

Winter 2014

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Recommended Citation

Wilson, Sophia (2014) "A Review of "Authoritarian Rule of Law: Legislation, Discourse and Legitimate in Singapore," by Jothie Rajah," *Indiana Journal of Global Legal Studies*: Vol. 21 : Iss. 1 , Article 11.

Available at: <https://www.repository.law.indiana.edu/ijgls/vol21/iss1/11>

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A Review of Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore by Jothie Rajah

SOPHIA WILSON*

Jothie Rajah's *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore*¹ is a comprehensive account of a state's ability to suppress dissent through the manipulation of legality and public discourse. The work presents an in-depth look at the ways through which the state methodically extinguished core civil rights and liberties in Singapore while promoting its legitimacy on a national scale and maintaining its appearance as a Westminster-model democracy within the international arena. It is precisely the paradox of the coexistence of rights suppression and state legitimacy that is the focus of Rajah's attention. The book presents a rigorous examination of the state's ability to justify corporal punishment for vandalism, suppression of the press, and the repression of civil society associations and leadership through a study of Singapore's legislation and state discourse in the postcolonial era, as well as more recent cases in the 1990s and 2000s. Rajah offers a rather depressing narrative of the corrosive effects of colonial legacies, which provided local political elites with ample skills in the suppression of dissent. Unfortunately, this suppression did not dissipate under the flourishing market economy in the years following colonial rule. Rather, as Rajah describes, it continued under the pretense of chasing communist ghosts with the suppression of leftist opposition in the 1960s and, later, with the modern state asserting itself as the protector against Western chaos and immorality.

The work provides a number of theoretical contributions to scholarly literature. First, it presents yet another challenge to the assumption that economic prosperity runs hand in hand with democratization. While a number of scholars have refuted the correlation, Rajah provides

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1. JOTHIE RAJAH, *AUTHORITARIAN RULE OF LAW: LEGISLATION, DISCOURSE AND LEGITIMACY IN SINGAPORE* (2012).

a closer look at how the state may exploit the success of a market economy to promote its hold on power. Second, the work underlines the vital importance of public discourse in the protection of individual rights. Rajah argues that, in the case of Singapore, the state's adeptness at presenting itself as a protector of public order through legality preempts a public outcry over disproportionate and degrading punishments² and control of the media.³ Rajah's work provides a rich and insightful account of the state's construction of national goals and its claim to achieve those goals, which, according to the state, justify the erosion of civil liberties.

One of the most vital goals evoked by the Singapore state is national survival, which they allege is threatened by the "nationalistic countries of Indonesia and Malaysia,"⁴ the power politics of the Cold War, Singapore's potential susceptibility to ethnic and religious clashes,⁵ and its susceptibility to "Western" immorality.⁶ In its alleged pursuit of protecting the nation, the state insists on legal exceptionalism, including the promotion of violent punishment. Thus, in the 1960s, the state claimed it was shielding the nation from "marginalizing and demonizing Communism" through the Vandalism Act, which authorized severe corporal punishments for offenses, such as tearing identification cards and putting up anti-American slogans, as performed by the leftist opposition.⁷ In later decades, "hostile foreign interests" and Western culture, with its "permissiveness in sex, drugs and dress-styles,"⁸ became one of the most important alleged "threats."⁹ Rajah describes how the state's claim to protect the people from moral corruption was invoked to justify restrictions placed on mass media in the 1960s, as well as control of foreign media's circulation in the 1980s.¹⁰ The state claimed that "slanted and divisive reporting" caused "instability and strife."¹¹ Newspapers were also accused of conducting "calculated campaigns" to provoke ethnic violence, which necessitated state interference to prevent the media from "misle[ading] the people."¹²

2. *See id.* at 98.

3. *See id.* at 151.

4. *Id.* at 21.

5. *See id.* at 23.

6. *See id.* at 127.

7. *See id.* at 65-82.

8. *Id.* at 127.

9. *Id.*

10. *Id.* at 117-60.

11. *Id.* at 151.

12. *Id.* at 133 (internal quotation marks omitted).

In fact, the Othering of the people (i.e., claiming their inability to deal with complexity or engage in making their own assessments)¹³ is yet another commonly used justification of the Singapore state's authoritarianism. Rajah demonstrates that the construct of "the people" is "in striking continuity with colonial constructions of 'natives' as people of inferior ability."¹⁴ Thus, the colonial legacy manifested itself twofold: through supplementing the political elites with the ability to maneuver the law and asserting the distinction between "the [native] people" and those who govern.¹⁵ According to Rajah, colonial practices of legal maneuvering were apparent in the state's dealing with opposition through rendering it as public disorder and detaining opposition figures without trial.¹⁶

It appears to me, however, that the public's alleged inferiority vis-à-vis the state also draws on the blending of Confucianism and legalism found in the legal tradition of dynastic China. Rajah discusses the manipulation of discourse on "Asian values" by the state in promoting its authoritarian rule of law. Interestingly, the approach taken by the Singapore state, as explained by the author, seems to closely coincide with the solution of dynastic rulers in China. This is a blend of the Confucian emphasis on social harmony—to be achieved through social hierarchy and the instillation of a feeling of shame—with legalism, which emphasized corporal punishment. According to Rajah, the Senior Minister of Singapore craftily augments a parental sense of shame in the case of youth vandalism.¹⁷ Moreover, while the state conveniently erases any allegation of police brutality from state discourse, it celebrates the role of punishment and likens corporal punishment by the state to the violence a parent is encouraged to use in regulating a child's behavior.¹⁸ In my view, the Singapore case seems to show that in this interaction of the Westminster model—which promotes individualism through judicial discretion—and the Confucian legalistic model—which promotes top-down control—the latter model prevails. The question that remains is what determines this victory. It seems that Rajah's answer lies with the political elite's ability to manipulate public discourse as well as the law.

Indeed, the Singapore state's capacity to suppress dissenting discourse and promote its authoritative monopoly on public discourse and ideology might be likened to that of a totalitarian state. The author

13. *See id.* at 130.

14. *Id.*

15. *Id.*

16. *See id.* at 74.

17. *See id.* at 102-03

18. *See id.* at 77.

shared a telling story of her own experience with the all-reaching state apparatus: having produced a legal parody as a law school student in Singapore, she was summoned by the bureaucracy to explain her ideas and questioned about the influence of her professors. Rajah's book shows that the state has developed an intricate control apparatus, not only to suppress opposition, but to silence freedom of expression. Moreover, the state has established a monopoly on the interpretation of national values. Thus, the state was able to silence lawyers through detention without trial in the 1960s and through public denouncement at Select Committee Hearings.¹⁹ They also suppressed any criticism from religious leaders through the Religious Harmony Act.²⁰ Importantly, as Rajah points out, the state is focused on suppressing local associations built on (or a part of) international religious or ideological communities because they might present an influential alternative interpretation of national values.²¹

Rajah warns that, as a number of countries—notably China—look to Singapore as a model for development, the state's ability to manipulate law and citizenry might be just as attractive as its successful economic advances. Perhaps the most important question to ask is what the book teaches about the likelihood of transition from an authoritarian rule of law to a more liberal one where the legal system promotes individual rights. In other words, what can rights advocates learn from this work to help them fight for human rights in authoritarian states? All current liberal rule-of-law regimes underwent transformations from authoritarian rule. All authoritarian regimes use law to control their citizenry. All of them are likely to claim that the law is just and that the presence and application of the "just" law legitimizes the ruler. As a number of scholars argue, this approach is likely to backfire because citizens may attempt to use the legal system against the state in pursuit of justice.²² This indeed may be one path to liberalization from an authoritarian rule of law. It seems as though the Singapore state is well aware of this potential and is, therefore, striking at the core by preventing the development of a public discourse that could challenge the state by turning its own laws against it. The state shrewdly asserts its authoritarian rule by directing discourse and legitimizing itself as the protector of national security and national values—a powerful ideology. Thus, we might conclude from Rajah's findings that, to

19. *See id.* at 181-83, 205-08.

20. *See id.* at 247-49.

21. *See id.* at 292.

22. *See, e.g.*, E.P. THOMPSON, WHIGS AND HUNTERS: THE ORIGIN OF THE BLACK ACT (1975); TAMIR MOUSTAFA, THE STRUGGLE FOR CONSTITUTIONAL POWER: LAW, POLITICS, AND ECONOMIC DEVELOPMENT IN EGYPT (2007).

undermine the state's control of the legal system, civil rights activists should adopt the tactic not only of criticizing the state for rights violations, but also—most importantly—of challenging the state's monopoly on the interpretation of national values.

As for any scholarly achievement, the work triggers some questions about the author's conclusions and assumptions. First, Rajah suggests the importance of legitimacy as an element of successful authoritarian rule. In other words, this work strongly suggests that, to control access to power, the state must not only suppress the opposition but also develop intricate ways to legitimize the suppression. Consequently, the more convincing the discourse, the more stable the regime. A more theoretical discussion on why this should be the case would prove insightful. Secondly, the author's argument emphasizes the importance of a national discourse: she discusses the way it is shaped by the state, mostly by analyzing the remarks of government ministers and, occasionally, the *state media's* reiteration of public opinion. The term *discourse*, however, suggests that the citizenry is actively involved in communication with the state. According to Rajah, though, the state successfully silenced civic activism (with the exception of an account of political detainees published in 2009, mentioned in the afterword). Perhaps, then, the term *propaganda*, rather than *discourse*, might be more appropriate to reflect the state's imposition of its interpretation of national values and successful suppression of alternative viewpoints and criticism. Moreover, the term *legitimacy*, used by the author, involves a degree of public approval of governance. The book, however, does not provide support for the claim that the state is legitimate, such as public polls or qualitative accounts of public perceptions. These shortcomings notwithstanding, Rajah's book is an important contribution to the scholarship of public law and comparative politics literature and will prove to be educational to scholars, lawyers, and students worldwide.

