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Law and Gender: An Emerging Fault Line in Social Cohesion?

By Tamara Nair

Synopsis

In an extraordinary twist to the gender equality rhetoric, a woman escapes a stiffer sentence for sexual assault because the law under which she was charged "does not cover women as offenders". The case signals a need for Singaporeans to look more comprehensively at how to maintain social cohesion and secure the homeland.

Commentary

ON 12 APRIL 2016, a 40-year old woman in Singapore, who admitted to repeated sexual assaults on an underaged girl for over two years, was acquitted of six charges against her. Although sentenced to an eight-month jail term, she could have faced up to five years and/or fined up to $10,000. Ms Zunika Ahmad pleaded guilty last year to six counts under section 376(A)(1)(b) of the Penal Code, which criminalises the sexual penetration of a minor with a foreign object other than the perpetrator's (male) sexual organ.

The charges were dropped by the judge because of reference to the male organ, which simply could not be "construed to include a woman" without defying "common sense and anatomy". This unusual outcome raises a question of public interest in the definition of gender and how the state and its laws interpret such cases - which could attract greater scrutiny among local and international students of gender issues.

Notions of gender equality

The term 'gender' is often mistakenly identified with just women. 'Gender' is a complex social and cultural construct. It not only identifies 'male' and 'female' and individuals of other sexual orientations but also includes one's own internal sense of

self. In addition, there are specific behaviours and norms expected of gender groups. This expected behaviour forms the basis of social relationships within families, communities and societies.

National laws are based on these social power systems and it is not inconceivable that men too can suffer under their dominance. For instance, the social and legal interpretation of 'domestic violence' often pinions the man as the likely perpetrator of harm against family. This is definitely not true in every instance.

To cite an example, in 2014, the Malaysian Minister responsible for women and family affairs was quoted in the media as saying that 958 out of 3673 domestic violence cases reported involved male victims. It would appear that men become 'trapped' in existing systems of law and governance and sometimes are seen as more deserving of harsher punishment than women.

Three psychiatrists diagnosed Ms Zunika, separately, with gender dysphoria – or a strong yearning to be identified as male. Although she is biologically female, she projects a masculine persona. Identifying as an Indonesian man, Ms Zunika is said to have two wives and a daughter. The crimes committed by her are by her male persona. This by no stretch should preclude Ms Zunika, for all purposes seen as a woman by the state, from the full extent of the law; but at the same time Ms Zunika's sexual orientation should be featured in the interpretation of the law.

'Gender' as a new fault line

The fact that the law does not recognise the extent of Ms Zunika's particular crime because of gender norms and associated legal terminology has triggered reaction in social media, dividing those who empathise with Ms Zunika's unique situation and those who feel such sexual predators should not be let off so easily.

Things become more complicated when the law is not positioned to punish female and transsexual offenders to the same degree as they would a male offender. The case is also an opening for greater focus on possible divisions in society based on gender norms. Much to the chagrin of conservative elements, today's reality, borne of great media influence and 'openness' as well as the advancement of communication and messaging technology, invite varied points of view.

Bigoted ideas around gender behaviour infringe on one's individual, and by extension, community's sense of security and well-being. When the institution people turn to ensure their rights are not violated is unclear on the proper direction to take, there are more 'casualties' than just the victims of the crime. One of these would be what Singaporeans take for granted - our social cohesiveness.

Cyberspace and social cohesion

Ideas of national identity and social cohesion are seemingly stressed, if online conversations are anything to go by. Very often incidents that supposedly erode Singaporean 'core values' trigger a barrage of comments, directed towards anything and everything that's allegedly responsible for the 'breaking down' of Singaporean society.

Globalisation and Singapore's role as a key node in the world economy have opened up the country to the rapid changes and shifting trends in how people live and interact with each other and make a living.

It would seem that formal conversations on 'taboo' topics that are part of mainstream conversations elsewhere in the global village are germane. Leaving these discussions in 'grey areas' and open to interpretation expose them to being hijacked and converted into topics that have no substance and a far cry from the legitimate discussion it may have started out as.

Such hijacked topics gather momentum and with their snowballing effect, get out of control. This may very well leave the government to manage a situation when information available is incorrect or not reflective of the actual issue at all.

Social cohesion and by extension, national security, can be adversely affected by the distractions and distortions on social media. Such is the power of information and communication technology today. It is appropriate to engage in measured and meaningful discussions with people that reassure all segments of society that in the eyes of the law, all are equal. This approach could very well involve an understanding that old ways of interaction are not conducive to securing Singapore in the wake of extremism and other non-traditional security challenges.

In all fairness we can and should sympathise with Ms Zunika. One can only imagine what it must feel like to be 'trapped' in one sex mentally and another, physically. If nothing else, Ms Zunika has unknowingly done society a favour by pointing out the loopholes in their laws and knowledge of gender issues. Such gaps must not be allowed to become a fracture in society, which can destabilise the social cohesion that Singapore has worked tirelessly to maintain.

Tamara Nair is a Research Fellow at the Centre for Non-Traditional Security (NTS) Studies at the S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University, Singapore.
