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### A clarion call for businesses to do right

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## **A clarion call for businesses to do right**

Eugene Tan K. B.

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Prime Minister Lee Hsien Loong's National Day Rally on Sunday signalled a putative shift in the government's policy towards tackling workplace discrimination and supporting lower-wage workers.

While the tripartite approach remains the bedrock in industrial relations, the government is prepared to adopt a more muscular approach through regulation by legislation.

Businesses must recognise the concerns of workers amid the unpredictable arc of the global pandemic. It cannot be business as usual.

### **COMBATING DISCRIMINATION**

On workplace discrimination, Mr Lee revealed that anti-discrimination laws covering gender, age, race, religion, and disability with powers of sanctions and penalties will be enacted.

This promises to add regulatory heft in this area, which hitherto has been the preserve of the Tripartite Alliance for Fair & Progressive Employment Practices (Tafep).

Tafep has provided guidelines on various aspects of employment ranging from job advertisements to dismissals and retrenchments.

In cases of non-compliance, the alliance will engage the companies. For recalcitrant cases, the Manpower Ministry can impose administrative penalties, including restricting it from hiring foreign workers.

This light-touch regulation has generally worked quite well as Mr Lee noted. However, criticisms of Tafep's approach cohere around it being a toothless paper tiger, and this is somewhat harsh.

Tafep is not designed to discipline companies. Although it lacks enforcement teeth, Tafep does have a tongue which it has used, primarily to promote, educate and nudge companies on the virtues of fair, responsible and progressive employment practices.

The longstanding approach, particularly in industrial relations, has been to avoid a rights-centric approach which could become legalistic or confrontational.

The clear preference is to focus on the interests of the various stakeholders and disputes are resolved amicably through persuasion or mediation, often with contending parties compromising.

Mr Lee did not explain the rationale for the legislative approach other than to credit the Labour Movement and Labour MPs for their doggedness in pushing for such laws over the years, which will enshrine the Tafep guidelines.

There is a ready template for this proposed workplace discrimination tribunal: The Employment Claims Tribunals (ECT) established under the Employment Claims Act 2016.

The ECT provides employees and employers with an efficient and low-cost forum to resolve salary-related disputes and wrongful dismissal claims. Mediation is mandated. A dispute is referred to the ECT only if mediation is unsuccessful.

The resort to laws to deal with workplace discrimination is not the silver bullet. For one, discrimination is not always easy to prove.

Moreover, the power asymmetry between the employers and employees persists, and when it becomes a war of attrition, the employer is typically better resourced resulting in the haves triumphing over the have-nots.

Nevertheless, such a law can have a salutary effect and signals that discrimination is not tolerated.

### **REGULATING ONLINE PLATFORMS**

On the other hand, statutory regulation may not be the best approach, especially where online platforms are concerned.

Online platforms are now ubiquitous. The pandemic has demonstrated their centrality and transformative capacity in our lives.

They also raise new and important policy questions: the sophistication of online platforms as a business powered by technology and data render them complex entities which are not always well understood.

How to regulate the growing issue of lower-wage workers' precarity as the online platform economy grows will demand no easy answers.

Mr Lee signalled the determination of his government to urgently and decisively tackle the issue low-wage workers, especially that of delivery riders.

A key feature of the gig economy is about incurring less liability by using independent contractors rather than employees.

The business model is structured on businesses being legally, financially distanced from the workers. The more distant they are, the less likely they are to be legally and socially responsible for the workers.

Mr Lee described delivery riders as to "all intents and purposes just like employees", except that they do not have employment contracts with the online platforms.

One could read Mr Lee's characterisation of gig workers transacting with online platforms as one of grave concern, and a direct call to online platforms to do right.

He did not indicate whether Singapore will, for now, follow legal developments in other jurisdictions and treat gig economy workers as employees.

Instead, the preference is for a tripartite approach in which the government, employers, and unions work collaboratively to provide long-term support for low-wage workers so that they will have "more secure futures".

Specifically, short of legislatively making these workers employees, the approach may likely be to require online platforms to provide basic job benefits that most employees have enjoy such as workplace injury compensation, union representation, medical benefits, and employer CPF contributions.

In short, one prong of the long-term support for low-wage workers must pivot on adequate and robust social safety nets.

This will have to be predicated on employers, government, and workers (and unions) all being aligned on the important role of essential workers, who are often low-wage workers.

The policy implications flowing from this are evident.

If we do not act resolutely and appropriately, these workers and their families could form a permanent underclass.

Mr Lee's highlighting the issue will require a fundamental mindset shift. We need to ensure that jobs, as a fundamental social safety net, pay a living wage.

All stakeholders, including the tripartite partners, must own the issue of reducing precarity even from work.

Can we develop a societal consensus that jobs are not merely an end in itself (to pay the bills, etc) but also a means to an end (the dignity of work)?

The challenge of helping the low-income households level up is much more pronounced in Singapore, as those in the middle have seen a very significant lift in incomes.

Even as our economic strategies, education policies, and the emphasis on skills upgrading are critical components, we will need to do more to ensure income progression for lower-wage workers is a reality and sustainable.

Mr Lee's Rally could presage Singapore being more pro-active about initially establishing a norms framework to ensure a minimal level of protection for the gig economy workers.

Future workplace laws will have to rapidly adapt to and anticipate the evolving nature of work and employment relationships to ensure that workers, however classified, are afforded fundamental workplace rights and entitlements.

This is crucial as Singapore seeks to tackle social inequality and promote social mobility and social cohesion. The perverse workings of the gig economy cannot be the means by which such imperatives are undercut from within.

If the gig economy results in a tiered economy based on unequal workplace rights, entitlements and protections, then we will have a growing socio-economic and political time bomb in our hands.

It was therefore important for Mr Lee to speak to the concerns of many Singaporeans in his Rally. As the pandemic evolves from a public health emergency to an economic and social wake-up call, Singapore and Singaporeans must rise to the occasion.

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