

SINGAPORE

VICTIMS OF CORRUPTION: DAMAGE REPARATION AND LEGAL STANDING

INTERNATIONAL DATABASE 2022

SOURCE: ANONYMOUS

VICTIMS OF CORRUPTION WORKING GROUP



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1. Legal Standing

1.1 Legal standing for civil society organisations and/or citizens in corruption-related cases

Civil society organisations and citizens have legal standing in corruption-related cases in Singapore.

While Singapore does not have a broad standing compared to certain jurisdictions (e.g. Spain, all Spanish citizens on issues involving the public interest has legal standing¹), there are a number of routes which a civil society organization or a citizen can pursue in relation to a corruption related matter.

The route to bring a corruption-related case in Singapore is such that a complain must first be made to Singapore's Corrupt Practices Investigation Bureau ("**CPIB**"). CPIB will then investigate all corruption cases, whether it involves public or private sector individuals or members of the public.² Upon the conclusion of their investigation, if CPIB determines further investigation is needed, the alleged corruption case will be handed to the Attorney-General's Chambers ("**AGC**") (i.e. which is the prosecutorial arm of the Singapore Criminal Justice System) to obtain the Public Prosecutor's consent to proceed with court proceedings.³

Therefore, any persons (including citizens or those from a civil society organization) can take the first step to make a direct complaint through the CPIB for them to initiate investigations.⁴ However, for the person to then have legal standing and be directly involved in the corruption-related suit as it makes its way through the Singapore courts, our views are that this would be a higher bar to pass. We are not aware of a case where the Singapore courts has directly

¹Matthew C. Stephenson, "Standing Doctrine and Anticorruption Litigation: A Survey", Legal Remedies for Grand Corruption: The Role of Civil Society (June 2019), 43: <https://www.justiceinitiative.org/uploads/7e52b140-4550-4be4-9d0c-96d0131060d1/publication-legal-remedies-grand-corruption-20190607.pdf>.

²<https://www.cpiib.gov.sg/about-corruption/legislation-and-enforcement/prevention-of-corruption-act/>, accessed 16 February 2022.

³[https://www.cpiib.gov.sg/about-corruption/prevention-and-corruption/singapores-corruption-control-framework/#:~:text=way%20of%20life.-,Laws.Benefits\)%20Act%20\(CDSA\).&text=Together%2C%20the%20two%20laws%20ensure,%2Drisk%20low%2Drewards%20activity.,](https://www.cpiib.gov.sg/about-corruption/prevention-and-corruption/singapores-corruption-control-framework/#:~:text=way%20of%20life.-,Laws.Benefits)%20Act%20(CDSA).&text=Together%2C%20the%20two%20laws%20ensure,%2Drisk%20low%2Drewards%20activity.,) accessed 16 February 2022.

⁴ <https://www.cpiib.gov.sg/contact-us/>, accessed 16 February 2022.

addressed the issue of the standing required to apply for a declaration in an administrative law case or to sue in a corruption-related case, but it is possible that the courts may adopt the test laid down in constitutional law cases.⁵ The Court of Appeal in *Tan Eng Hong v Attorney-General* [2012] 4 SLR 476 held that Singaporean courts will confer standing only on plaintiffs who can show that: (1) the plaintiff must have a “real interest” in bringing the action, (2) there must be a “real controversy” between the parties to the action, and (3) there must be a violation of a right personal to the plaintiff. It is possible but rare to identify a party who has suffered a sufficiently direct, personal injury due to corruption.

In relation to Singapore, there is commentary that it is difficult for non-governmental parties to pursue public interest goals through litigation, as it is more difficult for them to prove the three limbs have been satisfied as set out in *Tan Eng Hong v Attorney-General*, especially the third limb of having a right personal to the plaintiff being violated.⁶ It has also been said that Singapore makes it difficult for non-governmental actors to pursue public interest goals through litigation, as the courts will confer standing only on plaintiffs who can show an injury to a private right, or else some kind of “special damage” particular to that plaintiff.⁷ In addition, any person (including any business, individual or civil society organization) has the right to initiate and conduct a criminal prosecution as private prosecutions are allowed in Singapore (as inherited from the English legal system).⁸

Civil society organisations have a wealth of resources (including networks lending similar experiences, testimonies, evidence, link ups with law enforcement workers in other jurisdictions) that might not be available to private citizens. This may empower and equip them to pursue some of the methods and routes described.

⁵ Matthew C. Stephenson, “Standing Doctrine and Anticorruption Litigation: A Survey”, *Legal Remedies for Grand Corruption: The Role of Civil Society* (June 2019), 43: <https://www.justiceinitiative.org/uploads/7e52b140-4550-4be4-9d0c-96d0131060d1/publication-legal-remedies-grand-corruption-20190607.pdf>.

⁶ *ibid.*

⁷ Li-Ann Thio, *Administrative and Constitutional Law*, 14 S.A.L. Ann. Rev. 13 (2013); and Tham Lijing, “Locus Standi in Judicial Review: Two Roads Diverge in a Singapore Wood,” *Singapore Law Gazette* (February 2013): 14-18.

⁸ Matthew C. Stephenson, “Standing Doctrine and Anticorruption Litigation: A Survey”, *Legal Remedies for Grand Corruption: The Role of Civil Society* (June 2019), 47: <https://www.justiceinitiative.org/uploads/7e52b140-4550-4be4-9d0c-96d0131060d1/publication-legal-remedies-grand-corruption-20190607.pdf>.

1.2 Type of Cases

- Criminal
- Civil
- Administrative
- Constitutional protection

As provided above, any person can take the first step to make a complain to the CPIB for them to initiate investigations, however, for the person to then have legal standing and be directly involved in the corruption-related suit as it makes its way through the Singapore courts, it may be the case that they have to prove that they have a “real interest” in bringing the action (*Tan Eng Hong v Attorney-General* [2012] 4 SLR 476).

However, in terms of the types of corruption-related cases that can be brought to CPIB’s attention, all cases above (i.e. criminal, civil, administrative and constitutional protection) may be brought. This is because the two key anti-corruption legislation in Singapore (i.e. the Prevention of Corruption Act (Cap 241, 1993 Rev Ed) (“**PCA**”) and the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap 65A, 2000 Rev Ed) (“**CDSA**”)) does not differentiate between the types of corruption cases that can be brought. As stated on the website of Corrupt Practices Investigation Bureau (“**CPIB**”), “The CPIB investigates *all* corruption cases, whether it involves public or private sector individuals or members of the public. Regardless of the person’s rank, seniority and political affiliations, no one is exempted from the law (emphasis added).”⁹ Therefore, notwithstanding the ambit which the corruption manifests itself in (e.g. criminal, civil, administrative), as long as the CPIB and the AGC determines that there had been corruption, it is an offence and the appropriate punishment and penalties will be dealt out.

To this end, corruption cases in Singapore is brought under the criminal prosecutorial arm. Pursuant to Section 33 of PCA, a prosecution under PCA shall not be instituted except by or with the consent of the Public Prosecutor and the

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<https://www.cpi.gov.sg/about-corruption/legislation-and-enforcement/prevention-of-corruption-act/>, accessed 16 February 2022.

Attorney-General. The institution of a prosecution under PCA is therefore possible only when the Public Prosecutor decides to have the alleged offender charged and tried in Court.¹⁰ The document signifying the consent of the Public Prosecutor must contain sufficient facts in order to identify the case. It is not sufficient to prove this fact merely as a matter of reasonable inference (*PP v Nagalingam and another* [1971] 1 MLJ 18).

- The primary legislation regulating corruption in Singapore is the PCA (i.e. Prevention of Corruption Act). The main offences under the PCA are set out in sections 5 and 6, which apply to both the private and public sector and prohibit both active and passive bribery.
- The Penal Code (Cap 224, 2008 Rev Ed) contains other provisions relating to bribery and corruption. This includes offences related to the bribery of domestic “public servants” under sections 161 to 165. However, the offences under the Penal Code are rarely invoked in practice for prosecution of corruption offences. Prosecutors usually rely on the offences under the PCA instead.
- In addition, the CDSA (i.e. Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act) also criminalizes the acquiring, possessing, using, concealing and/or transferring of the benefits from criminal conduct (such as corruption), and allows for the confiscation of such benefits.

Relevant authorities:

- The CPIB (i.e. the Corrupt Practices Investigation Bureau) is the Singapore government agency authorized to investigate into any act of corruption or bribery in the public and private sectors under the PCA and other related offences. CPIB does not have prosecution functions and is not entitled to represent citizens collectively in corruption cases.
- CPIB will hand suspicious cases to the Attorney-General’s Chambers, which is the main authority that prosecutes bribery and corruption.

¹⁰ Halsbury's Laws of Singapore - Criminal Law (Volume 8), [Prevention of Corruption act \(Cap 241, 1993 Ed\)](#) §90.821.

1.3 Legal basis under which citizens have legal standing

As mentioned above, the two main anti-corruption legislation in Singapore are the PCA and CDSA. The PCA applies to both private sector bribery and bribery of public officials. The CDSA provides for the confiscation of benefits derived from corruption offences, amongst others. The CPIB is the agency responsible for investigating and combating corruption and upon the conclusion of their investigation, all alleged corruption cases will be handed to the AGC to obtain the Public Prosecutor's consent to proceed with court proceedings.¹¹

1.4 Citizens and/or civil society's intervention in corruption cases in other capacities (e.g. third party contributors, expert input, etc)

Two examples of how citizens or civil society may get involved are:

- expert witness: to the extent that any individual (in any capacity) are called on to be an expert witness, such individual can participate in the process, similar to any other prosecutorial cases; and
- amicus curiae: there is also a feature of the Singapore legal system where the court can appoint amicus curiae, or court-appointed legal experts where a case raises a novel or complex question of law or where the appeal will benefit from specialized legal knowledge. Amicus curiae is usually appointed by Singapore's Court of Appeal, Singapore's apex court. While we are not aware of any amicus curiae being appointed in relation to corruption-related cases, there have been a number of intellectual property related matters and personal data protection matters which had used court-appointed amicus curiae.

1.5 State's entitlement to represent the citizens collectively in corruption cases and whether its intervention excludes direct intervention by citizens.

No, we are not aware if a State Entity is specifically entitled to represent citizens collectively in corruption cases.

¹¹[https://www.cpi.gov.sg/about-corruption/prevention-and-corruption/singapores-corruption-control-framework/#:~:text=way%20of%20life,-Laws,Benefits\)%20Act%20\(CDSA\).&text=Together%2C%20the%20two%20laws%20ensure,%2Drisk%20low%2Drewards%20activity.,](https://www.cpi.gov.sg/about-corruption/prevention-and-corruption/singapores-corruption-control-framework/#:~:text=way%20of%20life,-Laws,Benefits)%20Act%20(CDSA).&text=Together%2C%20the%20two%20laws%20ensure,%2Drisk%20low%2Drewards%20activity.,) accessed 16 February 2022.

1.6 Legal standing of any foreign government or foreign-based non-governmental institution to bring corruption cases on behalf of this country's citizens

We are not aware of any such examples or cases.

2. Cases

2.1 Existence of corruption-related cases brought to Court by civil society organisations, journalists, or citizens.

We are not aware of any such examples or cases.

- The corruption-related cases were investigated by the Singapore government agency CPIB and brought to court by the Public Prosecutor (i.e., the Attorney-General).
- We are not aware of any cases that were initiated by the civil society organizations journalists, or citizens. As CPIB investigates all corruption cases in Singapore, if the general public is conscious of any corrupt practices, they may lodge a corruption complaint to CPIB for their investigation and for the prosecution by the Public Prosecutor, instead of bringing the case to court by themselves

3. Collective Damage

3.1 Legal instruments that enable claiming reparation, compensation, or restoration of collective damages in any field (environmental damages, human rights, corruption, among others)

- We understand that this is not common in Singapore. One of the few general processes which enables a large number of persons to be directly involved in the same litigation in Singapore is through a “representative

action” brought in the civil courts under order 15, rule 12 of the Rules of Court (Cap. 322, 2014 Rev. Ed.).

- Alternatively, non-representative group litigation may arise when several suits raise similar legal issues and the individual actions are consolidated (either by agreement of the parties or at the court's initiative). We are not aware of no rules governing non-representative group litigation under Singapore law. Where there is a common question of law or fact, and all rights to relief claimed arise out of the same transaction (or series of transactions), the parties can either:
 - o Apply for a joinder of parties under order 15, rule 4 of the Rules of Court; or
 - o Request the court to invoke its broad discretion under order 4, rule 1 of the Rules of Court to order the consolidation of the matters.

3.2 Procedures for advancing class-actions.

Representative proceedings in Singapore:

- In general, we are not aware of special procedures to commence a representative action. A representative action may be commenced without the approval of the court, provided that order 15, rule 12(1) of the Rules of Court has been satisfied.¹²
- According to order 15, rule 12(1) of the Rules of Court, one or more members of a class of people (claimants/defendants) can bring or defend a claim on behalf of themselves and other members of the class who have the "same interest" in the proceedings (i.e., being the representative claimant/representative defendant), provided that the litigant and the represented persons have the same interest, there are no legal restrictions on the type of claim that can be the subject of a representative action.¹³

¹² Loong Tse Chuan, Melissa Mak and Tan Xeauwei, “Litigation and enforcement in Singapore: overview” (April 2021), available at

[https://uk.practicallaw.thomsonreuters.com/9-575-0765?transitionType=Default&contextData=\(sc.Default\)&firstPage=true#co_anchor_a550642](https://uk.practicallaw.thomsonreuters.com/9-575-0765?transitionType=Default&contextData=(sc.Default)&firstPage=true#co_anchor_a550642), accessed on 20 February 2022.

¹³ Singapore Court Practice, Order 15 Causes of Action: Counterclaims and Parties, 12.

Representative proceedings (O 15 r 12), available at:

<https://www.lexisnexis.com/uk/legal/international/document/urn:contentItem:5SGD-C2W1-DY89-MOCR-00000-00?q=%22Tan%20Chin%20Seng%22&contentType=analytical-materials-sg>, accessed on 20 February 2022.

- In a representative action, all members of the class must be identified and agreed before litigation commences to enable the appointment of the representative(s) to represent them.¹⁴ Order 15, rule 13 of the Rules of Court provides certain narrow exceptions that allow representative actions on behalf of certain persons (including unborn persons) who cannot be ascertained or found at the time of the launching of the action. The subject matter of these exceptions is limited to proceedings concerning: (i) the administration of the estate of a deceased person; (ii) property subject to a trust; and (iii) the construction of a written instrument.¹⁵
- Although the litigant is responsible for funding the representative action themselves, they can seek contributions from the represented persons. Any such contributions are based on private consensual arrangements between the litigant and the represented persons.¹⁶
- Any judgments or orders made by the court during representative actions are binding on all the persons represented by the representative claimant/representative defendant. However, the judgment cannot be enforced against any non-party to the lawsuit (i.e., any claimants/defendants who are not represented by the representative claimant/representative defendant) without leave of the court (order 15, rule 12(3) of the Rules of Court).

Reported cases of representative proceedings:

- Representative actions are not common in Singapore. We are only aware of two reported decisions that involve representation actions since 2000.¹⁷
 - o The case commenced in 2002 is *Tan Chin Seng and Others v. Raffles Town Club Pte Ltd* [2002] SGHC 278. This was an action brought by ten plaintiffs for themselves and on behalf of 4,885 other persons. The representative plaintiffs and the other members of the class

¹⁴ *ibid.*

¹⁵ *ibid.*

¹⁶ Loong Tse Chuan, Melissa Mak and Tan XEAUWEI, "Litigation and enforcement in Singapore: overview" (April 2021), available at [https://uk.practicallaw.thomsonreuters.com/9-575-0765?transitionType=Default&contextData=\(sc.Default\)&firstPage=true#co_anchor_a550642](https://uk.practicallaw.thomsonreuters.com/9-575-0765?transitionType=Default&contextData=(sc.Default)&firstPage=true#co_anchor_a550642), accessed on 20 February 2022.

¹⁷ Daniel Chia and Jeanette Wong, "Class/collective actions in Singapore: overview" (July 2019), available at <https://uk.practicallaw.thomsonreuters.com/w-021-0427?transitionType=Default&contextData=%28sc.Default%29>, accessed on 20 February 2022.

wanted to rescind their contracts with the club and claimed damages as an alternative remedy.

- o The other case commenced in 2008 is *Koh Chong Chiah and others v. Treasure Resort Pte Ltd and another* [2013] 1 SLR 1069. This case was brought by seven plaintiffs for themselves, and on behalf of 202 other persons, for alleged breaches of the terms of their memberships in a resort club. The High Court thought that the representative proceeding would be “a time-consuming, costly but ultimately fruitless exercise” and ordered the action to be discontinued.
- o On appeal, the Court of Appeal in *Koh Chong Chiah and others v. Treasure Resort Pte Ltd* [2013] SGCA 52 disagreed with the High Court’s decision not to permit representative proceedings. It explained the rationale of the representative action as a final determination of the rights of “numerous” claimants who share a sufficient commonality of interests and who wish to pursue these rights through representation.
- Separately, in *Syed Nomani v. Chong Yeow Peh* [2017] 4 SLR 1064, the claimant attempted to appoint the defendant as a representative defendant for 11 other individuals despite having only commenced an action against the defendant. The claimant's application, and his appeal against the decision at first instance, were dismissed by the High Court. The court was not convinced that the defendant and the 11 persons had sufficient commonality of interest and representative proceedings would not lead to real procedural efficiency on the facts given that only 11 persons were involved.¹⁸

¹⁸ Sim Chong and Wesley Liang, *The Class Actions Law Review: Singapore* (April 2021), available at: <https://thelawreviews.co.uk/title/the-class-actions-law-review/singapore#footnote-051-backlink>), accessed on 20 February 2022.

4. The Role of the victims of corruption

4.1 Definition of victims of corruption or common definition used by the courts in this country

- We are not aware of an explicit definition of a victim of corruption in Singapore's legislation.
- There is however, a framework to prove an offence under the PCA. This is where the Prosecution had to prove beyond reasonable doubt that¹⁹:
 - There was an acceptance of gratification;
 - There was an inducement or reward;
 - There was an objectively-corrupt element in the transaction; and
 - The accused accepted the gratification with a guilty knowledge.

The framework does not expressly refer to victims.

4.2 Cases that recognize the role of victims

We are not aware of corruption-related court cases that expressly mentioned or recognized the role of victims in Singapore.

4.3 Corruption-related court cases (criminal, civil, administrative) that awarded compensation to individuals or to identifiable or non-identifiable groups of victims to repair the damage caused by the corruption offense

- CPIB's website states that Singapore adopts a strict zero-tolerance approach and a stance of deterrence towards corruption.²⁰
- Any person who is convicted of a corruption offence pursuant to PCA can be fined up to S\$100,000 or sentenced to imprisonment of up to five years or to both.²¹
- In addition to imposing fine and a term of imprisonment on the offender, where a court convicts any person of an offence committed by the

¹⁹ Public Prosecutor v Ng Boon Gay [2013] SGDC 132.

²⁰ <https://www.cpi.gov.sg/about-corruption/prevention-and-corruption/singapores-corruption-control-framework/>, accessed 15 March 2022.

²¹ Prevention of Corruption Act (Cap 241, 1993 Rev Ed), section 5.

acceptance of any gratification in contravention of PCA, if that gratification is a sum of money or if the value of that gratification can be assessed, the court shall order the person to pay a sum which is equal to the amount/value of that gratification as a penalty. Such penalty shall be recoverable as a fine.

- We are not aware of corruption-related court cases that awarded compensation to individuals in Singapore. The provisions in PCA and other related statutes only provide for punishing/deterring the offenders instead of compensating the victims of corruption, and most (if not all) corruption cases in Singapore were brought to courts by the Public Prosecutor by invoking the PCA provisions. For these reasons, it is not surprising that there were no corruption-related court decisions that awarded compensation to victims.²²
- Among the previous court decisions on corruption-related charges, the offenders were sentenced to an imprisonment term, fines and/or penalty.
- In a situation where an agent has given any gratification in breach of the PCA, the principal may recover as a civil debt the amount or the money value thereof either from the agent or from the person who gave the gratification to the agent.²³

4.4 Innovative or effective mechanisms that can be considered good practice regarding the recognition and compensation of victims in corruption-related cases

- According to the Transparency International Corruption Perception Index, Singapore maintains high score over the years, which represents that the number of corruption cases in the country has remained low. Out of 180 countries, Singapore is ranked fourth least corrupt nation in the world, tied with Sweden and Norway.²⁴

²² Halsbury's Laws of Singapore - Criminal Law (Volume 8), [Prevention of Corruption act \(Cap 241, 1993 Ed\)](#) §90.806.

²³ Prevention of Corruption Act (Cap 241, 1993 Rev Ed), section 14. See also *Carrefour Singapore Pte Ltd v Leong Wai Kay* [2006] SGHC 160.

²⁴ Corrupt Practices Investigation Bureau, Singapore Maintains High Score In Transparency International Corruption Perceptions Index 2021 (25 Jan 2022), available at: <https://www.cpiib.gov.sg/press-room/press-releases/singaporemaintains>), accessed 18 February 2022.

- Given the zero tolerance approach for corruption in Singapore, the members of the public including the victims and informers are encouraged to lodge corruption complaints. Under section 36 of PCA in relation to the protection of informers, the complainant's identity will be kept confidential even in court proceedings, except when the court finds that the informer has made a false statement in his corruption complaint or justice cannot be done without revealing the informer's identity. The victim or complainant may even remain anonymous when making the complaint.

5. Available Information

5.1 Information published by enforcement authorities (including control agencies) about corruption enforcement actions

Information is published by the enforcement authorities.

- *Corruption-related cases and news reports are published on CPIB's website (<https://www.cpiib.gov.sg/press-room/>).*
- *CPIB also releases annual statistics report on the corruption situation in Singapore. The 2020 statistics report is available at https://www.cpiib.gov.sg/files/research%20room_%20Annual%20Corruption%20Stats%202020%20Press%20Release.pdf.*

Type of information:

- The initiation of investigations
- The conclusion of investigations whether the investigated person has been acquitted or not
- The enactment of sanctions
- The grounds for sanctioning or acquitting (the case)

5.2 Feasible access to information on ongoing or concluded cases

Information about concluded cases is generally available to the public. Court decisions from Singapore are available online in databases (e.g., [Singapore Law Watch](#), [CommonLII](#)) and published in printed sources (e.g., the Singapore Law

Reports). The Singapore Academy of Law is Singapore's official law-reporting agency, and is responsible for the selection and publication of Singapore case law.

Information on ongoing cases is available by way of media reports. For example, court cases news headlines are available online via [Singapore Law Watch](#).

5.3 Ways for citizens or civil society organisations to gather information on whether corruption cases are being investigated or trialed.

- Citizens or civil society organisations can conduct searches on corruption news or cases online via the aforementioned databases.
- Citizens or civil society organisations may also try to contact CPIB to make enquiries.

6. Supplementary information

6.1 Main identified barriers that prevent CSOs, citizens, and journalists from standing as victims of corruption cases.

- As discussed above, the corruption-related cases in Singapore are brought to court by the Public Prosecutor instead of the CSOs, citizens or journalists. Individuals cannot institute a prosecution under PCA except with the consent of the Public Prosecutor.
- As far as we are aware of, little research on the situation of corruption victims has been conducted in Singapore. Apart from the fact that the victims are encouraged to make complaints to CPIB for their action, there seems to be little information or support available to them. For example, we are not aware of any information regarding any compensation of victims, any protection and support of witnesses if they were threatened, the treatment and behavior of society towards corruption victims, and the provision of information to corruption victims about the charges of the offenders or the status of ongoing cases etc.

6.2 Other aspects, issues, provisions, or practices linked to the role, recognition, and compensation of victims of corruption.

N/A