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Singapore's Culture War Over Section 377A: Through the Lens of Public Choice and Multi- Lingual Research

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Singapore's Culture War over Section 377A: Through the Lens of Public Choice and Multilingual Research

Jianlin Chen

The 2007 debate over the retention of Singapore's male sodomy law provision set off a vigorous and passionate public debate reminiscent of the US culture war. However, the Singapore government's final decision reflects an interesting compromise. The law was retained, but its moral content was severely curtailed. This article critically examines this episode and explores the political dynamics driving the compromise. Enriching public choice theory on interest group capture, this article argues that the ruling party's political dominance coupled with limited but real political competition is surprisingly effective in aligning the government's position with the preference of the majority despite concerted pressure from well-mobilized minority interest groups. Current legal scholarly work on this debate has focused on the "vigorous debate" in the English-language forums. In this article, the examination of the contemporaneous discourse in Chinese and Malay newspapers enables a more accurate and comprehensive appreciation of this culture war episode.

INTRODUCTION

Section 377A of the Singapore Penal Code criminalizes oral and anal sex between two male persons whether in public or in private.¹ Consent is irrelevant and provides no defense (Leong 1997, 128; L. J. Chua 2003, 217; Weiss 2007, 166). The law, based on an 1885 English provision, was introduced to Singapore in 1938 during British colonial

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1. Penal Code (Cap. 224, 1985 Rev. Ed.) ("Any male person who, in public or private, commits, or abets the commission by any male person, of any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years."). The whole public debate on Section 377A proceeded on the assumption that Section 377A criminalized consensual anal sex between males. Legal academic Kumaralingam Amirthalingam, writing in the aftermath of the parliamentary debate, argued that retaining Section 377A while repealing Section 377 (which criminalized unnatural offenses such as all anal sex) arguably created a lacuna in the law that leaves private, consensual anal sex between males unregulated (and possibly legal). This is especially so since anal sex had traditionally been prosecuted under Section 377, with no local authority where anal sex was prosecuted under Section 377A (Kumaralingam 2007). However, the government quickly rebutted with a letter to the press stating that the advice of the Attorney-General's Chambers and the intention of the parliament both indicated that Section 377A covers anal sex between male persons (Toh 2007). Notwithstanding the persuasiveness of legislative intention in the court's statutory interpretation, the scope of Section 377A is ultimately decided by the judge, and the government has acknowledged so as well (Chia 2009).

rule.² In 2007, amidst the comprehensive review of the Penal Code,³ a petition was presented to Parliament by a nominated Member of Parliament (MP)⁴ calling for the repeal of Section 377A (Lin 2007; Y. C. Lee 2008).⁵ This prompted a vigorous and often passionate public debate reminiscent of the US culture war on this issue. Supporters of retaining Section 377A trumpeted “family values” and “majority morality,” and warned against the grand “homosexual agenda.” Supporters of repealing Section 377A rallied for “liberty” and “equality,” and accused their opponents of being “bigots” and “religious fundamentalists.” There was also the “homosexual lifestyle” versus “inborn homosexuality” debate (see Section I).

Against this backdrop, the Singapore government's final decision reflected an interesting compromise. Section 377A was retained, with the government reaffirming the importance of family values and rejecting the “homosexual agenda” (H. L. Lee 2007). However, as much as the local commentators and academics who supported the retention of Section 377A cheered the government's decision as a victory and affirmation of the majority's morality and values (P. S. Tan 2007b; Thio 2007b; Y. C. Lee 2008, 381, 392), gay activists and supporters of repealing Section 377A did not walk away empty handed. While maintaining the status quo of retention, the government reiterated that the provision would not be proactively enforced against consensual private

2. For a more detailed discussion of the historical background and origin of the provision, see L. J. Chua (2003, 216–17), Faucette (2010, 416–17), Sanders (2009, 15–16), Kumaralingam (2009, 15–16), and Nair (2007). Prior to 1938, sodomy was covered under Section 377 (introduced in 1871), which criminalized “carnal intercourse against the order of nature.” Prior to 1871, there were no written laws criminalizing sodomy, as was the case in most Asian countries (L. J. Chua 2003, 214–17; Human Rights Watch 2008, 13–21).

3. In terms of sex-related laws, most of the laws revised/added in the 2007 review were fairly uncontroversial, such as the criminalization of child prostitution (both locally and abroad) and sexual grooming. The “archaic” Section 498, which criminalized enticement of married women, was also removed. More controversial was marital rape immunity, where the immunity was ultimately retained but with exemptions added (P. K. Ho 2007). It is also interesting to note that Section 377, which criminalized “carnal intercourse against the order of nature,” was repealed and replaced by a series of new or amended provisions that will cover nonconsensual oral and anal sex, bestiality, and necrophilia (Lum 2006). Unlike Section 377A, there was not any real public objection against this legalization of heterosexual oral and anal sex (Chong 2004), with four MPs questioning the continued retention of Section 377 over no opposition to repealing (Hansard 2004). But cf. Wee (2004) and Chan (2004). This lack of public objections probably confirmed the government's observation about the general population's acceptance and/or indifference to such sex practices, although it is worth noting that the gay rights groups tried to piggy-back male sodomy on this amendment right away (Soh and Chia 2004). This may explain why Section 377 dropped out of the picture completely since supporters of retaining the criminalization of all “unnatural” sex acts are probably compelled to choose the greater evil (i.e., homosexual sodomy) to avoid risking alienation of their cause.

4. Singapore adopted the Westminster parliamentary system since independence from British colonial rule. Parliamentary debate is thus the primary political arena where law and public policy are debated and defined. Nominated MPs represent an institutional innovation that seeks to increase nonpartisan voice in parliament without diluting the ruling party's political dominance. They are appointed by each parliament and have limited voting powers (Thio 2002c, 329–34).

5. Efforts to repeal Section 377A arguably began in January 2004 when the gay rights group People Like Us sent an open letter to all MPs urging them to decriminalize same-sex oral sex amidst parliamentary discussion of possible legalization of oral sex between men and women (Soh and Chia 2004). This was followed by feedback through the standard channels, which was eventually unsuccessful when the government announced retention of Section 377A in mid September 2007 (Basu 2007). In response, an online petition to repeal the law was initiated a couple of weeks before the revision of the Penal Code was scheduled for final parliamentary debate (H. H. Chua 2007). The presentation of the petition in parliament is arguably the culmination of all these previous efforts.

acts not involving minors (P. K. Ho 2007; H. L. Lee 2007).⁶ The government also acknowledged that there should be some accommodation of the gay community in society⁷ and the prospect of continued evolution in the future (P. K. Ho 2007; H. L. Lee 2007). Additionally, the government avoided the harsh moral condemnation of homosexuality, even conceding its inborn nature.⁸

Such compromise is hardly the norm in America's various culture wars where the middle ground for sharply divisive issues is often elusive (White 2003, 218–19; Greenberg 2004, 2–5; McClain 2008, 416–17). Issue polarization in culture wars is a particular problem in US politics and an impediment for political compromise (Mueller 2003, 331; McClain 2008, 416–17) even in the presence of a moderate majority (Fiorina 2005, 7–9).⁹ Given the common critique on the inadequacies of Singapore's democratic process (see Section III.C.1), it is all the more remarkable that the government's final position actually reflected sentiment of the true majority. Some supporters of retention have conflated the "overwhelming responses" of the antirepeal campaign with the support of the true majority (Li 2007; Y. C. Lee 2008, 381–82). However, the holistic assessment of the societal attitude using a combination of general social surveys, historical cultural attitudes, and comparative analysis of contemporaneous discourses in non-English newspapers reveals a more nuanced landscape that neither approved nor condemned homosexuality (see Section II).

This article critically examines this episode of culture war in Singapore and explores the political dynamics driving the Singapore government's decision. Enriching public choice theory on interest group capture (see Section III.B), this article argues that the ruling party's political dominance coupled with limited but real political

6. The Singapore government's approach can be contrasted with other jurisdictions where nonenforcement was often advanced as a justification for striking down the sodomy law provisions (*Lawrence v. Texas* 2003; Burleson 2008, 404, discussing the European Court of Human Rights decisions concerning sodomy law in Northern Ireland, Republic of Ireland and Cyprus). The Singapore government's approach resembles the Romanian government's proclamations of nonenforcement of its sodomy provisions (Burleson 2008, 405–06), though an interesting distinction is that the Romanian government's public proclamation is targeted at an international audience given the legal obligations and pressure since admittance to the Council of Europe. Given the much greater hostility toward homosexuals among the Romanian population and religious institutions, it was at best a lukewarm noncommittal declaration by the government (Nachescu 2005; Turcescu and Stan 2005, 292–98, giving a detailed account of the political dynamics and noting that the Romania government officials were always quick to distance themselves from the nonenforcement and/or decriminalization of sodomy). The Singapore government's nonenforcement promise was accompanied by official pronouncements on accommodation of gays by society and the prospects of evolution, which in totality significantly curtailed the moral content of the law and represented a concrete (albeit limited) advancement of Singapore's gay community (see Section I.D).

7. "They, too, must have a place in this society, and they, too, are entitled to their private lives. We should not make it harder than it already is for them to grow up and to live in a society where they are different from most Singaporeans" (H. L. Lee 2007).

8. "But there is growing scientific evidence that sexual orientation is something which is substantially inborn. I know that some will strongly disagree with this, but the evidence is accumulating" (H. L. Lee 2007). Indeed, this is echoed by previous statements by Minister Mentor Lee Kuan Yew (Hussain 2007) and Senior Minister Goh Chok Tong (Nirmala 2003).

9. Morris P. Fiorina utilized contemporary political science surveys and research to show that even on hot-button polarizing issues like abortion, the culture war image of two polarized segments of the population is exaggerated and untrue with a great portion of Americans moderate and centrist in their views. Nonetheless, he argued that the problem is not the absence of polarization but that the polarized extreme voices have managed to dominate US political discourse.

competition is surprisingly effective in aligning the government's position with the majority's preference despite concerted pressures from well-mobilized minority interest groups. In addition, current legal scholarship on this debate has focused on the "vigorous debate" in the English-language forums (Y. C. Lee 2008; Kumaralingam 2009; Sanders 2009). Given Singapore's multiracial population in which English is not the most frequently used language at home for 67.7 percent of the population (Singapore Department of Statistics 2011), the examination of the discourse in the Chinese and Malay newspapers in this article enables a more accurate and comprehensive appreciation of this culture war episode.

Section I of this article focuses on the arguments and rhetoric raised by both camps during the debate. The nuances of the government's compromise are also highlighted, noting both camps' gains and losses. Section II provides a holistic assessment of the true majority's sentiment. Section III discusses the public choice theory on interest group capture and the political dynamics behind this culture war episode. The article concludes with observations on the implications on public choice theory and the role of multilingual legal research in a culturally and linguistically pluralistic polity.

I. THE DEBATE AND THE OUTCOME

The debate over the retention/repealing of Section 377A sparked a vigorous public debate reminiscent of a culture war.¹⁰ This section sets out the arguments raised by both sides of the debate in the English mainstream newspapers and the parliament session. This article focuses on the political dynamics of culture war and thus does not evaluate the merits of the arguments. Nonetheless, surveying the arguments raised by both sides allows a better appreciation of the nuanced nature of the Singapore government's compromise.

A. Arguments for Retention

The most common argument against repealing Section 377A is premised on public morality, namely, that "homosexuality is offensive to the majority of citizens" (Chia 2007; Y. C. Lee 2007a; A. C. Lim 2007; Nazar 2007). During the parliamentary debate, several MPs alluded to the fact that they had been approached by many constituents and community leaders who voiced approval in retaining the law (M. F. Ibrahim 2007; B. C. Lim 2007; Mohamed 2007; Ong 2007; Rajah 2007). "Traditional family values"

10. The term "culture wars" is used by commentators as a metaphor to describe the new type of deep moral and religious divisions that animated politics in place of traditional economic conflicts (Fiorina 2005, 2–7; Hunter and Wolfe 2006). "Culture wars" was first used in Singapore after the casino debate in 2005. After the vigorous public debate as to whether Singapore should allow the establishment of a casino, local commentator Chua Mui Hoong predicted the beginning of culture wars in Singapore where the debate is divided on moral lines (M. H. Chua 2005). The phrase was used sparingly in the debate over Section 377A (Devan 2007b; Y. C. Lee 2008, 392). However, by the next episode of the gay rights issue in 2009 ("the Aware controversy"), the "culture wars" terminology was employed by both the commentators and the government (Low and Yong 2009; Yong and Hussain 2009).

(Koh 2003; Koh 2007; P. S. Lim 2007; Ong 2007; Phua 2007; Thio 2007a) and the need to “protect children/family/marriage” (Ang 2007; S. H. Lim 2007; B. C. Ng 2007; P. S. Tan 2007a) were also commonly raised by the supporters of retention. To bolster this argument, homosexuals were sometimes portrayed as being promiscuous (Cheng 2007; Chin 2007b; Y. C. Lee 2008, 375) and pedophiles (B. C. Ng 2007).

A further argument derived from the public morality rationale was through invoking the “homosexual agenda” and the slippery slope argument that decriminalization is the first step toward the ultimate goal of same-sex marriage (A. C. Lim 2007; S. H. Lim 2007; Seah 2007; Souz 2007; Thio 2007a; Y. C. Lee 2008, 370–72). In the same vein, supporters highlighted the possibility of a signaling effect and argued the population might perceive the repealing of the provision as the endorsement of homosexuality by the government (I. P. Ibrahim 2007; B. C. Lim 2007; S. H. Lim 2007; Rajah 2007; Thio 2007a). Classic examples of incest, bestiality, and pornography were used to counter arguments that the law should not regulate private morality or private activity (Chia 2007; Chin 2007c; Koh 2007; Y. C. Lee 2007b; Rajah 2007; Thio 2007a).

Other arguments included concerns for public health such as claims about the inherently unhealthy nature of anal sex and the danger of HIV and other sexually transmitted diseases (Ang 2007; Chin 2007d; Thio 2007a; Y. C. Lee 2008, 375). Supporters of retention also contended that the scientific studies on whether homosexuality is genetic or naturally caused were politicized and inconclusive (Chai 2007; Chin 2007a; B. C. Lim 2007; Souz 2007; Thio 2007a). “Homosexual lifestyle” was their commonly used terminology, reflecting the position that homosexuality is a choice and not an inborn trait (Nazar 2007; B. C. Tan 2007; P. S. Tan 2007b).

B. Arguments for Repealing

Familiar and standard arguments were also raised to support the repeal of Section 377A. The most typical argument focused on the right of privacy (Nadarajan 2006) and the lack of social harm arising from private consensual adult acts (L. J. Chua 2003, 211–12; Choo 2007; E.-J. Ng 2007; Siew 2007; F. Y. Tan 2007). Subsets of this central theme included arguments that morality should not be regulated and imposed by criminal law (L. J. Chua 2003, 240–46; Siew 2007).¹¹ In this vein, a parade of horrors was similarly employed to bolster the argument, here being slavery, and gender, religious, and ethnic discrimination as examples of bad laws based on public morality (Siew 2007).

A related argument focused on the religiously inspired nature of the immorality of homosexual acts and argued that religious views should not be imposed on nonadherents (C. H. Chua 2007a; Gaw 2007; Lam 2007). This argument takes on a unique spin in the context of Singapore where the Penal Code had a British colonial origin. Supporters of repealing Section 377A highlighted the “archaic, colonial, non-Asian nature” of provision (L. J. Chua 2003, 240–41; Baey 2007; Nair 2007; Y. L. Tan 2007)

11. Siew Kum Hong also pointed out that while the majority of Singaporeans disapproved of extra-marital sex and prostitution, these are not criminalized (Siew 2007).

and argued that based on the example of other East Asian countries, such a law would not have been otherwise enacted (Chong 2007).

"Equality/nondiscrimination" was another main thrust in the arguments for repealing the law (Cheah 2007; C. H. Chua 2007a; S. Y. Wong 2007; K. H. Yap 2007a; S. S. Yap 2007), with related claims about the plights and rights of a "(sexual) minority" (Cheah 2007; C. S. Ho 2007a; Cheah 2007; K. H. Yap 2007b; S. Y. Wong 2007) and that many in the gay community were responsible and productive members of society (Baey 2007; Siah 2007; Siew 2007). In this regard, supporters frequently alluded to the inborn nature of homosexuality (P. K. Goh 2007; Tim 2007; S. Y. Wong 2007; K. H. Yap 2007a; S. S. Yap 2007). There were also some legal arguments about violation of equality provisions where homosexual and bisexual men were discriminated against since anal sex by heterosexual couples would be legalized in the same revision (Kumaralingam 2009, 193–94). Another counterargument was that legalization helps fight AIDS by facilitating HIV screening and safe sex campaigns for the gay community (Ong 2006; C. S. Ho 2007b; Kumaralingam 2007).

C. Culture War Language

Besides the substantive arguments, the language and rhetoric in the Singapore debate eerily resembles the typical charges employed in the US culture war.¹² Supporters of retention were very often accused by opponents as being "prejudiced" (C. H. Chua 2007a; Devan 2007a; Selby 2007; C. W. Tan 2007; Tim 2007; S. Y. Wong 2007), "intolerant" (Devan 2007a; Gaw 2007), or "antigay" (Lam 2007). Harsher labels included accusations of religious fundamentalism, bigotry, and homophobia.¹³

Another related attack is the identification of the "morality" behind the law as originating in Christian/religious values (L. J. Chua 2003, 230; C. H. Chua 2007b; C. S. Ho 2007b, Kumaralingam 2009, 203). Academics supporting retention of Section 377A also identified that those lobbying for repeal were liberal in the use of certain loaded catchphrases like "equality," "sexual minority," and "liberty," which tend to obfuscate the real issues (Thio 2007b; Y. C. Lee 2008, 351–70, 382–89).

Yet, the supporters of repeal were not alone in being guilty of such "undemocratic and uncivil" behavior. As alluded to above, loaded catchphrases like "family values" and the "majority's morality" were trumpeted as justifications. Similarly, while the use of labels like "antigay" was criticized as avoiding real and substantive debate (Y. C. Lee 2007c), materials and forum letters in support of repeal were also painted as "gay activists' propaganda" (Y. C. Lee 2007c) or "pro-homosexuality propaganda" (Y. C. Lee 2008, 349). Indeed, supporters of retention frequently associated their opponents with the "homosexual agenda" (J. C. Chua 2007; Nazar 2007; Thio 2007a; Y. C. Lee, 2008, 348). They also labeled same-sex acts and homosexuals as

12. For a flavor of the US culture war on this episode, see Wardle (2007), Eskridge (2005), Burack (2008), and Thomson (2010, 69–75). See generally White (2003, 65–70), noting the typical labels used by the liberals and conservatives.

13. For example: "Religious fundamentalists and blinkered academics" (C. S. Ho 2007); "hysterical, homophobic and bigoted diatribe" (Selby 2007); "It is the bigotry and scorn" (Tim 2007).

“unnatural” and “perverse” (Want 2003; Chin 2007c; P. S. Lim 2007; Thio 2007a) and prophesied the end of Singapore or civilization should Section 377A be repealed.¹⁴ Religious overtones were also apparent in some of the supporters’ arguments in the mainstream newspapers.¹⁵

These arguments, like the attempts to portray the supporters of retention as intolerant religious fundamentalists, are examples of body politics where discrimination is directed against a group “by reference to their natures and the dangers of contagion posed by unnatural acts, people, and ideologies” (Eskridge 2005, 1020). Local academic Kumaralingam Amirthalingam pointed out that the arguments for retention are in fact a form of fear politics that draws on the portrayal of homosexuals as a deviant and dangerous group with an aggressive agenda that must be guarded against to protect the core constituency of the moral majority (Kumaralingam 2009, 206). Conversely, alluding to the religious motivation of the opponents may potentially create a “moral panic” in multireligious Singapore where any perceived imposition of religious values is a big taboo (Thio 2009, 294–95). Like body politics, “fear politics has become a convenient and popular tool to justify the introduction or retention of laws which encroach on fundamental rights and liberties. Left unchecked, there is a real danger that cherished freedoms and liberal values will be sacrificed at the altar of ideological rhetoric” (Kumaralingam 2009, 206).

D. Outcome: A Political Compromise?

In the end, the Singapore government decided to retain the Section 377A provision. Two major reasons were given: that the majority of the population viewed homosexuality as unacceptable and that repealing the provision might mistakenly signal the government’s endorsement/approval of homosexuality (P. K. Ho 2007; H. L. Lee 2007). The government was unsympathetic with the perceived Western liberalization of gay rights,¹⁶ and reaffirmed the conservative nature of the majority and the importance of

14. For example: “We abhor any regression into perversity which, as history has shown, has led into the decline and fall of a society” (Chin 2007c); “If we sow the seed of approval for homosexuality, we are going to reap the grave consequences of it in due course” (Chan 2007); “For the survival of our nation and the welfare of the future generation, the petition by NMP Siew should be ignored” (P. S. Lim 2007).

15. For example: “God is the author of morality in human history . . . all religious faiths that believe in an absolute Supreme Being or absolute Supreme Beings share the common values about sex, family life and procreation, and are against homosexual sex” (Chan 2007); “Economic dough raised as a result of corrosive yeasts [smoking, gay movement, gambling] could turn Singapore into a replica of one of those infamous global cities of the past: Sodom and Gomorrah” (Nair 2005).

16. The government’s resistance to international trends in the decriminalization of sodomy was articulated in two prongs, namely, (1) noting that controversies remained very much alive in Western society despite the head start in gay rights liberalization; and (2) arguing that moral issues should be decided domestically (H. L. Lee 2007). This is not surprising given Singapore’s previous “Asian values” discourse on human rights that emphasized local culture and conditions in understanding and implementing human rights (Thio 2004, 50–53; Tey 2010, 294–97). What is interesting is that “human rights” did not prominently feature in the public debate in the mainstream media and was referred to in the parliamentary debate only by a nominated MP when she argued that “homosexual rights” are not human rights (Thio 2007a: “You cannot make a human wrong a human right.”). While this confirms the lack of a developed human rights culture in Singapore (Thio 2004, 53), it may also facilitate a central case approach that is more appropriate than a binary approach for the evolving gay rights (Cheng 2004, 291–92) (the central case approach takes

family values. In addition, the argument for the “sexual minority akin to religious/racial minority” was expressly rejected. More tellingly, the government rejected the “homosexual agenda” and stated that homosexuals should not set the tone for mainstream society (P. K. Ho 2007; H. L. Lee 2007). Local commentators and academics who supported retention of Section 377A cheered the government’s decision as a victory and affirmation of the majority’s morality and values (P. S. Tan 2007b; Thio 2007b; Y. C. Lee 2008, 381, 392).

But this is not a clear victory for those advocating retention of the provision. In announcing its decision, the government reiterated that the provision would not be proactively enforced against consensual private acts not involving minors. Indeed, the government officially acknowledged that there should be accommodation of the gay community in society in the private sphere. The government also left open the possibility of evolution in the future (P. K. Ho 2007; H. L. Lee 2007). This is significant progress from the perspective of the gay rights activists.

Section 377A is not restricted in terms of location and may include acts in private settings. Similarly, there is no “consenting adults” defense in Singapore (Leong 1997, 128; L. J. Chua 2003, 217; Weiss 2007, 166). While most of the past convictions under the section were for acts that took place in public settings (Leong 1997, 130; Weiss 2007, 166; Sanders 2009, 42), police entrapment has always been a concern among the gay community in Singapore (K. F. Lim 2006, 141; Weiss 2007, 166–67).¹⁷ Similarly, while the gay presence in Singapore society has been increasingly visible, with now even public areas where gay men congregate with the intention of meeting other gay men for the purpose of sex (Offord 2003, 150; Cheng 2004, 290; K. F. Lim 2006, 130), there remains concern about selective and arbitrary enforcement of the law at these locations.¹⁸ Some supporters of the antirepeal campaign also called for the active enforcement of Section 377A (Christian Post Singapore 2008b; G. Tan 2008). In these circumstances, an official affirmation of the gay community’s private space coupled with a proclamation of nonenforcement is still a small victory for gay rights activists.¹⁹

There were calls by a nominated MP and other members of the public for the permanent retention of Section 377A (A. C. Lim 2007; Thio 2007a), but the express acknowledgment of the possibility of evolution in the future signaled that the current

into account factors like social and political environment, the degree of violations, and the fluctuation of rights status, and argues for recognizing the incremental advancement of gay rights in Singapore despite the retention of laws against homosexuality).

17. The practice typically involves young male constables dressed in “cruising” attire (tank tops and shorts) loitering around known homosexual hangouts, making eye contact and striking up conversation with potential targets, and then making an arrest when they are touched on the buttocks or genitals (Leong 1997).

18. There is a 2003 case where undercover police raided a private gay sauna and arrested two men engaging in fellatio. This was done without any warning and no other sauna appeared to be raided (Cheng 2004, 289).

19. It is true that the government’s proclamation of nonenforcement represented a minimal practical change in actual enforcement since Section 377A had not been proactively enforced against consensual private adult sex acts. Similarly, the mere existence of sodomy laws would still result in significant social implications even if the law was not enforced (Goodman 2001). Nonetheless, the social implications of having the sodomy law on the books may arguably be mitigated by the accompanying Singapore government’s official proclamations (e.g., on accommodation of gays, prospects of evolution) that severely curtailed the law’s moral content.

situation was not static. This point of evolution is an important one for the gay community, which has witnessed gradual relaxation of the law over the past decade. Even though mainstream media remains prohibited from showing content depicting homosexuality in positive, normalizing, or sympathetic light (L. Lim 2005; S. Y. Lee 2006; Sanders 2009, 42–43), censorship of homosexual themes in artistic performances has loosened considerably since the turn of the century (K. F. Lim 2006, 148–51; Lau 2008, 329). More significantly, in 2003 then Prime Minister Goh Chok Tong revealed that the government now employs openly homosexual people, even in sensitive jobs (Li 2003; K. F. Lim 2006, 130). This is significant as “employers and government bodies have been known to discriminate against employees on the basis of their sexuality” (Leong 1997, 134; Cheng 2004, 289; Weiss 2007, 170–71). Seen in this light, the failure by the gay lobby groups to repeal Section 377A arguably may be only temporary.

Most tellingly, the official justification was based on pragmatism rather than strong moral condemnation of homosexuals/homosexuality *per se*. Two themes that were echoed repeatedly in the government’s official position were “pragmatic” and “live and let live.”²⁰ The common arguments about the intrinsic harm and immorality of homosexuality were not adopted by the government.²¹ Indeed, the government leaned toward the concession of homosexuality’s inborn nature, siding with the gay activists in one of the most hotly debated issues. The prime minister also gave recognition that the homosexual community in Singapore included “responsible, invaluable, and highly respected contributing members of society” (H. L. Lee 2007). Thus, rejection of the “homosexual agenda” by the government was accompanied by the rejection of a strong moral condemnation of gays. If the goal of the ardent supporters of retention was to uphold “traditional family values” amidst the perceived threat of the “homosexual agenda,” then the official recognition and accommodation of the homosexual community in the private sphere is an erosion of the “traditional family values” that had previously rejected such tolerance.²²

Thus, merely focusing on the rejection of the “homosexual agenda” as the “boldly defined . . . vision of state and society” by the Singapore government (Y. C. Lee 2008, 392) arguably misses the more central theme of the pragmatic approach and the “live and let live” attitude. The government’s position was a true compromise, with concessions and gains for both camps.²³

20. “We should live and let live, and let the situation evolve, in tandem with the values of our society. This approach is a pragmatic one that maintains Singapore’s social cohesion” (P. K. Ho 2007); “So, for the majority of Singaporeans, their attitude is a pragmatic one. We live and let live” (H. L. Lee 2007).

21. Notwithstanding the fierce debate surrounding the issue, public health concerns were not raised as a justification for keeping Section 377A (Basu 2007).

22. When the government announced that the government civil service now employs openly gay people, a strong public backlash ensued, urging the government to reverse the decision to protect the traditional family and public morality (Koh 2003; G. H. Lim 2003; Rahman 2003; Want 2003). Indeed, some supporters of the antirepeal campaign also called for the active enforcement of Section 377A (Christian Post Singapore 2008b; G. Tan 2008).

23. The conclusion of a compromise is premised on the nuanced moral signals from the Singapore government’s position. One might conceive the government’s position as simply avoidance of a controversial issue (Sanders 2009, 31) given the limited practical changes on the ground. Nevertheless, the public discourse of the Section 377A debate primarily revolved around the morality of homosexuality and the symbolism of the law. In this context of intense competing moral claims, the government’s eventual choice

II. MAJORITY AND MINORITY

Another nuance often missed or ignored by supporters of retaining Section 377A in their celebration of the government's decision is the prime minister's "candid" observation that "people who are very seized with this issue are a minority" (H. L. Lee 2007). Indeed, he noted that the purported vigorous and vocal support for retaining Section 377A was part of a very well organized pressure campaign with letters written in "certain model answer style" and standard praise of the government during meet-the-people sessions with MPs. In addition, he pointed out that the majority Chinese-speaking community was actually ambivalent and adopted a "live and let live" attitude (H. L. Lee 2007). It is also worth noting that the political opposition chose not to take sides in the debate (S. Lim 2007). Another interesting nuance of the political dynamic behind the debate is that there was only one speech in Mandarin on this issue and it was made by an MP calling for the law to be repealed (Baey 2007).²⁴ The Mandarin portion of his speech actually focused on recounting the plight and pain of families with gay children.

This is a particularly intriguing observation that appears to refute the supporters of retention who conflated the "overwhelming responses" of the antirepeal campaign with the support of the true majority (Li 2007; Y. C. Lee 2008, 381–82). Legal academic Li-ann Thio tried to downplay the possible adverse influence from this observation of "very well organized campaigns" by saying that "this is one way of providing feedback integral to a responsive and representative Government" and that the use of "accommodation" and "balance" is "a useful device for politicians to paint a picture of two extreme views, and occupy the middle ground" (Thio 2007b).

So who is the real majority?

A. Studies and Surveys of Social Attitudes

In a 1992 survey of 1,102 Singaporeans aged seventeen and older, 86 percent reported disapproval of homosexuality and lesbianism as a way of life and had a generally conservative outlook on sexual morality (Leong 1997). In another 1992 study, a higher percentage approved of gay-related visual images, themes, and subplots in the media (Leong 1997). A 2002 government-sponsored study involving 1,481 respondents revealed that 85 percent found homosexual practices unacceptable with those aged below thirty reporting a more favorable but overall still negative attitude toward homosexuality (K. F. Lim 2006).

of reasoning among all the various arguments advanced by both camps is itself significant, especially when the arguments often represent the key tenets of the respective camps.

24. MPs are allowed to make their parliamentary speech in any of the four official languages of English, Chinese, Malay, and Tamil. Although English is the commonly used working language, 20.1 percent (29.9 percent in 2000) of the Singapore resident population is not literate in English and English is not the most frequently used language at home for 67.7 percent (77.0 percent in 2000) of the population (Leow 2001a; Singapore Department of Statistics 2011). Thus, it is not uncommon for MPs to switch to their ethnic languages when they are speaking about issues that particularly concern the ethnic community.

However, other studies suggested a less negative attitude toward homosexuality. A 2003 study by Vivien Lim with 413 respondents with an average age of twenty had 54 percent reporting “they would not feel uncomfortable with homosexual friends, while 28 percent felt that they would ‘feel comfortable’ when a person of the same-sex made ‘advances’ toward them” (K. F. Lim 2006). Another similar period study by the gay organization People Like Us found 46 percent of streetside respondents and 74 percent of online interviewees “felt that they would be able to accept a gay brother or sister, if not immediately, then after a while,” while 73 percent of streetside and 83 percent of online respondents “agree or strongly agree” that companies should not discriminate against homosexual employees” (K. F. Lim 2006). In an informal online poll in 2003 with 943 respondents, 60.4 percent disagreed that it should be illegal for two men to engage in consensual anal intercourse (L. J. Chua 2003). A *Straits Times* survey of 284 youths (aged twelve to twenty-five) in 2007 showed that only three in ten felt homosexuality was wrong (T. Wong 2007).

One of the most recent and rigorous studies on society’s attitude toward homosexuality was conducted by researchers from Nanyang Technological University (NTU) in 2007. The survey included 1,004 randomly selected respondents whose main demographic characteristics “are very similar to the general population in most regards.” The study revealed that 68.6 percent of the population expressed negative attitude toward homosexuals (Detenber et al. 2007).

B. The Nuances in Negativity

These studies support the claim that the majority of the population did not approve of homosexuality, but as noted in the parliamentary debate, disapproval does not necessarily equate to intent to criminalize (Nair 2007).²⁵ Moreover, the varying degrees of disapproval were not reflected in the government-sponsored studies. In Singapore’s religiously and racially diverse society, the attitude of the population toward homosexuality is far from uniform.

According to the most recent census in 2010, the main religions in Singapore are Buddhism (33.3 percent), Christianity (18.3 percent), Islam (14.7 percent), Taoism (10.9 percent), and Hinduism (5.1 percent), with 17.0 percent declaring no religion. The ethnic composition of Singapore is Chinese (74.1 percent), Malay (13.4 percent), and Indian (9.2 percent) (Leow 2001b; Singapore Department of Statistics 2011). There is a significant correlation between religion and ethnicity, though ethnic homogeneity of certain religions is commonly overstated (Chee 2007, 61). Almost all Buddhists and Taoists are Chinese and 83.0 percent of Christians are Chinese, with 6.0 percent Indians, 0.5 percent Malays, and 10.5 percent other; 83.5 percent of Muslims are Malays, with 12.6 percent Indian, 1.8 percent Chinese, and 2.1 percent other (Leow 2001b; Singapore Department of Statistics 2011). A point worth noting is that many of those self-described as having “no religion” are Chinese-educated and still continue to practice some form of traditional Chinese religious ritual, suggesting that the census

25. Gallup surveys also showed that “a significant number of Americans who believe homosexuality is wrong decline to criminalize it” (Fiorina 2005, 85–86).

figure was skewed on the high end for no religion and on the low end for Chinese religion (Chee 2007, 126). Another related point is that the distinction between Buddhism, Taoism, and Chinese religion as practiced by the Chinese population in Singapore is often hard to make (Koh and Ho 2009, 32) and many self-declared Buddhists are often mere self-reclassifications from the previously mixed-belief system that includes Chinese folk belief, Buddhism, and Taoism (Chen 1999; R. Lim 2005).

As recognized by the prime minister during the parliamentary debate, Christians and Muslims in Singapore were generally conservative and strongly opposed homosexuality (H. L. Lee 2007). This is confirmed by the recent national representative survey conducted by NTU researchers (Detenber et al. 2007, 375). The Malay/Muslim community also welcomed the government's move to retain Section 377A (Berita Harian 2007a). The Singapore Islamic Scholars and Religious Teachers Association (*Pergas*), standing in support of its Islamic teachings that include homosexuality as violation of nature and the universal values of humanity, similarly praised the government's decision to keep Section 377A (Berita Harian 2007b). In an earlier reaction to the government's announcement on hiring of gays, the National Council of Churches of Singapore (which represents Anglicans, Methodists, and Presbyterians) issued a statement expressing the biblical disapproval of homosexuality and urging the government to maintain legislation concerning homosexuality (Teo 2003; K. P. Tan 2007, 193–98; Chan 2010, 156). Amidst the public debate on Section 377A, the Methodist Church of Singapore also wrote to the press stating that it considers “the practice of homosexuality to be incompatible with Christian teaching” (Solomon 2007) though there were also some small independent churches (e.g., Free Community Church) that supported homosexuality and the repealing of Section 377A (Nadarajan 2006; P. Goh 2007).

The non-Christian Chinese attitude is, however, more nuanced. As identified by the 2007 NTU study, Buddhists and free thinkers had significantly less negative and more tolerant attitudes toward homosexuality as compared to Christians and Muslims (Detenber et al. 2007, 373). Local commentator Andy Ho also noted the different attitudes among the Chinese population in Singapore. Only the “Christianized” heartlanders reject homosexuality vigorously. On the other hand, the majority noncosmopolitan Chinese are nonconfrontational on the issue of homosexuality given that the Taoist and Buddhist values do not have a concept of God and sin. In addition, the Chinese intelligentsia are thought to be quite “pro gay” (A. Ho 2007).

C. Chinese Cultural Attitudes

This less negative and more tolerant attitude of the non-Christian Chinese population in Singapore is perhaps not surprising given the more ambivalent attitude toward homosexuals in Chinese history and culture. Same-sex sexual activities were well documented in ancient China (Sable 2010, 99). Male homosexuality was considered neither a crime nor immoral during the Spring-Autumn and Chin-Han eras (770 BC–24 AD). Male homosexuality seemed acceptable in the broader upper-class society during the Western and Eastern Chin and Southern and Northern dynasties (256 AD–581 AD). Male homosexuality was also featured in several literary works, including nonfiction, during the Ming and Ching dynasties (1386 AD–1911 AD) (Ruan 1997).

Classic historical references such as “sharing the remaining peach” [*yu-tao*] (the King publicly acknowledged his male lover after the male lover saved the remaining half of an unusually sweet and delicious peach for him) or “cut sleeve” [*tuan hsiu*] (the Emperor cut the sleeve from his gown instead of disturbing his lover who was asleep and laying on the Emperor’s sleeve) have become synonymous for male homosexuality in the Chinese language (Ruan 1997; Guo 2007).

This is not to suggest that male homosexuality is celebrated, glorified, or even endorsed in Chinese historical culture. Although neither extensively nor severely punished, male homosexuality was still considered deviant behavior after the Song Dynasty (960–1279 AD) (Ruan 1997; Guo 2007, 22–28). Nonetheless, there is a distinction between deviant behavior and immoral behavior. It is telling that while Chinese history is rife with harsh criminal provisions enforcing its strict sexual moral code (especially adultery and premarital sex), there were rarely any criminal provisions against consensual homosexual conduct by adults in private (Guo 2007, 29–31).²⁶ Indeed, when China adopted German law in the Qing Dynasty, homosexual criminalization was rejected (Guo 2007, 51; Sanders 2009, 14).²⁷ More tellingly, this decision was not an oversight but was made in the context of an actual legislative debate on male same-sex acts²⁸ and against the backdrop of harsh criticisms by Western missionaries about the lack of criminalization of sodomy (Guo 2007, 74). In 1983, in its recommendation to repeal Hong Kong’s sodomy law, the Hong Kong Law Reform Commission noted that among the Asian jurisdictions of South Korea, Taiwan, mainland China, Japan, India, Pakistan, the Philippines, Malaysia, and Singapore, only those of the former British colonies had penal laws criminalizing homosexual practices (L. J. Chua 2003, 251–52).

D. View from the Rest: The Debate (or Not) in the Chinese and Malay Newspapers

Commentators have noted that the Section 377A issue drew a “widespread and robust debate” (Y. C. Lee 2008, 348), which was amply manifested in the English-language press (see Section I). Notwithstanding the substantial circulation volume of the English mainstream newspapers (H. H. Chua 2009), focusing only on the English-language medium is likely to present an incomplete picture given that 20.1 percent (29.1 percent in 2000 census) of the Singapore resident population are not literate in English and that English is not the most frequently used language at home for 67.7 percent (77.0 percent in 2000 census) of the population (Leow 2001a; Singapore Department of Statistics 2011). Indeed, a survey of contemporaneous Chinese and

26. Indeed, while homosexual acts have never been criminalized in Taiwan, adultery is still criminalized and punishable with up to a one-year jail term: Criminal Code (Taiwan) (revised Jan. 7, 2010), art. 239.

27. The Qing Dynasty began drafting a new penal code in 1907. This was partly in response to the 1902 Mackay Treaty that anticipated abolition of extraterritoriality in China upon establishment of a Chinese legal system that conforms to Western standards (Gao 2007).

28. The legislators debated whether forced male same-sex acts should be classified as rape or molestation. They acknowledged that same-sex sodomy was not criminalized in Chinese traditional culture and that Western criminalization was based on religious blasphemy and not on rape (Guo 2007, 54–55).

Malay newspaper articles and forum letters on the issue reveals several interesting differences from the English debate.²⁹

Reflecting the Malay-Muslim community's general disapproval of homosexuality, most of the editorial commentaries and forum letters in the Malay mainstream newspapers were in support of retaining Section 377A (Ahmad 2007; Mamat 2007; Puteh 2007; Rahman 2007).³⁰ The arguments raised were similar to those raised by supporters of retention in the mainstream English press, such as "the majority's morality" (Rahman 2007), doubting the inborn nature of homosexuality (Ahmad 2007), the organized and determined nature of the gay lobby (Ahmad 2007; Puteh 2007), and gay promiscuity (Rahman 2007). Nonetheless, there are several nuances worth noting. First, the letters and commentaries were mostly written after the parliamentary debate and the commentators commonly urged the Malay/Muslim community to have greater involvement and engagement in the public debate (Ahmad 2007; Mamat 2007; Puteh 2007). Second, one commentator associated the *KeepS377A.com* online campaign with the Christian community and opined that the Malay/Muslim community should have taken this opportunity to voice its opinions as well (Ahmad 2007).³¹ Another commentator also noted the proactive measures undertaken by the churches in tackling the homosexual issue (Mamat 2007). This suggests that, notwithstanding the support of the Malay/Muslim community in the ultimate retention of Section 377A, it was not really involved or engaged in the antirepeal campaign.

The survey of the Chinese newspaper forum and editorial discussions reveals a sharp contrast with the discussion in the English and Malay newspapers. First, while there were a few articles that firmly supported either repealing (Chen 2007; Hu 2007; H. Huang 2007) or retention (Bai 2007; Wang 2007), the majority took a considerably more moderate stance that either supported the government compromise (Cai 2007; S. Huang 2007; X. Huang 2007; Zeng 2007; Zhou 2007) or reflected relatively neutral indifference (Pan 2007). In addition, among those who supported the government compromise, several saw it as a temporary measure in lieu of eventual repeal (Cai 2007; S. Huang 2007; X. Huang 2007). Given this considerably more moderate stance, it is not surprising that there is a conspicuous absence of both strong moral condemnation of homosexual lifestyle and the grave warning of the dangerous threat of the "homosexual agenda" that are commonly raised by supporters of retention in the English-language press. Indeed, it is telling that the Chinese pieces typically provide at

29. There is a rich literature on the role of language in the constitution of law and legal order (Conley and O'Barr 2005; Richland 2008; Hutton 2009). In a multilingual sociolegal environment, comparative linguistic research offers interesting insights on how language shapes the ways people use, argue, and think about the law (K. H. Ng 2009, an ethnographic study of courtroom interactions in the bilingual—Chinese/English—common law system in Hong Kong). Indeed, the lack of adequate descriptive/categorizing terminology in a particular language may reinforce cultural inequality (Tamir and Cahana-Amitay 2009). The objectives of this article have been served by a very rudimentary linguistic analysis that focused only on the content of the discourse. Nonetheless, one can envisage a much more sophisticated and fruitful linguistic analysis on how the different languages conceptualized, presented, and discussed homosexuality (e.g., the terminology "homosexuality agenda" and "homosexual lifestyle" appear to have no commonly used equivalent in the Chinese language, at least as garnered from the public discourse in the Chinese newspaper).

30. One writer did adopt a more neutral stance and urged understanding of homosexuals (Abdullah 2007).

31. Interestingly, a Christian media report also echoed this sentiment (Christian Post Singapore 2008a).

least equal recognition of the “pragmatic” “live and let live” aspects of the government’s decision and often have less or no focus on the rejection of the “homosexual agenda” (Cai 2007; X. Huang 2007; Yan 2007; Zhou 2007).

E. Conclusion: Two Minority Groups versus the Ambivalent Majority

The “aggressive” “well-organized” lobbying of gay activists and supporters of repealing Section 377A were frequently highlighted by supporters of retention (Cheng 2007; Y. C. Lee 2008, 371), but the prime minister’s observation of the similarly well-organized pressure campaign by supporters of retention and the ambivalent and moderate views of the majority on the issue is spot on as well. The survey and analysis of the Chinese and Malay newspapers confirmed that the Chinese-speaking and Malay community were not actively engaged in the debate. The moderate attitude reflected in the Chinese newspapers also echoed the Chinese historical cultural ambivalence toward homosexuality. Taken together, the government’s final decision to retain the law while stripping most of its moral content did actually reflect the true majority’s position that neither approved of nor condemned homosexuality. The Section 377A debate in Singapore is a classic example of two minority interest groups staking out extreme positions on either end with a moderate majority occupying the center.

III. PUBLIC CHOICE, INTEREST GROUPS, AND POLITICAL DYNAMICS

The discussions in Sections I and II highlight two important features of the government’s ultimate decision. First, the retention of Section 377A coupled with some reassurance and recognition of the gay community is a true compromise between the two opposing camps. Second, this compromise reflects the sentiment of the true majority in Singapore that neither approves of nor condemns homosexuality. Both these features contrast with culture war scenarios in United States where issue polarization is a serious impediment to political compromise (Mueller 2003, 331; McClain 2008, 416–17) even in the presence of a moderate majority (Fiorina 2005, 7–9). This section utilizes the public choice perspective to examine the political dynamics driving the Singapore’s government decision.

A. Culture War and Issue Polarization

The middle-ground compromise in Singapore’s Section 377A debate is hardly the norm in America’s various culture wars (White 2003, 218–19; Greenberg 2004, 2–5; McClain 2008, 416–17). Culture wars reflect deeply rooted divisions that cannot be easily reconciled (Kennedy 2007, 1–5). In the specific context of homosexuality, the opponents of liberalization see the issue as the front line of a culture war that threatens their basic concept of social order (Michaelson 2008, 85).

Yet the problem is not necessarily always caused by a polarized and divided population. Using various political science surveys and research, Morris P. Fiorina

argued that the US culture war image of two polarized segments of the population is exaggerated, with a great portion of Americans holding moderate and centrist views (Fiorina 2005). Rather, the problem is that the divisive partisan conflict is disproportionately reported and represented in public debate and discourse (Fiorina 2005, 7–9; Baumgartner et al. 2009, 94–96; Thomson 2010, 194–97). In a more general intuitive sense, only those who care deeply about an issue will invest time, energy, and resources to influence its outcome, and those who care deeply also tend to have extreme views (Fiorina 2005, 7–9; Stearns and Zywicki 2009, 334). This results in extreme positions being overrepresented while the center is underrepresented (Fiorina 2005, 150; Baumgartner et al. 2009, 94–96).

Singapore is not spared from such culture war dynamics. As noted in Section I.C, the rhetoric and labeling employed by both camps is harsh and divisive. The public feedback received by the government was also “emotional, divided and strongly expressed” (Soh 2007). More importantly, the debate on Section 377A involved competing criminal law philosophies and visions of society (Devan 2007b; Thio 2007a; Y. C. Lee 2008, 350). Such apparent polarization occurred notwithstanding the presence of a moderate majority that does not share the position of either camp (see Section II.E).

B. Public Choice and Interest Group Capture

Besides the challenges posed by issue polarization, public choice theory predicts that having a clear majority on an issue in a competitive democracy does not necessarily produce a political outcome that actually reflects the majority's position. According to public choice theory, a mobilized, well-connected minority can exert more political influence than a numerically superior but unorganized or apathetic majority (Eskridge 1988, 294–95; Gwartney and Wagner 1988; Serkin 2006, 1637; Issacharoff 2008, 257–58). “[T]he legislative process rewards legislators who use political means to favor highly motivated interest groups at the expense of fragmented, diverse and possibly unknown interests” (Gwartney and Wagner 1988; Malloy 1991, 19; Mueller 2003, 475). Individual voters often have limited incentives to combat any one piece of legislation, given the often limited benefit, limited impact, and disproportionate costs of political actions (Gwartney and Wagner 1988, 11; Mueller 2003, 131–33).³²

Information access and cost is also a barrier for voters in appreciating the significance of a particular policy (D. R. Lee 2004, 315; Parlow 2008, 149). Notwithstanding the extensive media reporting of the Section 377A debate, there was still a significant segment of the population that did not really know what the provision actually was about (Baey 2007). On the other hand, interest groups have the resources and incentives to monitor the actions of government actors and communicate the group's preference to them (Wittman 1995, 81–82; Loomis and Cigler 2002, 28; Parlow 2008, 149).

Public choice theory has traditionally been applied to economic rent (Gwartney and Wagner 1988; Mueller 2003; Stearns and Zywicki 2009), but it is also applicable to

32. This perceived and actual lack of influence may induce a sense of alienation by the citizenry, which further exacerbates the lack of motivation for political participation (Parlow 2008, 140–41).

culture war scenarios where nonmonetary ideological “rent” is at stake. The National Rifle Association in the United States is a classic example of a well-mobilized minority interest group that successfully influences social policies against public opinion. Despite the majority of Americans favoring stricter gun laws, the group managed to block and even repeal important gun-control legislation through strategic financial and electoral contributions (Patterson and Singer 2007). Similarly, a well-organized pressure campaign was successful in prompting several MPs to purport to represent the “silent majority” in supporting retention of Section 377A (Ong 2007; Yeo 2007). This is notwithstanding the fact that the true majority’s position was much more nuanced than the retention campaign’s bright-line moral condemnation of homosexuality (see Section II).

It is thus intriguing from the public choice perspective that the Singapore government did not simply retain Section 377A without all the discussions about proactive enforcement, gay community accommodation, the prospect of evolution, inborn homosexuality, and the majority’s “live and let live” attitude (see Section I.D). Public choice theory suggests that if conflicting demands arise and a compromise cannot be forged that is acceptable to all, then the government is likely to support ambiguous laws with details to be filled in later by the court or other agencies (Eskridge 1988, 288–89; Stearns and Zywicki 2009, 74). However, the close alignment and association between the bureaucracy and ruling party in Singapore (Rodan 2008; Ortmann 2010) negates the ability to shift political responsibility. Moreover, the retention campaign was better mobilized than the repeal campaign (Y. C. Lee 2008, 348–49) and supported by the Christian and Muslim religious communities—both key constituents in Singapore society (see Section II.B). With the majority Chinese-speaking community ambivalent about the outcome (see Section II.E), the government could simply have chosen to adopt the moralistic stance favored by the ardent supporters of retention while rejecting the supporters of repeal and ignoring the majority’s sentiment.

C. Political Dynamics of Dominance and Competition

The Section 377A compromise was achieved amidst a public discourse dominated by two vocal and passionate minority camps. Given the common critique of the inadequacies in the Singapore democratic process, it is all the more remarkable that the government’s final position reflected the true majority’s sentiment that neither approved of nor condemned homosexuality (see Section II). It is thus useful to examine how the political dynamics driving the government’s decision avoided capture by the interest groups otherwise predicted by public choice theory.

1. *Political Dominance*

Singapore’s political landscape has been dominated by the current ruling People’s Action Party (PAP) since independence. There has been no political turnover since independence nor is the prospect reasonably foreseeable (Thio 2002b; Rodan 2008; Ortmann 2010). Political opposition has never captured more than 10 percent of the

total available parliamentary seats since 1968 (Haas 1999; Ortmann 2010, 32). Commentators and scholars have questioned whether this political dominance is maintained through undemocratic and authoritarian measures, including pro-ruling party electoral laws, curtailing free speech and civil liberties, conflating party with state, and suppression of the opposition (Case 2002, 90–95; Thio 2002b; Rodan 2008; Silverstein 2008; Ortmann 2010). Indeed, Singapore is often classified as a hybrid regime of “stable semi-democracy” (Rodan 2008, 232; Ortmann 2010, 6) or “soft authoritarianism” (Neher 1999).

Ironically, this political dominance may help explain the PAP's resistance to interest group capture. Interest groups influence law and public policy by appealing to the incentive and motivation of the government actors. The primary goal of the government actor is naturally to be reelected or remain in power (Mayer 2008, 523; Parlow 2008, 149; Levine 2009, 37–39), though there may also be more subjective motivation like ideology or personal desire for wealth, fame, and power (Mayer 2008, 523; Levine 2009, 39–46). Interest groups can pool together the financial resources and votes of the group members to either support candidates whose position reflects the group's interest or induce candidates to adopt the group's position (Mayer 2008, 524). Interest groups may also supply valuable information and advice to both government actors and constituents (Wittman 1995, 81–82; Mueller 2003, 496; Mayer 2008, 539–40). However, the importance of this support to the candidates depends on the competitiveness of the election process (Conway, Green, and Currinder 2002, 129; Mayer 2008, 531). The public choice interest group model “predicts that candidates will shift their positions on issues to obtain additional campaign funds if by spending these funds they can increase their chances of getting reelected” (Mueller 2003, 494). Similarly, interest groups also concentrate their resources in tight competitive races (Conway, Green, and Currinder 2002, 126; Dwyre 2002, 149). The drop in competitive congressional seats after the year 2000 redistricting in the United States has limited the influence of many politically active interest groups (Skinner 2007, 159–60). Conversely, the relatively secure political tenure of the PAP lessens its dependence on the financial and electoral support from minority interest groups. In addition, the information function of interest groups decreases in a culture war scenario with an abundance of information readily supplied by both opposing camps.

2. *Political Competition*

The political dominance of PAP reduces the risk of interest group capture in Singapore and helps explain why the highly moralistic position of the retention camp was not adopted despite the apparently favorable conditions envisaged under public choice theory (i.e., apathetic majority combined with a well-organized minority group). However, given the common criticisms of the oppressive and undemocratic measures employed by the ruling PAP to maintain its political tenure (see Section III.C.1), the bigger concern is whether there is enough democracy in Singapore for the government to be responsive to the population's sentiment in the first place (Case 2002, 95; Thio 2002b, 192–201; Rodan 2008, 237).

Nevertheless, it would be an error to assume the undemocratic regime is unresponsive to the population's sentiment. Public choice theory predicts that even a dictatorship is forced to weigh the impact of chosen policies on the population. An unpopular policy implemented by the dictatorship will still increase the costs of operating the regime. The citizens may withhold their loyalty and support, forcing the dictator to devote additional resources to monitor and suppress the increased opposition (Mueller 2003, 424–26; Gandhi and Przeworski 2007, 1281–82; Wintrobe 2008).

Moreover, the overwhelming dominance of the legislative seats belies a significantly more competitive electoral scene with the overall PAP votes fluctuating between 60 and 75 percent (Silverstein 2008, 95; Ortmann 2010, 63). The ruling PAP is also sensitive to declines in its margin of victory. The PAP suffered its most dramatic drop of support in 1984, garnering “only” 64.8 percent of the popular vote compared to the previous result of over 70 percent. Instead of being satisfied by this otherwise dramatic winning margin as would happen in other democratic systems, the party was galvanized into responding to this drop in support (Case 2002, 93; Silverstein 2008, 95). This included the introduction of policies designed to reduce the perceived poverty gap, which was identified as the key source of voter dissatisfaction.³³

Indeed, even accounts by commentators critical of Singapore's democracy (or lack thereof) commonly described how PAP was sensitive and responsive to any decrease in electoral support. While William Case thought that the elections in Singapore contributed little toward accountability (given the stifled opposition limited by restrictions in civil liberties and curbed electoral procedures) and provided little response social discontentment (given the threat of nonupgrading), he noted how “[t]he election [in 1991] showed also that the PAP was losing more support in working-class districts than in middle-class ones, prompting Lee Kuan Yew publicly to ‘lecture’ Goh about speaking more Mandarin and reading Chinese newspapers” (Case 2002, 95). Similarly, Garry Rodan argued that “elections in Singapore were retained and viewed as functional for purposes of political legitimacy” but that it is just a “myth of political competition.” Nonetheless, he observed that it was the 13 percent swing in the 1984 general election that prompted the ruling party to engage in a new strategy to increase noncompetitive political participation in the face of socioeconomic changes (Rodan 2008, 237–43). Michael Haas's account of the loss of parliamentary seats and the slide in electoral support since the 1980s revealed continuous attempts by the ruling party to identify the source of decline (Haas 1999, 25–27).

Together with the dominant political landscape described in the previous section, this actual (albeit limited) political electoral competition may help explain the Singapore government's resistance to interest group capture. The relatively secure political tenure of the ruling party lessens its dependence on the financial and electoral support from minority interest groups. On the other hand, the presence of actual political electoral competition requires the ruling PAP to be sensitive to the majority's preferences. Except where the interests advocated by the minority interest groups coincide with the interests of the ruling elites, the ruling elites have little incentive

33. The most notable measure is the upgrading scheme for public housing, in which the majority of the population reside (Leow 2007). For a general discussion of the PAP's response and policy proposals to stem its falling winning margin, see Tay and Baharuddin (1997), Case (2002, 93–94), and Haas (1999, 25–27).

to favor these minority interest groups over the majority's preference. This alignment with the majority's preference is further buttressed by the consistently high voter turnout in Singapore elections³⁴ induced by the legal requirement to vote (Yong 2009). Capture by minority interest groups depends on the absence of votes by the apathetic majority population and is thus less likely in scenarios of high voter turnout (Fiorina 2005, 168–70).

3. *Balancing Competition and Dominance: The Role of Information Cost*

The resistance to interest group capture and the reflection of the majority's preference demonstrated in this episode of culture war in Singapore is the result of the balance between political dominance and political competition. A lingering question is why the ruling PAP did not utilize its existing political dominance to eliminate political competition altogether and institute a more authoritarian regime. This is not a practical impossibility since the ruling PAP had in the past promptly amended Singapore's Constitution in response to the judiciary's attempted restriction of the executive branch's discretion.³⁵

One possible reason is the socioeconomic reality of Singapore. Singapore's small geographical size³⁶ and lack of natural resources mandates an economy that is based on human resources, foreign investment, and international commerce (Trocki 2006, 163–71; Ortmann 2010, 58–59). To ensure economic viability, the Singapore government has consistently made substantial investment in education and has cultivated a highly literate and educated population (Singapore Department of Statistics 2007). The need for international commerce has also resulted in the city-state being well connected to the international community (Lingle and Wickman 1999). The strong performance of Singapore's economy (Lingle and Wickman 1999; Silverstein 2008) reflects the efficacy of the government's policy in economic development. However, this has also produced a highly mobile population well capable of voting with its feet. Indeed, migration and "brain drain" has been a concern of the Singapore government since the 1990s (Straits Times 2008) and corresponds to the gradual liberalization of the political process (Case 2002, 91–92; Rodan 2008, 241–43). Echoing public choice theory on the relationship between voice and "voting with the feet" (Mueller 2003, 182–204), Singapore's socioeconomic reality constrains the ruling party from adopting a more repressive outlook.

Nonetheless, from the perspective of public choice, the more pertinent reason for the government's stance is probably information cost. As noted above, the ruling entity in all regimes, whether democratic or not, has an incentive to tailor the

34. Ninety-five percent voter turnout (Straits Times 2009).

35. After the Court of Appeal (the highest court) held that an illegal, irrational, or procedurally improper exercise of government power would trigger judicial review even for the broadly defined discretion of detention powers under the Internal Security Act, the Singapore Constitution was amended to revert the law back to the doctrine prior to that decision (Thio 2002a, 58–63; Silverstein 2008, 79–81).

36. Land area of only 704 square kilometers with a population density of 6,369 people per square kilometer (Singapore Department of Statistics 2007).

government's policy to the population's preference. Ascertaining the population's preference and reaction to the government's policy entails information cost. Such a cost is a key problem in a dictatorship where "[a]ll groups have an incentive to *feign* support for the dictatorship even if they are actively working to undermine it" (Mueller 2003, 416). Increased repression will also further decrease the willingness of the population to express such information (Mueller 2003, 416; Wintrobe 2008). In this regard, the elections in Singapore are sufficiently responsive to serve the function of reducing information costs. As noted even by its critics, the PAP does in fact actively respond to the margin of electoral support. Although the electoral margin of approval in Singapore may arguably have been artificially propped up and entrenched in favor of the incumbent ruling party, it is still a useful gauge of the population's opinion of government policy. Given that the current balance between political dominance and competition allows the ruling party to enjoy both the security of tenure and the signaling effect of elections, there is little incentive to adopt more oppressive measures.

D. Public Choice and the Hybrid Political System

Public choice theory is traditionally premised in the context of competitive democracy and has only recently been expanded into the study of dictatorships (Wintrobe 2008, 345).³⁷ This is certainly a valuable extension of the theory that challenges the conventional wisdom on the stark contrast between responsive democracies and repressive dictatorships (Mueller 2003, 424–25). Of course, democracies and dictatorships are still different in the eyes of public choice scholars. In addition to concerns about the use of violent repressive mechanisms in dictatorships, public choice scholars have identified information cost as one of the key differences between democracies and dictatorships (Mueller 2003; Wintrobe 2008). Indeed, free competitive democratic elections are a relatively effective mechanism to aggregate the population's preference and information even after taking into account voter ignorance (Wittman 1995, 9–30; Ledyard 2006; Congleton 2007).

However, as demonstrated by the case study of Singapore, democracies do not have the exclusive claim of using elections as efficient information gathering mechanisms. Indeed, other authoritarian governments sometimes use elections (albeit in a limited and controlled form) as information gathering devices.³⁸ On the flip side, the dominant party in an otherwise fully democratic regime may sometimes edge toward authoritarian measures in controlling the opposition (Handley, Murray, and Simeon 2008).³⁹ Other

37. This is largely due to the fact that virtually all public choice scholars have lived in democratic countries and they feel that all governmental systems ought to be organized as democracies (Mueller 2003, 406–07).

38. Examples include the KMT authoritarian regime in Taiwan (J. Wong 2008, 61) and modern China (Minzner 2009, 82–83). Gandhi and Przeworski also argued that elections and legislature are useful mechanisms for authoritarian regimes to gather information and consolidate support from potential opposition groups (Gandhi and Przeworski 2007, 1282).

39. Indeed, the ruling PAP originally gained power in a politically pluralistic and competitive democratic environment (Rodan 2008, 231).

areas of political science have begun to appreciate the myriad variety of structures in political institutions with varying degrees of democratization between the two extremes of democracy and dictatorship.⁴⁰ These studies illustrate that political regimes are both diverse and dynamic.

Singapore was cited as a stark exception to the general rule in Arye L. Hillman's theoretical public choice analysis of autocracies' performance (Hillman 2007).⁴¹ This is not necessarily an issue of classification, even though one might question whether Singapore is really a pure authoritarian state. Instead, the sustained economic development under the enduring ruling PAP regime might not seem so puzzling from the perspective that the functional aspect of democracy (information efficiency) had been successfully co-opted by the PAP "dictatorship" to solve the information problem that has otherwise commonly plagued dictatorships.

Thus, the public choice theory's response to the myriad variety of political regimes in the real world need not entail the creation of additional analytical categories. Public choice had previously generated tremendous insights into the democratic process by comparing the voting outcome in the different forms of democracies and electoral rules (Mueller 2003; Grofman 2006; Garrett 2010). A similar analytical approach can be applied to the "controlled" elections of hybrid regimes, with political oppression possibly treated as a "tax" on the supply of political opposition and entrenchment mechanisms treated as a "state subsidy" for the ruling party in the electoral market.⁴² Such analytical tools have shown that election outcomes in full democracies may not reflect aggregate voter preference or the median voter preference because of factors such as the nature of issue, agenda setting, the choice of voting rules, and interest group capture (McNutt 1996; Mueller 2003; Stearns and Zywicki 2009; Issacharoff and Miller 2010).⁴³ Such analytical tools may also reveal that in some circumstances, less democratic electoral regimes may yield an outcome that has a closer match with voter preference.

40. Marc Morje Howard and Philip G. Roessler have classified regimes into closed authoritarian, hegemonic authoritarian, competitive authoritarian, electoral democracy, and liberal democracy based on the presence of elections and the degree/manner of competitiveness and fairness of elections (Howard and Roessler 2006). Steven Levitsky and Lucan Way have also noted that "terms like 'semidemocratic,' 'semi-authoritarian,' and 'Partly Free' are often used as residual categories and tend to gloss over important differences among regime types . . . Different mixes of authoritarian and democratic features have distinct historical roots, and they may have different implications for economic performance, human rights, and the prospects for democracy" (Levitsky and Way 2002, 51). See also Brownlee (2009).

41. Empirical work, on the other hand, has challenged the connection between economic development and type of regime (Przeworski and Limongi 1993; Przeworski et al. 2000).

42. Indeed, just as taxes and subsidies in the economic market may sometimes be efficient when they internalize externalities, taxes and subsidies in the political market do not always post net negative effects even if we must *always* be skeptical of the regime's intent in their imposition. For example, a state's prohibition of political speech that incites religious and/or ethnic hatred can be seen as a "tax" on religious-oriented political oppositions seeking to mobilize a particular religious segment of the population, but may be conducive for the functioning of democratic process in *certain* sociopolitical contexts (e.g., a newly formed multireligious society emerging from a history of violent religious conflicts).

43. For a discussion of the strengths and weakness of these theories and their predictions, see Mashaw (2010).

CONCLUSION

The harsh and divisive rhetoric in Singapore's Section 377A sodomy law debate is reminiscent of the culture war in the United States that seemingly polarized the population into two opposing camps. The Singapore government's final decision of retention with explicit accommodation and nonproactive enforcement was a compromise that actually corresponded to the preferences of the moderate majority. This is all the more remarkable given the common criticisms of the lack of democracy and political participation in Singapore. Public choice theory has argued that a competitive democracy is not immune to interest group capture while even a dictatorship has an incentive to respond to the population's sentiment. This case study of Singapore shows that political dominance coupled with limited but actual political competition is surprisingly effective in resisting minority interest group capture while aligning the government with the preference of the majority. This article is certainly not suggesting that such a political dynamic should be replicated or institutionalized as a normative matter. There are other considerations of democracy beyond the scope of the article.⁴⁴ Nonetheless, this article argues that an appreciation of how government incentives are shaped by electoral rules and political landscape is necessary to critically examine the political dynamics of any regime notwithstanding the formal categorization of democracy, semidemocracy, or authoritarianism, and the like.

Another observation made in this article is the importance of comparative linguistic analysis in legal research. Even in the clearly multiracial and multilingual Singapore, it is easy to forget that even though English is the legal and working language, a significant portion of the population is not literate in English and is more comfortable in other languages (see Section II.D). As revealed by the comparative survey of Chinese and Malay newspapers, the much-hyped culture war episode in Singapore is simply the classic scenario of the extreme positions of the issues being overrepresented with the center underrepresented. This is not necessarily a bad thing since minority extremists may at times be correct and their intense advocacy has led to the eventual adoption of their views by the majority.⁴⁵ However, in the realms of public law, especially on those issues involving culture war where the "majority" is often flaunted around by both sides, a more circumspect and holistic examination of the increasingly pluralistic and diverse polity is necessary. Such an examination is only possible through the languages of the polity.

REFERENCES

- Abdullah, Mohd Ikhlah. 2007. Forum—Usaha fahami naluri golongan homoseks [Forum—Put in Effort to Understand Homosexuals]. *Berita Harian* (Singapore), October 31, 9.

44. These include equality of interests, political autonomy, reciprocity, protection of vulnerable minorities, and the like (Brettschneider 2007, 23–26).

45. "Sometimes extremists are right and a majority eventually adopts their once extreme views. The abolitionists held views that most at the time considered extreme" (Fiorina 2005, 156).

- Ahmad, Rosle. 2007. Forum—Lega Seksyen 377A dikekal kini tapi tiada jaminan pada masa depan [Forum—Relieved that Section 377A Is Kept but There Is No Guarantee for the Same in the Future]. *Berita Harian* (Singapore), October 27, 14.
- Ang, Su Yin. 2007. Homosexuality: Legalising Something that Is Not Right Does Not Make It Right. *Straits Times* (Singapore), July 19, Online Forum.
- Baey, Yam Kang. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83, Column 2175–2445.
- Bai, Shide. 2007. Kan boli qiangbian de dadou [Observing the Fight by the Glass Wall]. *Lianhe Zaobao* (Singapore), October 27, 12.
- Basu, Radha. 2007. Male Homosexual Sex to Remain a Crime. *Straits Times* (Singapore), September 18.
- Baumgartner, Frank R., Jeffrey M. Berry, Marie Hojnacki, and David C. Kimball. 2009. *Lobbying and Policy Change: Who Wins, Who Loses, and Why*. Chicago, IL: University of Chicago.
- Berita Harian. 2007a. Alu-alu seks sejenis kekal diharam [Move to Prohibit Homosexual Acts Is Welcomed]. *Berita Harian* (Singapore), October 25, 1.
- . 2007b. Pergas puji keputusan kekalkan seksyen 377A [Pergas Praises Move to Keep Section 377A]. *Berita Harian* (Singapore), October 25, 4.
- Brettschneider, Corey. 2007. *Democratic Rights: The Substance of Self-Government*. Princeton, NJ: Princeton University Press.
- Brownlee, Jason. 2009. Portents of Pluralism: How Hybrid Regimes Affect Democratic Transitions. *American Journal of Political Science* 53 (3): 515–32.
- Burack, Cynthia. 2008. *Sin, Sex and Democracy: Antigay Rhetoric and the Christian Right*. Albany, NY: State University of New York Press.
- Burleson, Elizabeth. 2008. From Nondiscrimination to Civil Marriage. *Cornell Journal of Law & Public Policy* 19:383–428.
- Cai, Shenjiang. 2007. Mianjiang buliao de shuidao qucheng [What Needs to Come Naturally Cannot Be Forced]. *Lianhe Zaobao* (Singapore), October 28, 24.
- Case, William. 2002. *Politics in Southeast Asia: Democracy or Less*. Richmond, VA: Curzon.
- Chai, Agnes Shiang Jen. 2007. Are Homosexuals Truly Born Gay? *Straits Times* (Singapore), April 27.
- Chan, Dominic. 2004. Oral Sex—A Case of Criminality or Morality? *Law Gazette* (Singapore), September: <http://www.lawgazette.com.sg/2004-9/> (accessed May 1, 2011).
- Chan, Esther Nek Fa. 2007. God Has a Place in Public Morals Debate. *Straits Times* (Singapore), May 26, Online Forum.
- Chan, Phil C. W. 2010. Shared Values of Singapore: Sexual Minority Rights as Singaporean Value. In *Protection of Sexual Minorities Since Stonewall*, ed. Phil C. W. Chan, 147–73. New York: Routledge.
- Cheah, Alan Chang Wei. 2007. Situation for Gays Here Is Far from Ambiguous. *Straits Times* (Singapore), September 6, Online Forum.
- Chee, Kiong Tong. 2007. *Rationalizing Religion: Religious Conversion, Revivalism, and Competition in Singapore Society*. Leiden: Koninklijke Brill.
- Chen, Huabiao. 2007. Bushou hunying binbu daibei bu zhengque [Unpopular Doesn't Mean Wrong]. *Lianhe Zaobao* (Singapore), October 28, 25.
- Chen, Kao. 1999. Its Light Still Shines as Bright. *Straits Times* (Singapore), May 29, L1.
- Cheng, Jonathan Hern Sinn. 2007. MM's Comments Have Me and Family Worried. *Straits Times* (Singapore), May 1.
- Cheng, Tai-Heng. 2004. The Central Case Approach to Human Rights: Its Universal Application and the Singapore Example. *Pacific Rim Law & Policy Journal* 13:257–302.
- Chia, Sue-Ann. 2009. Homosexual Acts: No Change in Actual Indian Law. *Straits Times* (Singapore), July 6.
- Chia, Vincent Wei Meng. 2007. Govt Should Consider Carefully the Moral Value System of the Majority Before Making Decision. *Straits Times* (Singapore), July 6, Online Forum.
- Chin, Alan Yew Liang. 2007a. Homosexuality: Neither a Disease Nor an Immutable Trait. *Straits Times* (Singapore), May 8, Online Forum.
- . 2007b. Figures Speak for Themselves: Practising Gays Have Higher Risk of HIV. *Straits Times* (Singapore), May 15, Online Forum.

- . 2007c. Let's Conserve Our Marriage Constitution as One Between Man and Woman. *Straits Times* (Singapore), July 16, Online Forum.
- . 2007d. Beware the High-Risk "Gay Lifestyle." *Straits Times* (Singapore), August 8.
- Chong, Charles. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Chong, Chee Kin. 2004. Review of Oral Sex Law to Relook Other Sex Crimes too. *Straits Times* (Singapore), March 13.
- Choo, Zheng Xi. 2007. Justify Why Gays Acts Should Remain Criminal. *Straits Times* (Singapore), May 1.
- Christian Post Singapore. 2008a. 377A, Colonial Antique? April 29. <http://sg.christianpost.com/dbase/editorial/389/section/1.htm> (accessed May 1, 2011).
- . 2008b. Counter-Social Force Incognito. September 3. <http://sg.christianpost.com/dbase/editorial/321/section/1.htm> (accessed May 1, 2011).
- Chua, Chee Hiang. 2007a. Gay Men and Lesbians Are Singaporeans Too. *Straits Times* (Singapore), July 21, Online Forum.
- . 2007b. Why Is One Law "Archaic" and Not the Other? *Straits Times* (Singapore), October 18.
- Chua, Hian Hou. 2007. Online Campaign to Repeal Gay Sex Law. *Straits Times* (Singapore), October 10.
- . 2009. The Straits Times Maintains Its Lead. *Straits Times* (Singapore), October 23.
- Chua, Jenica Chor Ping. 2007. NMP Overstepped Role in Championing Gay Cause. *Straits Times* (Singapore), October 17.
- Chua, Lynette J. Kher Shing. 2003. Saying No: Sections 377 and 377A of the Penal Code. *Singapore Journal of Legal Studies* 2003:209–60.
- Chua, Mui Hoong. 2005. Casino Debate: It's the Start of Culture Wars. *Straits Times* (Singapore), April 29.
- Congleton, Roger D. 2007. Informational Limits to Public Policy: Ignorance and the Jury Theorem. In *Public Choice and the Challenges of Democracy*, ed. Jose Casas Pardo and Pedro Schwartz, 206–19. Cheltenham: Edward Elgar.
- Conley, John M., and William M. O'Barr. 2005. *Just Words: Law, Language, and Power*, 2d ed. Chicago, IL: University of Chicago Press.
- Conway, M. Margaret, Joanne Connor Green, and Marian Currinder. 2002. Interest Group Money in Elections. In *Interest Group Politics*, ed. Burdett A. Loomis and Allan J. Cigler, 117–40. Washington, DC: CQ Press.
- Detenber, Benjamin H., Mark Cenige, Moses K. Y. Ku, Carol P. L. Ong, Hazel Y. Tong, and Magdalene L. H. Yeow. 2007. Singaporeans' Attitudes Toward Lesbians and Gay Men and Their Tolerance of Media Portrayals of Homosexuality. *International Journal of Public Opinion Research* 19 (3): 367–79.
- Devan, Janadas. 2007a. Can Mum, Mum and Kids Make a Family? *Straits Times* (Singapore), July 7.
- . 2007b. 377A Debate and the Rewriting of Pluralism. *Straits Times* (Singapore), October 27.
- Dwyre, Diana. 2002. Campaigning Outside the Law. In *Interest Group Politics*, ed. Burdett A. Loomis and Allan J. Cigler, 141–50. Washington, DC: CQ Press.
- Eskridge, William N. Jr. 1988. Politics Without Romance: Implications of Public Choice Theory for Statutory Interpretation. *Virginia Law Review* 74:275–338.
- . 2005. Body Politics: Lawrence v. Texas and the Constitution of Disgust and Contagion. *Florida Law Review* 57:1011–64.
- Faucette, Judith Avory. 2010. Human Rights in Context: The Lessons of Section 377 Challenges for Western Gay Rights Legal Reformers in the Developing World. *Journal of Gender, Race & Justice* 13:413–39.
- Fiorina, Morris P. 2005. *Culture War?: The Myth of a Polarized America*. New York: Pearson Education.
- Gandhi, Jennifer, and Adam Przeworski. 2007. Authoritarian Institutions and the Survival of Autocrats. *Comparative Political Studies* 40 (11): 1279–301.
- Gao, Han Cheng. 2007. *Qianzhu shiye xia de Daqing xinglv caoan yanjiu* [Research on Qing Dynasty Draft Penal Code from the Endorsement Perspective]. Beijing: Zhongguo shehui chubanshe.
- Garrett, Elizabeth. 2010. Direct Democracy. In *Research Handbook on Public Choice and Public Law*, ed. Daniel A. Farber and Anne Joseph O'Connell, 137–72. Cheltenham: Edward Elgar.

- Gaw, Daniel Wai Ming. 2007. Intolerance of Alternative Lifestyles Will Create Rifts. *Straits Times* (Singapore), July 21, Online Forum.
- Goh, Peter. 2007. Engage in Meaningful Dialogue to Increase Understanding of the Issue. *Straits Times* (Singapore), July 26, Online Forum.
- Goh, Peter Kok Yong. 2007. Straight People Need to Re-Examine Their Heterosexuality. *Straits Times* (Singapore), July 26, Online Forum.
- Goodman, Ryan. 2001. Beyond the Enforcement Principle: Sodomy Laws, Social Norms, and Social Panoptics. *California Law Review* 89:643–740.
- Greenberg, Stanley B. 2004. *The Two Americas: Our Current Political Deadlock and How to Break It*. New York: Thomas Dunne Books.
- Grofman, Bernard. 2006. The Impact of Electoral Laws on Political Parties. In *The Oxford Handbook of Political Economy*, ed. Barry R. Weingast and Donald A. Wittman, 102–20. Oxford: Oxford University.
- Guo, Xiao Fei. 2007. *Zhongguofa shiyexia de tongxinglian [Homosexuality under Chinese Legal Perspective]*. Beijing: Zhishi Chanquan.
- Gwartney, James D., and Richard E. Wagner. 1988. Public Choice and the Conduct of Representative Government. In *Public Choice and Constitutional Economics*, ed. James D. Gwartney and Richard E. Wagner, 3–28. Greenwich, CT: Jai Press.
- Haas, Michael. 1999. A Political History. In *The Singapore Puzzle*, ed. Michael Haas, 15–38. Westport, CT: Praeger.
- Handley, Antoinette, Christina Murray, and Richard Simeon. 2008. Learning to Lose, Learning to Win. In *Political Transitions in Dominant Party Systems*, ed. Edward Friedman and Joseph Wong, 191–210. Abingdon: Routledge.
- Hansard. 2004. Head P—Ministry of Home Affairs. *Hansard* (Singapore) 77.
- Hillman, Arye L. 2007. Democracy and Low-Income Countries. In *Public Choice and the Challenges of Democracy*, ed. Jose Casas Pardo and Pedro Schwartz, 277–98. Cheltenham: Edward Elgar.
- Ho, Andy. 2007. It's Not a Big Deal for Most Singaporeans. *Straits Times* (Singapore), November 3.
- Ho, Chi Sam. 2007a. Religion, Politics and Sexual Minorities. *Straits Times* (Singapore), May 28, Online Forum.
- . 2007b. Beware the High-Risk “Gay Lifestyle”? Doctor's Arguments Flawed. *Straits Times* (Singapore), August 13, Online Forum.
- Ho, Peng Kee. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Howard, Marc Morje, and Philip G. Roessler. 2006. Liberalizing Electoral Outcomes in Competitive Authoritarian Regimes. *American Journal of Political Science* 50 (2): 365–81.
- Hu, Aini. 2007. Guanyu xingshi fadian xiuzhen faan de fanshi [Reflections on the Criminal Code Amendment]. *Lianhe Zaobao* (Singapore), October 21, 16.
- Huang, Haowei. 2007. Xinjiapo xinai falv de aimei jiongjing [Singapore's Sex Law Ambiguous Predicament]. *Lianhe Zaobao* (Singapore), November 8, 16.
- Huang, Shize. 2007. Xingshi fadian 377A tiao: Xianggang de jing yan [Criminal Law Provision 377A: Hong Kong's Experience]. *Lianhe Zaobao* (Singapore), October 26, 25.
- Huang, Xiuli. 2007. Tongxing de fangshi [Same-Sex Bedroom Affairs]. *Lianhe Zaobao* (Singapore), November 4, 25.
- Human Rights Watch. 2008. *This Alien Legacy: The Origins of “Sodomy” Laws in British Colonialism*. <http://www.hrw.org/en/reports/2008/12/17/alien-legacy-0> (accessed May 1, 2011).
- Hunter, James Davison, and Alan Wolfe. 2006. *Is There a Culture War?: A Dialogue on Values and American Public Life*. Washington, DC: Brookings Institution Press.
- Hussain, Zakir. 2007. Homosexuality: Govt Not Moral Police but it's Mindful of People's Concerns. *Straits Times* (Singapore), April 23.
- Hutton, Christopher. 2009. *Language, Meaning and the Law*. Edinburgh: Edinburgh University Press.
- Ibrahim, Istyana Putri. 2007. “Gay Acts Harm No One” Argument Flawed. *Straits Times* (Singapore), May 3.
- Ibrahim, Muhammad Faishal. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.

- Issacharoff, Samuel. 2008. Democracy and Collective Decision Making. *International Journal of Constitutional Law* 6:231–66.
- Issacharoff, Samuel, and Laura Miller. 2010. Democracy and Electoral Process. In *Research Handbook on Public Choice and Public Law*, ed. Daniel Farber and Anne Joseph O'Connell, 173–206. Cheltenham: Edward Elgar.
- Kennedy, Sheila. 2007. *God and Country: America in Red and Blue*. Waco, TX: Baylor University Press.
- Koh, Dorothy. 2003. Threat to Family System. *Straits Times* (Singapore), July 18.
- Koh, Jaime, and Stephanie Ho. 2009. *Culture and Customs of Singapore and Malaysia*. Santa Barbara, CA: Greenwood Press.
- Koh, Yan Sang. 2007. Tolerance Does Not Mean We Tolerate What Is Wrong. *Straits Times* (Singapore), July 26, Online Forum.
- Kumaralingam, Amirthalingam. 2007. Balancing Evidence and Rhetoric in Law Reform. *Straits Times* (Singapore), December 4.
- . 2009. Criminal Law and Private Spaces: Regulating Homosexual Acts in Singapore. In *Regulating Deviance: The Redirection of Criminalization and the Futures of Criminal Law*, ed. Bernadette McSherry et al., 185–212. Oxford: Hart Publishing.
- Lam, Lester Yong Ling. 2007. Religion's Role in Gay Debate is Interesting. *Straits Times* (Singapore), September 22, Online Forum.
- Lau, Holning. 2008. Human Rights and Globalization: Putting the Race to the Top in Perspective. *Northwestern University Law Review Colloquy* 102:319–31.
- Ledyard, John. 2006. Voting and Efficient Public Good Mechanisms. In *The Oxford Handbook of Political Economy*, ed. Barry R. Weingast and Donald A. Wittman, 479–501. Oxford: Oxford University Press.
- Lee, Dwight R. 2004. Government Regulation and Property Rights. In *The Elgar Companion to the Economics of Property Rights*, ed. Enrico Colombatto, 310–27. Cheltenham: Edward Elgar.
- Lee, Hsien Loong. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Lee, Sze Yong. 2006. SCV Fined \$10,000 for Airing Lesbian Acts. *Straits Times* (Singapore), October 24, 2006.
- Lee, Yvonne C. L. 2007a. Decriminalising Homosexual Acts Would Be an Error. *Straits Times* (Singapore), May 4, 2007.
- . 2007b. Gay Debate Continues: Writer Responds. *Straits Times* (Singapore), May 17, 2007: Online Forum.
- . 2007c. Writer's Article Unfair and Undermines Civil Debate. *Straits Times* (Singapore), November 1, Online Forum.
- . 2008. "Don't Ever Take a Fence Down until You Know the Reason It Was Put Up"—Singapore Communitarianism and the Case for Conserving 377A. *Singapore Journal of Legal Studies* 2008:347–94.
- Leong, Wai-Teng. 1997. Singapore. In *Sociolegal Control of Homosexuality: A Multi-Nation Comparison*, ed. Donald J. West and Richard Green, 127–44. New York: Plenum Press.
- Leow, Bee Geok. 2001a. *Census of Population 2000: Education, Language and Religion*. Singapore: Singapore Department of Statistic.
- . 2001b. *Census of Population 2000: Advance Data Release*. Singapore: Singapore Department of Statistic.
- . 2007. *Census of Population 2000 Statistical Release 5: Households and Housing*. Singapore: Singapore Department of Statistic.
- Levine, Bertram J. 2009. *The Art of Lobbying: Building Trust and Selling Policy*. Washington, DC: CQ Press.
- Levitsky, Steven, and Lucan Way. 2002. The Rise of Competitive Authoritarianism. *Journal of Democracy* 13 (2): 51–65.
- Li, Xueying. 2003. Employing Gays in Civil Service a "Tiny Step Forward." *Straits Times* (Singapore), July 6.
- . 2007. Gay Community Signals a New Focus. *Straits Times* (Singapore), October 25.

- Lim, Andrew Chia Wei. 2007. Decriminalising Homosexuality. *Straits Times* (Singapore), July 26, Online Forum.
- Lim, Biow Chuan. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Lim, George Heng Chye. 2003. Govt Should Rethink Hiring of Gays. *Straits Times* (Singapore), July 15.
- Lim, Kean Fan. 2006. Where Love Dares (Not) Speak Its Name: The Expression of Homosexuality in Singapore. In *Cites of Pleasure: Sex and the Urban Socialscape*, ed. Alan Collins, 129–58. Abingdon: Routledge.
- Lim, Lydia. 2005. Concern over Gay Performers, so “No Go” for AIDS Concert. *Straits Times* (Singapore), March 23.
- Lim, Poh Suan. 2007. Removing Section 377A Threatens Family Unit. *Straits Times* (Singapore), October 16.
- Lim, Richard. 2005. Buddhism's Draw Is No Longer as a Folk Religion. *Straits Times* (Singapore), May 20.
- Lim, Soon Hock. 2007. Not the Right Time to Review Section 377A. *Straits Times* (Singapore), October 20.
- Lim, Sylvia. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Lin, Keith. 2007. NMP Files Petition to House on Gay Sex Law. *Straits Times* (Singapore), October 17.
- Lingle, Christopher, and Kurt Wickman. 1999. Political Economy. In *The Singapore Puzzle*, ed. Michael Haas, 55–76. Westport, CT: Praeger.
- Loomis, Burdett A., and Allan J. Cigler. 2002. Introduction: The Changing Nature of Interest Group Politics. In *Interest Group Politics*, ed. Burdett A. Loomis and Allan J. Cigler, 1–36. Washington, DC: CQ Press.
- Low, Aaron, and Jeremy Au Yong. 2009. Civil Society & Leadership Fights. *Straits Times* (Singapore), April 18.
- Lum, Selina. 2006. Law on “Unnatural” Sex Acts to be Repealed. *Straits Times* (Singapore), November 9.
- Malloy, Robin Paul. 1991. *Planning for Serfdom: Legal Economic Discourse and Downtown Development*. Philadelphia: University of Pennsylvania Press.
- Mamat, Kamal. 2007. Forum—Melayu/Islam harus ambil peluang dari perbincangan [Forum—Malay/Muslims Should Take Advantage of the Debate]. *Berita Harian* (Singapore), November 3, 19.
- Mashaw, Jerry. 2010. Public Law and Public Choice: Critique and Rapprochement. In *Research Handbook on Public Choice and Public Law*, ed. Daniel A. Farber and Anne Joseph O'Connell, 19–48. Cheltenham: Edward Elgar.
- Mayer, Lloyd Hitoshi. 2008. What Is This “Lobbying” that We Are So Worried About? *Yale Law & Policy Review* 26:485–566.
- McClain, Linda C. 2008. Red versus Blue (and Purple) States and the Same-Sex Marriage Debate: From Values Polarization to Common Ground? *UMKC Law Review* 77:415–55.
- McNutt, P. A. 1996. *The Economics of Public Choice*. Brookfield, VT: Edward Elgar.
- Michaelson, Jay. 2008. Chaos, Law, and God: The Religious Meanings of Homosexuality. *Michigan Journal of Gender & Law* 15:41–119.
- Minzner, Carl F. 2009. Riots and Cover-Ups: Counterproductive Control of Local Agents in China. *University of Pennsylvania Journal of International Law* 31:53–123.
- Mohamed, Zaqy. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Mueller, Dennis C. 2003. *Public Choice III*. Cambridge: Cambridge University Press.
- Nachescu, Voichita. 2005. Hierarchies of Difference: National Identity, Gay and Lesbian Rights, and the Church in Postcommunist Romania. In *Sexuality and Gender in Postcommunist Eastern Europe and Russia*, ed. Aleksandar Stulhofer and Theo Sanford, 57–78. New York: Haworth Press.
- Nadarajan, Ben. 2006. Feedback Focuses on Sex Laws. *Straits Times* (Singapore), December 13.
- Nair, Basskaran. 2005. Society's “Yeasts” Are Necessary Evils at Times. *Straits Times* (Singapore), April 26.
- Nair, Hri Kumar. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.

- Nazar, Claire. 2007. Stop Bashing the Majority for Their Views on Homosexuality. *Straits Times* (Singapore), July 13, Online Forum.
- Neher, Clark D. 1999. The Case for Singapore. In *The Singapore Puzzle*, ed. Michael Haas, 39–54. Westport, CT: Praeger.
- Ng, Benjamin Chee Yong. 2007. What Will the Future Be for Our Children if We Decriminalize Homosexuality? *Straits Times* (Singapore), July 21, Online Forum.
- Ng, E-Jay. 2007. Be Pragmatic, Not Xenophobic. *Straits Times* (Singapore), July 21, Online Forum.
- Ng, Kwai Hang. 2009. “If I Lie, I Tell You, May Heaven and Earth Destroy Me.” *Language and Legal Consciousness in Hong Kong Bilingual Common Law. Law & Society Review* 43:369–402.
- Nirmala, M. 2003. Govt More Open to Employing Gays Now. *Straits Times* (Singapore), July 4.
- Offord, Baden Offord. 2003. *Homosexual Rights as Human Rights: Activism in Indonesia, Singapore and Australia*. Bern: Peter Lang.
- Ong, Kian Min. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Ong, Soh Chin. 2006. Stopping Aids, Opening Minds. *Straits Times* (Singapore), December 16.
- Ortmann, Stephan. 2010. *Politics and Change in Singapore and Hong Kong: Containing Contention*. London: Routledge.
- Pan, Zimian. 2007. Yi lixing kan tongxing lian [Looking at Homosexuality Rationally]. *Lianhe Zaobao* (Singapore), November 8, 6.
- Parlow, Matthew J. 2008. Civic Republicanism, Public Choice Theory, and Neighborhood Councils: A New Model for Civic Engagement. *University Colorado Law Review* 79:137–88.
- Patterson, Kelly D., and Matthew M. Singer. 2007. Targeting Success: The Enduring Power of the NRA. In *Interest Group Politics*, ed. Allan J. Cigler and Burdett A. Loomis, 37–64. Washington, DC: CQ Press.
- Phua, Cynthia. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Przeworski, Adam, Michael E. Alvarez, Jose Antonio Cheibub, and Fernando Limongi. 2000. *Democracy and Development: Political Institutions and Well-Being in the World, 1950–1990*. Cambridge: Cambridge University.
- Przeworski, Adam, and Fernando Limongi. 1993. Political Regimes and Economic Growth. *Journal of Economic Perspective* 7 (3): 51–69.
- Puteh, Ramli. 2007. Komentar—Waspada kecenderungan seks songsang [Commentary—Be Wary of the Rising Trend in Promiscuity]. *Berita Harian* (Singapore), October 31, 10.
- Rahman, Noor A. 2007. Komentar—Tolak meliwat demi pelihara peradaban Singapura [Commentary—Reject Homosexual Acts in Order to Preserve the Singapore Population]. *Berita Harian* (Singapore), October 27, 20.
- Rahman, Phiroze Abdul. 2003. Govt Should Rethink Hiring of Gays. *Straits Times* (Singapore), July 18.
- Rajah, Indraneel. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Richland, Justin B. 2008. *Arguing with Tradition: The Language of Law in Hopi Tribal Court*. Chicago, IL: University of Chicago Press.
- Rodan, Garry. 2008. Singapore “Exceptionalism”?: Authoritarian Rule and State Transformation. In *Political Transitions in Dominant Party Systems: Learning to Lose*, ed. Edward Friedman and Joseph Wong, 231–51. Abingdon: Routledge.
- Ruan, Fang-Fu. 1997. China. In *Sociolegal Control of Homosexuality: A Multi-Nation Comparison*, ed. Donald J. West and Richard Green, 57–66. New York: Plenum Press.
- Sable, Suzanne Michelle. 2010. A Prohibition on Antisodomy Laws through Regional Customary International Law. *Law & Sexuality* 19:95–135.
- Sanders, Douglas E. 2009. 377 and the Unnatural Afterlife of British Colonialism in Asia. *Asian Journal of Comparative Law* 4:Article 7.
- Seah, Kim Peng. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Selby, Brian. 2007. Professor’s View on Gays Prejudiced. *Straits Times* (Singapore), May 8, Online Forum.
- Serkin, Christopher. 2006. Big Differences for Small Governments: Local Governments and the Takings Clause. *New York University Law Review* 81:1624–98.
- Siah, Jerry. 2007. Homosexuals Are Contributing Citizens Too. *Straits Times* (Singapore), May 3.

- Siew, Kum Hong. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Silverstein, Gordon. 2008. Singapore: The Exception that Proves Rules Matter. In *Rule by Law: The Politics of Courts in Authoritarian Regimes*, ed. Tom Ginsburg and Tamir Moustafa, 73–101. Cambridge: Cambridge University Press.
- Singapore Department of Statistics. 2007. *Yearbook of Statistics Singapore 2007*. Singapore: Singapore Department of Statistics.
- . 2011. *Census of Population 2010 Statistical Release 1: Demographic Characteristics, Education, Language and Religion*. Singapore: Singapore Department of Statistics.
- Skinner, Richard M. 2007. *More than Money: Interest Group Action in Congressional Elections*. Lanham, MD: Rowman & Littlefield Publishers.
- Soh, Natalie. 2007. Big Changes to Penal Code to Reflect Crime's Changing Nature. *Straits Times* (Singapore), September 18.
- Soh, Wen Lin, and Sue-Ann Chia. 2004. Gay's Letter on Oral Sex Fails to Convince MPs. *Straits Times* (Singapore), January 27.
- Solomon, Robert. 2007. Rev Dr Yap Doesn't Speak for Methodist Church. *Straits Times* (Singapore), July 19, Online Forum.
- Souz, Christopher de. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Stearns, Maxwell L., and Todd J. Zywicki. 2009. *Public Choice Concepts and Applications in Law*. St. Paul, MN: West.
- Straits Times. 2008. From "Letting Them Go" to "Bring Them Home." *Straits Times* (Singapore), June 14.
- . 2009. Why Right to Vote Not Spelt Out. *Straits Times* (Singapore), February 14.
- Tamir, Michal, and Dalia Cahana-Amitay. 2009. "The Hebrew Language Has Not Created a Title for Me": A Legal and Sociolinguistic Analysis of New-Type Families. *American University Journal of Gender Social Policy & Law* 17:545–600.
- Tan, Brian Cheow Eng. 2007. Homosexuality: We Need to Protect Our Asian Values. *Straits Times* (Singapore), July 21, Online Forum.
- Tan, Chek Wee. 2007. Don't Let Prejudice Get in the Way. *Straits Times* (Singapore), July 26, Online Forum.
- Tan, Felicia Ying Yi. 2007. Flawed to Use Holy Texts to Determine What Is Socially Acceptable Today. *Straits Times* (Singapore), July 16, Online Forum.
- Tan, Gerald. 2008. *The 2007 377 Debate—Effective?* April 29. <http://sg.christianpost.com/dbase/society/1336/section/1.htm> (accessed May 1, 2011).
- Tan, Kenneth Paul. 2007. Imagining the Gay Community in Singapore. *Critical Asian Studies* 39 (2): 179–204.
- Tan, Patrick Siong Kuan. 2007a. Homosexuality—Better to Educate Our Young on Importance of Marriage and Family. *Straits Times* (Singapore), May 25, Online Forum.
- . 2007b. Govt Did the Right Thing in Keeping Gay-Sex Law. *Straits Times* (Singapore), October 25, Online Forum.
- Tan, Yen Ling. 2007. Why is it so Hard to Repeal an Archaic Law. *Straits Times* (Singapore), July 21, Online Forum.
- Tay, Simon, and Zulkifli Baharuddin. 1997. PAP Must Go Beyond Package Politics to Win the People's Hearts and Minds. *Straits Times* (Singapore), January 10, 62.
- Teo, Laurel. 2003. Reject Gay Practices, Not People: Church Council. *Straits Times* (Singapore), July 30.
- Tey, Tsun Hang. 2010. Judicial Internalizing of Singapore's Supreme Political Ideology. *Hong Kong Law Journal* 40:293–336.
- Thio, Li-Ann. 2002a. Lex Rex or Rex Lex? Competing Conceptions of the Rule of Law in Singapore. *UCLA Pacific Basin Law Journal* 20:1–76.
- . 2002b. The Right to Political Participation in Singapore: Tailor-Marking a Westminster-Modelled Constitution to Fit the Imperatives of "Asian" Democracy. *Singapore Journal of International & Comparative Law* 6:181–243.

- . 2002c. Recent Constitutional Development of Shadows and Whips, Race, Rifts and Rights, Terror and Tudungs, Women and Wrongs. *Singapore Journal of Legal Studies* 2002:328–73.
- . 2004. “Pragmatism and Realism Do Not Mean Abdication”: A Critical and Empirical Inquiry into Singapore’s Engagement with international Human Rights Law. *Singapore Yearbook of International Law* 8:41–91.
- . 2007a. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- . 2007b. Can We Disagree Without Being Disagreeable. *Straits Times* (Singapore), October 26.
- . 2009. Between Eden and Armageddon: Navigating “Religion” and “Politics” in Singapore. *Singapore Journal of Legal Studies* 2009:365–405.
- Thomson, Irene Taviss. 2010. *Culture Wars and Enduring American Dilemmas*. Ann Arbor: University of Michigan.
- Tim, Mou Hui. 2007. Writer Has Prejudiced View that All Homosexuals Lead Promiscuous and Hedonistic Lifestyles. *Straits Times* (Singapore), May 3, Online Forum.
- Toh, Yong Chuan. 2007. Section 377A Covers Anal Sex Between Males. *Straits Times* (Singapore), December 12, 2007.
- Trocki, Carl A. 2006. *Singapore: Wealth, Power and the Culture of Control*. London: Routledge.
- Turcescu, Lucian, and Lavinia Stan. 2005. Religion, Politics and Sexuality in Romania. *Europe Asia Studies* 57:291–310.
- Wang, Yongbing. 2007. Baochi xianzhuang yu wending [Maintaining Status Quo and Stability, Defending Tradition and Order]. *Lianhe Zaobao* (Singapore), November 8, 16.
- Want, George Tian Soo. 2003. Don’t Condone Unnatural Behavior. *Straits Times* (Singapore), July 18.
- Wardle, Lynn D. 2007. The Attack on Marriage as the Union of a Man and a Woman. *North Dakota Law Review* 83:1365–91.
- Wee, Sip Leong. 2004. Oral Sex Is a Threat to Institution of Family. *Today* (Singapore), March 18, 10.
- Weiss, Meredith L. 2007. We Know Who You Are. We’ll Employ You. In *Sexual Orientation Discrimination: An International Perspective*, ed. M. V. Lee Badgett and Jefferson Frank, 164–76. Abingdon: Routledge.
- White, John Kenneth. 2003. *The Values Divide*. New York: Seven Bridges Press.
- Wintrobe, Ronald. 2008. Dictatorship. In *Readings in Public Choice and Constitutional Economy*, ed. Charles K. Rowley and Friedrich Schneider, 345–67. Boston, MA: Springer Science.
- Wittman, Donald A. 1995. *The Myth of Democratic Failure: Why Political Institutions Are Efficient*. Chicago, IL: University of Chicago Press.
- Wong, Joseph. 2008. Maintaining KMT Dominance. In *Political Transitions in Dominant Party Systems*, ed. Edward Friedman and Joseph Wong, 57–74. Abingdon: Routledge.
- Wong, Suan Yin. 2007. Minority Groups Also Have Every Right to Be Represented. *Straits Times* (Singapore), October 20, Online Forum.
- Wong, Tessa. 2007. Homosexuality: Older Youth More Open and Better Informed. *Straits Times* (Singapore), September 24.
- Yan, Mengda. 2007. Gongjian [Space]. *Lianhe Zaobao* (Singapore), November 27, 12.
- Yap, Kim Hao. 2007a. Criminalisation of Gay Acts: Need for Equality Before the Law. *Straits Times* (Singapore), May 22, Online Forum.
- . 2007b. We Cannot Afford to Wait for Conservative Views to Change Before Dropping Laws Against Gays. *Straits Times* (Singapore), September 4, Online Forum.
- Yap, Susan Siu Sen. 2007. Whether Heterosexual or Gay, Treat All Equally. *Straits Times* (Singapore), May 1.
- Yeo, Alvin. 2007. Penal Code (Amendment) Bill. *Hansard* (Singapore) 83: Column 2175–2445.
- Yong, Jeremy Au. 2009. Voting is a Constitutional Right, Says Law Minister. *Straits Times* (Singapore), February 14.
- Yong, Jeremy Au, and Zakir Hussain. 2009. Religious Groups Must be Mindful of Differing Views, Says DPM. *Straits Times* (Singapore), May 15.

- Zeng, Guoqiang. 2007. Ye huiying “Hebu feichu xingshi fadian di 377 he 377A zhangjie? [Responding to “Why Not Repeal Criminal Law Provision Sections 377 and 377A?”]. *Lianhe Zaobao* (Singapore), June 7, 15.
- Zhou, Suxing. 2007. Baoshou he kaifang de bahe [Tug of War between Conservatives and Liberals]. *Lianhe Zaobao* (Singapore), December 29, 30.

CASES CITED

Lawrence v. Texas, 539 U.S. 558 (2003).

STATUTES CITED

Criminal Code (Taiwan) (revised Jan. 7, 2010).
Penal Code (Singapore) (Cap. 224, 1985 Rev. Ed.).