<sup>187</sup> *Soh Meiyun v. Public Prosecutor* [2014] 3 SLR 299, at [56].

lawsuit would be inadequate or impractical.<sup>188</sup> For example, a civil lawsuit may be impractical where a victim does not have the funds to bring a claim against the offender for unpaid wages, medical expenses, or loss of income. However, the court will grant such orders only if it is satisfied that the offender has the means to pay the amount within a reasonable time.<sup>189</sup> If the court is not satisfied that the offender has the means to pay a compensation order, the court may order that the offender serve an additional period of imprisonment in lieu of making payment under a compensation order.<sup>190</sup>

In *Bhattacharya* (discussed in Section 3.2.1.), a husband and wife were convicted and sentenced for trafficking in persons under Section 3(1) of the PHTA. The Public Prosecutor sought orders for compensation under Section 359 of the CPC for one of the victims who had not been paid her salary for five months. The court found that the victim belonged to the class of victims for whom it would be impractical to commence a civil lawsuit and ordered the husband to pay the victim the unpaid wages.<sup>191</sup> Notably, the Public Prosecutor did not apply for compensation under Section 359 of the CPC for the other victims, perhaps because the other victims did not have readily and easily ascertainable amounts owed to them.

The case of *Tay Wee Kiat and another v. Public Prosecutor and another appeal* [2019] 5 SLR 1033 (**Tay Wee Kiat**) addressed compensation for foreign domestic workers whom their employer abused. The Singapore High Court held that compensation under the CPC should be ordered on a “rough-and-ready” basis and that it will usually be “fairly modest.”<sup>192</sup> In this judgment, however, the Court refused to grant garnishment or attachment orders to the offender’s assets, stating that the purpose of the compensation orders under the CPC is to prevent prosecutors from prolonging proceedings by transforming a concluded criminal proceeding into a “quasi-civil” enforcement proceeding.<sup>193</sup>

Singapore courts have convicted a number of employers who abused a foreign domestic worker of offences under the Penal Code.<sup>194</sup> In these cases, the Singapore court charged the employer with voluntarily causing harm to the employee,<sup>195</sup> and it considered the infliction of mental abuse on the employee in conjunction with physical abuse to be a serious aggravating factor.<sup>196</sup> However, as in *Tay Wee Kiat*, the Singapore courts have tended to enhance the punishment imposed on those who commit offences under the Penal Code (such as sentencing the offender to twice the maximum punishment for the offence committed against that domestic worker under Section 73 of the Penal Code)<sup>197</sup> rather than increase the compensation awarded under the CPC.

---

<sup>188</sup> *Public Prosecutor v. Bhattacharya Priyanka Rajesh and another* [2020] SHDC 124, at [147].

<sup>189</sup> *Id.*

<sup>190</sup> Section 360(d) of the CPC.

<sup>191</sup> *Public Prosecutor v. Bhattacharya Priyanka Rajesh and another* [2020] SHDC 124.

<sup>192</sup> See *Tay Wee Kiat and another v. Public Prosecutor and another appeal* [2019] 5 SLR 1033, at [6].

<sup>193</sup> *Id.* at [5].

<sup>194</sup> See *Public Prosecutor v. Chong Siew Chin* [2001] 3 SLR(R) 851; *Public Prosecutor v. Tong Chew Wei* [2009] SGDC 202, at [90]; *Public Prosecutor v. Foo Chee Ring* [2008] SGDC 298; *Public Prosecutor v. Chung Yee Hong* (MAC 1412-8/2007, unreported); *Public Prosecutor v. Ong Chin* [2005] SGM 16.

<sup>195</sup> See Section 319 of the Penal Code.

<sup>196</sup> *Public Prosecutor v. Chong Siew Chin* [2001] 3 SLR(R) 851.

<sup>197</sup> Section 73 of the Penal Code allows the court to sentence an employer of a domestic worker, or a member of the employer’s household or employment agent, convicted of an offence against the domestic worker under the Penal Code twice the maximum punishment for that offence.

### 7.3.2. Criminal Justice Reform Act 2018 (Act No. 19 of 2018) (CJRA)

The CJRA amended Section 359 of the CPC. These amendments include:

- a requirement that a court must provide its reasons when it decides not to award compensation under Section 359;<sup>198</sup>
- a requirement that the court consider the offender’s means when making an order for compensation;<sup>199</sup> and
- additional provisions to ensure that dependents of deceased victims receive compensation.<sup>200</sup>

These amendments, which aim to encourage the Singapore courts to grant more compensation orders under Section 359 of the CPC,<sup>201</sup> came into effect in September 2018.<sup>202</sup>

## 7.4. Tort Claims and Remedies

### 7.4.1. Overview

There are no documented cases in Singapore of a TIP victim bringing a claim in tort against the trafficker. However, tort law could provide a compensatory remedy for victims of TIP and modern slavery. Singapore common law is largely based on English common law, and English case law is persuasive in the Singapore courts. There is precedent under English law for a court awarding victims of TIP damages for pain and suffering caused by various torts committed throughout the course of the victims’ exploitation.<sup>203</sup>

### 7.4.2. Remedies for successful tort claims

Compensation awarded in a successful tort claim may, depending on the circumstances, be significantly higher than the amount of compensation available under the CPC. Tort remedies aim to place the injured party in the same position they would have been in but for the tort and are not confined to readily and easily ascertainable losses—rather, the type of damages must be reasonably foreseeable. Depending on the facts and circumstances of the case, the Singapore courts may award damages to victims of torts for their pain and suffering, including shock, anxiety, fear, frustration, and anguish.<sup>204</sup> Moreover, trespasses to person, such as assault, battery, and false imprisonment, are actionable *per se*, which means that a victim of human trafficking may bring a lawsuit without having to prove any physical injury or clinically recognised psychiatric injury suffered as a result of the trespass.<sup>205</sup>

---

<sup>198</sup> Section 98(c) of the CJRA.

<sup>199</sup> *Id.*

<sup>200</sup> Section 98(a) of the CJRA.

<sup>201</sup> Singapore Parliament, MP Dr. Christopher de Souza, “Criminal Justice Reform Bill” (Second Reading Speech), (6 May 2019), Vol. 94, available at: <https://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-251>.

<sup>202</sup> Government *Gazette*, Criminal Justice Reform Act 2018 (Act 19 of 2018) Commencement Notification 2018.

<sup>203</sup> See *AT v. Dulghieru* [2009] EWHC 225 (QB).

<sup>204</sup> See *Au Yeong Wing Loong v. Chew Hai Ban & Anor* [1993] 2 SLR 290 at [11], and *Tan Kok Lam (next friend to Teng Eng) v. Hong Choon Peng* [2001] SGCA 27 at [30], where the Singapore Court of Appeal held that “[t]here is no logic to confine suffering to only physical pain.”

<sup>205</sup> See *Letang v. Cooper* [1965] 1 Q.B. 232; *Collins v. Wilcock* [1984] 3 All ER 374; *Murray v. Ministry of Defence* [1988] 2 All ER 521.

The court may also order the offender to pay aggravated damages where the victim has been treated in a “highhanded, malicious, insulting or oppressive way,”<sup>206</sup> or punitive or exemplary damages where the tortfeasor’s conduct is “so outrageous that it warrants further punishment, deterrence and condemnation.”<sup>207</sup> As aggravated damages recognise the intangible or emotional losses suffered by the victim and punitive damages provide an additional condemnation of the conduct causing the harm, those damages may provide greater vindication for the victim and act as a deterrent for future perpetrators. That being said, Singapore courts do not routinely award punitive damages.

Nonetheless, TIP victims are likely to face certain (not insignificant) barriers to bringing a tort claim for compensation. These practical barriers include: the potential lengthy duration of the trial, the victim’s right to remain in Singapore throughout the trial, the victim’s ability to access legal representation and aid, the potential costs order against the victim, and difficulties in enforcing a successful claim. It may only be practical for victims to pursue claims for damages in tort where the offender has the means to satisfy the award of damages and the location of the offender is known.

### **7.4.3. Possible categories of tort claims**

Victims are unlikely to bring claims in negligence for TIP because the traffickers’ conduct is usually deliberate or at the very least reckless. Victims of human trafficking who pursue damages in tort are likely to bring several different claims, such as false imprisonment and battery. TIP involves three main elements (harbouring, abuse of power, and exploitation) that give rise to distinct torts.

#### **7.4.3.1 Assault**

Tortious assault involves an intentional act causing the plaintiff’s apprehension of imminent physical contact. TIP victims are often subject to threatening conduct or words that may amount to tortious assault.

#### **7.4.3.2 Battery**

Battery involves an intentional act that directly causes contact with the victim’s body. For TIP victims, battery claims may be found in physical or sexual abuse.

#### **7.4.3.3 False imprisonment**

False imprisonment requires intentional actions by the offender to totally deprive the victim of liberty. Whether the victim experienced a “total” deprivation of liberty will depend on the circumstances—courts do not generally require the victim to be under lock and key. As a result, many victims of TIP who are not physically imprisoned but do not feel they can escape the custody of their traffickers may be able to bring a successful claim of false imprisonment.

#### **7.4.3.4 Intentional infliction of physical or mental harm**

This tort, which first arose in the English Court of Appeal case of *Wilkinson v. Downton* [1897] 2 QB 57, provides a plaintiff with recourse to damages where a person’s wilful act or statement, such as threats, intimidation, or false information, causes physical harm or recognised psychiatric illness. While Singapore courts have not yet applied this tort, in *Ngiam Kong Seng v. Lim Chiew Hock* [2008] 3 SLR 674, the Singapore Court of Appeal recognised damages for foreseeable and recognised psychiatric illness caused by the wilful communication of false information. A victim of human trafficking may thus potentially rely on these cases to seek compensation for physical or psychiatric harm caused by a trafficker who falsely represents the

<sup>206</sup> *Broome v. Cassell & Co Ltd* [1972] AC 1027.

<sup>207</sup> *ABC v. Thomson Medical Pte and others* [2017] 1 SLR 918 at [176].

nature and conditions of a job, makes threats, or otherwise wilfully engages in acts that cause recognisable harm to the victim.

#### 7.4.3.5 Deceit

A right to sue for tortious deceit arises where the defendant knowingly or recklessly made a false representation of fact intending to induce the victim to act on that representation, and the victim suffered damages by acting on that representation. Traffickers often deceive victims of human trafficking about the nature, conditions, and circumstances of their work.

#### 7.4.3.6 Conspiracy

The tort of conspiracy provides a civil remedy where two or more people agree to commit an unlawful act intending to harm the victim's trade, business, or other economic interests. This tort may apply where, for example, a trafficker has collaborated with other perpetrators to commit unlawful acts to recruit and smuggle the victim into Singapore.

## 7.5. Compensation for Harassment Under the Harassment Act

A TIP victim may have a right to bring proceedings under the Harassment Act where the trafficker has caused harassment, alarm, or distress,<sup>208</sup> or has used threatening, abusive, or insulting words or behaviour that is likely to cause harassment, alarm, or distress.<sup>209</sup> Victims of harassment may bring civil proceedings in the Singapore courts against their offenders for damages.<sup>210</sup>

The Harassment Act gives the court broad discretionary power to award damages that are “just and equitable,” when the court is satisfied on the balance of probabilities that the offender has contravened Sections 3 (intentionally causing harassment, alarm, or distress), 4 (harassment, alarm, or distress), 5 (fear, provocation, or facilitation of violence), or 7 (unlawful stalking) of the Harassment Act. The victim does not have to prove that the emotional and mental harm suffered amounted to a recognised psychiatric injury to recover damages under the Harassment Act. A victim's burden of proof also is lower than in the PHTA, which carries criminal sanctions and therefore requires proof beyond a reasonable doubt.

Before the enactment of the Harassment Act in 2014, no Singapore court had ordered a defendant found liable for the tort of harassment to pay damages. Rather, following the Singapore High Court's first recognition of the tort of harassment in *Malcomson Nicholas Hugh Betram v. Naresh Humar Mehta* [2001] SGHC 309,<sup>211</sup> the courts tended to grant injunctive relief for victims of harassment. That said, Section 11 of the Harassment Act reflects the Government's decision to provide awards of damages to victims of harassment,<sup>212</sup> so courts may be willing to grant damages to the victims in cases brought under the Harassment Act.

<sup>208</sup> Section 3 of the Harassment Act.

<sup>209</sup> Section 4 of the Harassment Act.

<sup>210</sup> Section 11(1) of the Harassment Act.

<sup>211</sup> In this case, employees commenced proceedings against the CEO of their employer seeking (i) damages for trespassing and harassment and (ii) injunctions to restrain the CEO from further committing such acts. In the judgment, Lee Seiu Kin JC noted at [50]–[57] that much of the harassment in this case took place over a mobile phone and discussed how the improvements in technology had brought on greater risk of harassment. Lee Seiu Kin JC concluded that “the time [had] come in Singapore” for the common law to step in where people intentionally use modern communication devices to cause “offence, fear, distress and annoyance to another” and granted the victims injunctions restraining the defendant from, *inter alia*, contacting them and entering certain premises.

<sup>212</sup> See Singapore Parliament, MP K Shanmugam, “Protection of Harassment Bill” (Second Reading Speech), (13 March 2014), Vol. 91, available at: <https://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-74>, where MP K Shanmugam states that “clause

Singapore has established special courts, known as the Protection from Harassment Courts, to oversee all criminal and civil claims under the Harassment Act. These courts can make various Protection Orders and Expedited Protection Orders. In fact, these courts granted 187 applications (out of the 374 applications submitted) for such orders between May 2019 and August 2020.<sup>213</sup>

While no victim of TIP has yet sought compensation or a Protection Order under the Harassment Act, the Protection from Harassment Courts may, depending on the circumstances of the case, be able to grant the victim damages or a Protection Order.

## 7.6. Victim Assistance Scheme

If an offender has been convicted under Sections 323, 324, 325, 326, 337, or 338 of the Penal Code for assaulting a human trafficking victim, the victim may apply for compensation from the Community Justice Centre under the Victim Assistance Scheme (**Scheme**). To qualify for this compensation, the victim must be unable to seek compensation from the offender.

The Scheme aims to provide victims of violent crime compensation for financial hardship, such as direct medical expenses and loss of income, caused by the crime where the offender is unable to provide adequate compensation to the victim. Victims can apply directly to the Community Justice Centre for compensation without having to apply to the court and appear before the court at trial.

However, the Scheme does not compensate victims for their emotional trauma and will only help victims who can prove financial losses as a result of convicted assault. The compensation available under the Scheme is generally capped at around SGD 1,000 per compensation order.<sup>214</sup>

---

**Disclaimer:** The codes, laws, and other information cited in this summary may not contain the most recent versions of such information and provide certain information available as of the month and year cited at the bottom of each page. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained in this summary or the information linked to in this summary. Please check official sources.

This summary should not be construed as legal advice on any specific facts or circumstances. The contents are intended only for general information purposes and may not be quoted or referred to in any other publication or proceeding. The provision of this information does not constitute an attorney-client relationship. Any views set forth herein are the personal views of the authors and do not necessarily reflect those of Rotary International/Rotary Action Group Against Slavery or of any contributing entity.

---

11 will create a statutory right to bring an action for damages against a person who has contravened any of clauses 3, 4, 5 or 7. So, quite apart from criminal sanctions, the victim can sue and claim damages against the perpetrator.”

<sup>213</sup> Singapore Parliament, MP Leon Perera and MP K Shanmugam, “Statistics on Cases Handled by Protection from Harassment Courts” (Written Answers to Questions), (6 October 2020), Vol. 95, available at: <https://sprs.parl.gov.sg/search/sprs3topic?reportid=written-answer-6373>.

<sup>214</sup> *Tay Wee Kiat and another v. Public Prosecutor and another appeal* [2019] 5 SLR 1033, at [5] and [7].

## APPENDIX 1.

### International Instruments Relating to Modern Slavery

#### Status of International Obligations

##### Key

- ✓ Full participation (ratified/acceded where applicable and incorporated into domestic law if necessary)
- ! Imperfect participation (signed but not ratified/acceded and not incorporated into domestic law)
- ✗ Not a party
- Examples of other jurisdictions that may be covered by the Compendium

#### Fundamental human rights

	Universal Declaration of Human Rights (1948)	International Covenant on Civil and Political Rights (1966)	International Covenant on Economic, Social and Cultural Rights (1966)	Convention on the Elimination of All Forms of Discrimination against Women (1979)
Singapore	N/A	✗	✗	✓

#### Slavery and trafficking

	Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)	Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)	Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (2000)	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)	Worst Forms of Child Labour Convention (1999)
Singapore	!	✓	✓	✗	✓
	Slavery Convention (1926)	Protocol amending the Slavery Convention (1953)	Forced Labour Convention (1930)	Protocol of 2014 to the Forced Labour Convention (2016)	Abolition of Forced Labour Convention (1957)
Singapore	✗	✗	✓	✗	✗

**Disclaimer:** The codes, laws, and other information cited in this summary may not contain the most recent versions of such information and provide certain information available as of the month and year cited at the bottom of each page. We make no warranties or guarantees about the accuracy, completeness, or

adequacy of the information contained in this summary or the information linked to in this summary. Please check official sources.

This summary should not be construed as legal advice on any specific facts or circumstances. The contents are intended only for general information purposes and may not be quoted or referred to in any other publication or proceeding. The provision of this information does not constitute an attorney-client relationship. Any views set forth herein are the personal views of the authors and do not necessarily reflect those of Rotary International/Rotary Action Group Against Slavery or of any contributing entity.

---