

IN THE SUBORDINATE COURT OF THE REPUBLIC OF SINGAPORE

PS NO . 1348/08)

YAP KENG HO

VS

PUBLIC PROSECUTOR

SUMISSION OF DEFENSE

To the Honorable the Judges of the Subordinate Court of Singapore.

The closing submission of YAP KENG HO

1. The most significant common element of defense in this case is the proven policy of discrimination against political parties apart from any other entities to hold fair and lawful activities in the out-door environments, except for sports stadiums. It will be herein and after referred to as THE DISCRIMINATION.

- i. THE DISCRIMINATION is an UNLAWFUL DISCRIMINATION because it is NOT supported by any legislation. There is no law nor MOA Rule that bans Political Parties to enjoy equal rights with other entities to hold activities in Out-door environments.
- ii. THE DISCRIMINATION is a policy mentioned by DPM Wong Kan Seng as well as Associate Professor Ho Peng Kee, on separated sessions in the parliamentary proceedings, and proven by the hansard.
- iii. THE DISCRIMINATION is a clear outright violation against constitution articles 12 & 14. Political parties are entitled to enjoy equal protection and freedom like any organizations such as Work Unions & Businesses.
- iv. THE DISCRIMINATION is a policy working in the dark, not openly made known to political parties. Politicians like late Mr. J B Jeyaretnam past away without hearing an open policy statement although he had suffered from it inclusive of imprisonment. Although THE DISCRIMINATION had been persistently enforced, and clearly proven to the opposition parties, there is nothing made known officially. The prosecution witnesses from police and License Unit tried to deny and conceal THE DISCRIMINATION in this trial, under oath and cross examination.
- v. THE DISCRIMINATION had been consistently put into practical enforcement by all the police officers in this case. They were all enforcing an unfair and unlawful DISCRIMINATION.

- vi. The charges are part of the unfair and unlawful DISCRIMINATION.

3. THE DISCRIMINATION policy is a corrupted and abusive one installed by politicians who contest against the SDP in General Election 2006, who stands to be challenged for their political powers and world's highest ministerial salaries. They obviously have personal interest and motives to deprive the SDP from reaching out to the crowd when elections was near, as well as to raise funds from the crowd in order to challenge these politicians in high lucrative positions.
4. Legislations in Chapter 257 & Chapter 184 had been abused by the politicians to enforce THE DISCRIMINATION policy, to charge their political opponents all these years. The police force and public prosecutor and been used by the ruling regime's politicians to enforce and perpetrate THE DISCRIMINATION policy against the opposition.
5. Chapter 257, section 13(3) gave these politicians in the positions of ministers higher power than a high court judge in any Judiciary Review against the issue of PEMA Licenses. This is totally against the nation and people's interest, and only the power of a constitutional court can strike out Chapter 257, section 13(3) which binded even the judges from Court of Appeal. Abusing the instruments of Chapters 257 & 184, politicians can anchor their positions unfairly against fair political challenges provided by Chapter 218. This had been illustrated in the cases before this court. I urge the court to exercise it's power under Chapter 321 section 56A, to transmit this issue to the constitutional court to be properly addressed for the interest of people and the state.
6. It is both the testimonies of DW1 & DW2 plus all the prosecution's witnesses testimonies consistently that the walk on 16.Sept.2007 was peaceful orderly and un-disturbing to other road users and pedestrians. And the defendants were just conveying themselves on foot quietly like no other pedestrians. There were no flags nor banners nor placards nor musical instruments in use. There is no dispute on this aspect.

7. There is no dispute here that defendants were making ad-hoc stoppages in so many places and entered so many buildings along the way. They went separately at times, to get rest or get drinks or use toilets along the way. This nature is the most unlike with any kind of known processions.
8. It is both the testimonies of DW1 & DW2, and at least one of the prosecution's witnesses testimonies that the walk took place in random order and sequence, without any rigid formations being consciously maintained throughout. This nature is identical and consistent with ordinary pedestrians. The defendants used the sidewalks along and mixed with other pedestrians in just very ordinary way.
9. It is the testimonies of DW1 & DW2, that there had been no uninterrupted continuity being maintained throughout the walk, and other pedestrians regularly cut in between walking positions of defendants naturally, and in ordinary ways.
10. It is the testimonies of DW1, that unlike any regular processions e.g Religious Weddings & Funerals, there is no noticeable nor identifiable body of procession exist around the defendants at all. Nothing so irregular nor extraordinary could become noticeable or members of public to identify the defendants of being within a procession. Therefore a procession had never take place on 16.Sept.2007 from Hong Lim Park to QRP.
11. I accept all of the testimonies of DW2, Jeremy Au Yong Wing Mun, with the exception that the distance from the first to the last person of the walk to be within range of 10-20 meters only. It is the testimonies of PW (I/O) Sukdiff Singh that he could not get sight of all defendants at various locations. It is the same in DSP Chan Peng Khuan's testimonies, that he was unable to see certain defendants while observing the others at most time. It is DW1's testimonies that, at several occasions, contact need to be re-established with the use of handphones between defendants because they lost sights of each other on the way.

12. It is due to **3** factors that DW2, Jeremy Au Yong Wing Mun's account of the distance is only of 10-20 meters: **first** being that he was not following the entire walk from Hong Lim Park to QRP, he had only witness just the shorter journey up till Center Point. At especially later parts of the walk some of the people lagged further and further behind those who were in the front. **Secondly**, DW2 has memory lapse of around 30% of the event, that he could not remember anything about walking next to Mr. Gandhi and he remembered nothing about being at the Parliament entirely, so his account regarding the distance from the 1st to last person, is unreliable. **Thirdly**, his observations may not be accurate, he might had estimated the actual distance inaccurately.
13. There is no dispute that Yap Keng Ho was not wearing a white T-shirt with Democracy Now slogan, was wearing Green Polo instead. There is no dispute that he is a blogger and was taking pictures and video of the event like the other persons of journalistic roles. There is no evidence that Yap took part in any activities like singing songs and taking group photos with the other defendants.
14. There is no evidence at all that Yap Keng Ho has any mutual agreement nor consent with any person to be in a part of procession to commemorate anything at all. Yap was not invited to take part nor had asked to nor had accepted to take part in the walk. Yap was just there like other bloggers and reporters to observe the event for purpose of journalistic functions.
15. Many of the police witnesses were wrongly lumping the activists together with bloggers and journalists who were there for reporting the event. The police did not make any efforts to demand identification documents of the Unidentified persons.



16. Not as an evidence, but substantiates my submission that DW2 Jeremy Au Yong in this

photo taken by myself, at junction near to Funan Digital Life Mall showed that DSP Chan, Miss Chee & Mr. Gandhi plus another female reporter and a police videographer were together when DSP Chan was engaging Mr Gandhi. DW2 Jeremy was obviously witnessing the ONLY police engagement with the defendants as a reporter covering the event. But he was unable to remember anything about that. This shows that DSP Chan's engagement and order was just very brief and unclear. Even DW2 who was just behind him did not get any impression of his so called warnings.

17. Yap Keng Ho was discriminated apart from other bloggers and reporters to be wrongfully lumped together with the activists in the common T-shirts and charged, this is because he was **Policing The Police, and ensuring that lawful limits of police powers had not been exceeded and Civil Rights not violated**. The polices had taken this very badly, and had acted against Yap Keng Ho unfairly.
18. The investigation did not include the journals nor other bloggers at all. Investigation Official simply told the court that these are **unidentified persons**. Therefore very limited and very inaccurate result yields from his limited investigation. It became clearer in the trial, that there were actually more persons of journalistic roles than those in the white T-shirts. There were even more number of police officers consisting of not 1 but 2 engagement teams and others on that day. Most of these persons are not commemorating anything, but were just observing the event.
19. The defendants must enjoy equal rights and liberty with no DISCRIMINATION to use public road for conveying themselves from any place to another, just like any other lawful members of the public, under Singapore's law and constitution. What they did were no extraordinary in comparison with any weekend walkers on Singapore's sidewalk. They did not formed up to become any sort of procession at all. No procession was noticeable nor felt by the public.

20. The walk was a peaceful and lawful act. Only had been WRONGFULLY DISCRIMINATED because of the defendants political backgrounds, this is driven by an UNLAWFUL & UNCONSTITUTIONAL POLICY made by politicians who are the political opponents of defendants. Citizens can not be incriminated unfairly just because they have come from political parties.

DATED THE 4TH DAY OF SEPTEMBER 2009

A handwritten signature in blue ink, appearing to be 'YAP KENG HO', written in a stylized, cursive manner.

YAP KENG HO
THE DEFENDENT

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REPLY TO CLOSING SUBMISSION