

Case Study #1:**Movement to Repeal Marital Immunity for Rape**

Until 2007, Singapore's Penal Code provided legal immunity to marital rape. In 2007, marital rape was criminalised under specific circumstances. The movement sought to fully repeal marital immunity for rape, and has nearly succeeded as of February 2019, when Parliament proposed its full repeal in the Criminal Law Reform Bill.

CATEGORY	Women's Rights
KEY ACTORS	No To Rape campaign AWARE (Association of Women for Action and Research) Maruah

WHO ARE THE ACTORS?

AWARE (The Association of Women for Action and Research) is a gender equality group¹ that aims to create a society of true gender equality through among other methods, research and advocacy. It is focused on creating a society where men and women can make "informed and responsible choices about their lives and to have equal opportunities in education, marriage and employment, and in the right of women to control their own bodies, particularly with regard to sexual and reproductive rights." AWARE also runs the first and only known specialised care service centre for survivors of sexual violence.

Maruah, which is "dignity" in Malay², is an NGO focused on human rights in Singapore. Maruah's role in the movement to criminalise marital rape was largely spearheaded by Braema Mathi, who was also the

¹ AWARE. (Retrieved on 22 December 2018 from <http://www.aware.org.sg/about/>)

² Maruah (Retrieved on 22 December 2018 from <https://maruah.org/about/>)

founder of Transient Workers Count Too (TWC2), a former president of AWARE (where she still leads an initiative on human trafficking) and a Nominated Member of Parliament for two terms.

No To Rape was a campaign started by a group of volunteers in 2009 that featured an extensive repertoire of actions – a public seminar, open letters to main media outlets, and culminated in a petition signed by 3,600 people calling the government to criminalise marital rape in Singapore.

WHAT'S WRONG?

Prior to 2007, The Singaporean Penal Code provided legal immunity to the offence of rape if the perpetrator and victim are married³. This penal code is rooted in the colonial background of the Application of English Law Act 1993.

Before 2007, there was complete immunity from marital rape until a penal code review where it was amended⁴ to, according to The Straits Times, “recognise marital rape under certain circumstances, such as if the husband and wife were living apart under an interim judgment of divorce or written separation agreement, or if divorce proceedings had begun, or if the wife had already obtained a personal protection order against her husband.”⁵

In 2018, the Penal Code Review recommended a full, unqualified repeal of marital immunity for rape⁶.

WHAT DID THEY DO?

AWARE, Maruah and other unaffiliated groups of volunteers had undertaken a wide range of actions to advocate for the full repeal of marital immunity for rape.

1. No To Rape Campaign

In 2009, a group of volunteers launched the **No To Rape campaign**, endorsed by both AWARE and Maruah, centering around an online petition⁷ to the Prime Minister to criminalise marital rape that eventually garnered 3,600 signatures. There was extensive public education and advocacy with the recruiting of

³ No To Rape. 2009. No To Rape FAQs. Retrieved from <http://www.notorape.com/faq/#faq13>

⁴ Penal Code (Amendment) Bill, No. 36/2007. (2007) Retrieved from <https://sso.agc.gov.sg/Bills-Supp/38-2007/Published/20070918?DocDate=20070918>

⁵ Au-Yong, R. 5 April, 2007. *Immunity for marital rape being reviewed*, The Straits Times. Retrieved from <https://www.straitstimes.com/singapore/immunity-for-marital-rape-being-reviewed>

⁶ Ibid.

⁷ No To Rape. 2009. No To Rape Petition page. Retrieved from <http://www.notorape.com/petition/>

public ambassadors such as Anita Kapoor, a local TV host, and an online website that provided comprehensive information, articles and arguments for the repeal including FAQs and other resources. The public seminar was held at the Singapore Management University on 7 August 2009, jointly organised with the SMU Law Society. Along with a panel of 5 expert speakers, over 120 people of all walks of life gathered that evening to listen and offer their opinions on the subject of marital rape and its associated topics. The discussions offered in-depth and multi-disciplinary perspectives on a pressing contemporary issue in criminal and family law that not only poses questions about our evolving social mores but more importantly has serious consequences for the safety of women and the quality of our family unit. The public nature of the campaign attracted large public attention with a number of letters written in to The Straits Times' forum contributing to the debate on the issue. This provided an opportunity for the publication of an open letter on The Straits Times penned by both No To Rape and AWARE in response, further publicising the issue.

2. Participation in the UN Human Rights Council's Universal Periodic Review (UPR) and the CEDAW periodic report

As a signatory of the United Nations Human Rights Declaration, Singapore is subject to the UN HRC's Universal Periodic Review. Capitalising on the UN's recognition of marital rape as a human rights violation, AWARE and Maruah have repeatedly brought up the issue while engaging in the UPR process. Both groups have participated in the 2016 and 2018 UPRs. Also in 2017, AWARE and Maruah along with a coalition of other Singaporean women-focused groups submitted shadow report to the UN's Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW). Among their recommendations was the repeal of marital immunity for rape. Altogether, participating in the UPR and CEDAW reviews enables these groups to highlight the issue and engenders international pressure upon the government to enact legal reforms.

3. Public Education and Capacity Building

As part of AWARE's capacity-building efforts, AWARE has conducted numerous school workshops, corporate training and community programs. At the community level, these efforts raise awareness of this issue, which would otherwise not be widely known. AWARE has also frequently penned letters and written op-eds published in local newspapers such as The Straits Times. These public engagement efforts have yielded both support and greater discussion. In 2013, the then-Nominated Member of Parliament Eugene Tan, who is also a Professor of Law at SMU, raised the issue in parliament and contributed an op-ed in The Straits Times.

4. Engagement with the government

AWARE had also participated actively in public feedback sessions by the Ministry of Law on amendments to acts relevant to women's issues. In 2011, AWARE made a submission that relates to Section 157(d) of the Evidence Act, which makes it possible to discredit an alleged sexual assault victim through her sexual history. The No to Rape Campaign focused on encouraging the government to repeal Sections 375(4) and 376A(5) of the Penal Code and also encouraged public submissions to relevant Ministries via the REACH website.

WHAT TACTICS DID THEY USE?

1. Open-letters, engagement with media and public awareness

Open-letters and their engagement with the local media have featured extensively in the movement, and was a core strategy of the No To Rape Campaign. This had the effect of galvanising debate on newspaper forums with a flurry of opinions being published for a period of a few weeks – ultimately creating an appearance of rigorous societal discourse on the issue while also increasing the airtime dedicated to this issue. This media engagement strategy, and when coupled with other public elements of the campaign such as the public seminar and the petition, ultimately served to increase public awareness of a previously “invisible” issue of marital rape.

The effect of raising awareness - fought with public talks, media engagement and online advocacy - on previously neglected issues should not be understated. Ms Jolene Tan, head of research and advocacy at AWARE and one of the individuals behind the No To Rape campaign, remarking in an interview with Channel NewsAsia that “most of the time when you engage people on it the primary response is: “I had no idea, this is terrifying.”

2. Cultivating expertise and working with allies

The No To Rape campaign managed to gain traction as it was broadly supported by a number of vocal and allies. The campaign mobilised other groups that were already actively working on the issue such as AWARE and Maruah. They were also able to gain credibility due to their fact-based research and the background expertise of the core volunteers who were had been long-term volunteers at AWARE.

3. Working on the international front

By participating in the UPR and CEDAW reviews, AWARE and Maruah were able to highlight the continuing loopholes in the law, creating international pressure upon the government to enact changes. With the government's concerns over its international reputation and good foreign relations with countries that

prioritise women’s rights, internationalising a domestic issue remains a particularly valuable pressure tactic.

CONCLUSIONS

As of 2018, as part sweeping reviews to the penal code, the Penal Code Review Committee recommended a “full, unqualified repeal marital immunity for rape”⁸. The No To Rape campaign, CEDAW advocacy of AWARE and other rights groups, the advocacy of MPs in Parliament, and “ a marked global shift towards criminalising marital rape” was cited by the Committee as key considerations for the recommendation⁹.

In 2019, the Singapore government announced that it had accepted the Penal Code Review Committee’s recommendation to repeal marital immunity for rape¹⁰.

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⁸ Ong, J. 9 September, 2018. *Marital rape, voyeurism to become offences in ‘sweeping’ changes proposed for Singapore’s penal code*. Channel News Asia. Retrieved from: <https://www.channelnewsasia.com/news/singapore/penal-code-review-marital-rape-voyeurism-suicide-vulnerable-10697396>

⁹ Penal Code Review Committee. (August 2018). *Penal Code Review Committee Report*. Retrieved from: <https://www.mha.gov.sg/docs/default-source/default-document-library/penal-code-review-committee-report3d9709ea6f13421b92d3ef8af69a4ad0.pdf>

¹⁰ Kwang, Kevin, 2019. “Sweeping Changes Proposed to Singapore Penal Code; Attempted Suicide to Be Decriminalised.” Retrieved from: www.channelnewsasia.com/news/singapore/singapore-attempted-suicide-to-no-longer-be-crime-11229108.

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CAPE, or the *Community for Advocacy & Political Education*, a student organisation based in Yale-NUS College, was founded in 2017 by a group of students from Yale-NUS College and NUS Law. We are a community that examines local civic affairs relating to civil society, and provides avenues for Singaporeans to contribute constructively. We envision a Singapore where citizens are politically conscious and proactively engaged in civil society, policy making and social change. In this aim, we are focused on increasing political literacy and making civil participation accessible.

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