

**SAFEGUARDING THE SPIRIT OF ACADEMIC FREEDOM & OPEN INQUIRY IN SINGAPORE:
CONCERNS RAISED BY YALE – NUS’ CANCELLATION OF THE MODULE ON “DIALOGUE AND
DISSENT IN SINGAPORE” PROPOSED BY MR ALFIAN SA’AT**

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SUMMARY

- Yale-NUS gave three justifications for the cancellation of the module on *“Dialogue And Dissent In Singapore”* proposed by Singaporean playwright, Alfian Sa’at: i) the module lacked *“academic rigor”*; (ii) aspects of the program posed *“legal risks to students”*; and (iii) the *“political balance of the syllabus”*.
- A review of the publicly available evidence, including matters set out in Yale University’s fact-finding report on the cancellation, raises justifiable doubts as to the correctness of the report’s conclusion that Yale-NUS had *“legitimate academic and legal reasons to cancel the module”*.
- While couched in terms of lack of *“academic rigor”*, a closer analysis of the reasons given reveals the *substantive* concerns centred around the perceived *“political nature of the program”*. The fact that Yale-NUS did not once, over several months clearly articulate to Alfian Sa’at precisely how the module lacked *“academic rigor”*, or what *practically* he needed to do to shore up the *“academic”* component of the program also adds to justifiable doubts whether lack of *“academic rigor”* was a sufficiently strong reason to cancel the entire program.
- Additionally, given important revisions which had been made to the module by Alfian Sa’at, the *“legal risks”* appear to have been substantively and practically addressed well before the module was cancelled on September 13. Under the changes, there would be no *“protest”* by the students, actual or simulated, at Hong Lim Park; the visit to Hong Lim Park would take the form of a *“walking tour”*; no placards or signs would be transported to Hong Lim Park.
- This leaves the third justification, i.e. concerns over the perceived *“political nature of the program”*, as the likely *dominant* factor behind the cancellation. It is also the one which seems most consistent with the objective evidence.
- The Yale report correctly concluded that the third justification (i.e the *“the political nature of the program”*) was an *“unconvincing reason in itself”* to cancel the module. However, the conclusion by Yale that *“the evidence does not suggest any violations of academic freedom or open inquiry”* is questionable: the evidence raises, at a minimum, justifiable doubts whether there were sufficiently strong academic or legal reasons to cancel the program; the evidence shows that the likely dominant

factor behind the cancellation was the “*political nature of the program*”; Yale’s own report dismissed this justification as “*unconvincing*”. These circumstances merit a reconsideration of the conclusion that there was no violation of academic freedom or open inquiry in this case. In fact, it would entirely defensible, on the publicly available evidence, to take the view that the cancellation violated academic freedom and open inquiry.

- The recent public disclosures by Alfian Sa’at also raise valid grounds for concern that aspects of the Yale fact-finding report may have cast an unwarranted slur on him. As at the time of this publication, neither Yale nor Yale-NUS appears to have disputed Mr Sa’at’s account. Yale University should carefully review its records and, if they support Mr Sa’at’s account, Yale should take appropriate steps to remove any taint to Mr Sa’at’s personal standing. Good leadership calls for nothing less.
- This episode raises an important issue of public policy in Singapore – the proper scope of academic freedom and open inquiry at our universities. There is no question that there are limits. The real question is where should those limits be drawn?
- We must as a society begin to dissociate the word “*activism*” from all its negative connotations and embrace its positive aspects. History offers us a long tradition of positive, *peaceful, non-violent* activism. A properly calibrated policy, while being fully cognizant of any law and order concerns, ought to permit critical engagement with this important tradition by our tertiary students.
- While one may legitimately debate the precise limits of academic freedom and open inquiry at our universities, a program of the type proposed by Alfian Sa’at ought to fall within the permissible boundaries: it neither advocated violence nor involved any breach of the law. Absent any breach of the law (actual or threatened) or clear harm to the public reasonably likely to be caused by a proposed academic or clinical program, one ought not to shut down a module simply because of disagreement with the worldviews, including contrarian political views, being advanced.
- The spirit of open inquiry is essential to the broadest kind of human learning and the flourishing of the human spirit. We jettison this principle to our peril.
- What follows is a detailed, 21-page analysis in support of the views expressed above.

I. Introduction

The Events Leading to The Cancellation of the Module

1. Unless otherwise stated, the facts as well as quotations in this analysis are obtained from the 11-page *“Report On Cancellation Of LAB Module On “Dialogue And Dissent”* (“The Report”) dated 28 September 2019 prepared by Yale University’s Office of the Vice President for Global Strategy.
2. On 13 September 2019, Yale-NUS announced its decision to cancel a week-long module on *“Dialogue and Dissent in Singapore”* proposed to be run by renowned Singaporean playwright, Mr Alfian Sa’at. Mr Sa’at was, at the time, a part-time instructor at Yale-NUS and had been approached by junior staff in March 2019 to offer a module within the College’s “Learning Across Boundaries” program, an experiential program typically involving a mix of academic readings, classroom discussions and off-campus experience.
3. Just prior to the cancellation of the module, Yale Vice-President and Vice Provost for Global Strategy, Mr Perciles Lewis, *“spoke to [Yale-NUS President Tan Tai Yong] twice on the morning of September 12 (Singapore time) and also spoke to [Executive Vice-President for Academic Affairs] Joanne Roberts twice that morning”* expressing that *“Yale had concerns about any cancellation of the module”*. That same evening, Yale President Peter Salovey himself personally telephoned Yale-NUS President Tan *“to express concern about any decision to cancel the module”*. President Tan indicated during this call that *“the College had already decided to cancel the module and would announce the decision on the morning of September 13”*.
4. Immediately following cancellation of the module, President Salovey announced that he had tasked Vice-President Pericles to gather the facts of the case. Vice-President Pericles flew to Singapore the week of September 16 to conduct his fact finding and issued the Report on 28 September.

The Report & Its Conclusions

5. The Report concluded that *“the decision to cancel the module was made internally and without government interference in the academic independence of the College.”* It identified three reasons given by *“senior leadership”* of Yale-NUS for the cancellation:
 - 1) The module’s lack of *“academic rigor”*;
 - 2) The *“legal risk to students of the experiential component”* arising from *“designing protest signs and carrying them to Hong Lim Park”* for a planned *“protest”*; and
 - 3) The *“political balance of the syllabus”* / *“political nature of the program”*.
6. The Report found that the *“College articulated legitimate academic and legal reasons to cancel the module”*. While it agreed that *“political advocacy is distinct from academic*

study and may not be suitable for academic credit”, it did not regard “the concern that a particular module is unbalanced politically to be a convincing reason in itself to cancel a module”, citing numerous offerings at Yale-NUS in past years which have included diverse perspectives, including from both “government ministers and others with pro-government views” as well as “talks by many of the speakers who were proposed for this module and screenings of some of the films listed on the draft syllabus”. It concluded that while there were “administrative errors”, “the evidence does not suggest that in this case serious violations of academic freedom or open inquiry occurred”.

The Need for Careful Scrutiny of the Report

7. Quite apart from the question whether Alfian Sa’at was unfairly portrayed in the Report, this episode raises an important public policy issue, namely the proper scope of academic freedom and open inquiry in Singapore’s institutes of higher learning. The Report, thus, calls for closer scrutiny, particularly the strength of its core findings that there were “*legitimate academic and legal reasons to cancel the module*” and that the cancellation did not involve any “*serious violations of academic freedom or open inquiry*”.
8. As with any other inquiry, one should approach the correctness of the Report’s findings, as well as the analysis below, with an open mind. The Report presents one view of the matter. It is, by no means, the only possible view to take of the facts. The analysis below presents an alternative view of the episode for the reader’s consideration. It is based on primary facts and events disclosed in the Report itself as well as information since made public by Alfian Sa’at.
9. As one approaches the Report, it is important to appreciate that while it identifies *three* separate justifications given by the “*senior leadership*” of Yale-NUS for the cancellation, each factor may have weighed differently in the minds of the principal decision makers behind the cancellation. It is unlikely that all three factors were weighted equally in their minds. There is often a *dominant* factor that outweighs other factors in human decision making. **In assessing whether the cancellation infringed academic freedom, one crucial question to be answered is which (if any) of the three justifications given was the dominant factor behind the cancellation.**

Provisional Conclusions That Can Be Fairly Drawn From The Publicly Available Information

10. Needless to say, the analysis below is subject to one key limitation: unlike the Yale fact finding team, I have not had the benefit of interviewing any of the principal actors involved, including members of the staff and “*senior leadership*” of Yale and NUS whom Yale interviewed as part of its fact finding. I have also not had access to any of the key documents and communications reviewed by the Yale fact finding team.

11. Notwithstanding this, the publicly available material, including the primary facts outlined in the Report itself, provide a defensible basis to form the following views of the matter:

- (1) There is justifiable doubt as to the correctness of the Report's conclusion that Yale-NUS had "*legitimate academic and legal reasons to cancel the module*";
- (2) While couched in terms of lack of "*academic rigor*", a closer analysis of the reasons given reveals the *substantive* concerns centred around the perceived "*political nature of the program*". The fact that Yale-NUS did not once, over several months clearly articulate to Alfian Sa'at precisely how the module lacked "*academic rigor*", or what *practically* he needed to do to shore up the "*academic*" component of the program also adds to justifiable doubts whether lack of "*academic rigor*" was a sufficiently weighty reason to cancel the program.
- (3) Additionally, given important revisions which had been made to the module by Alfian Saat, the "*legal risks*" appear to have been substantively and practically addressed well before the module was cancelled on September 13. Under the changes, there would be no "*protest*" by the students, actual or *simulated*, at Hong Lim Park; the visit to Hong Lim Park would take the form of a "*walking tour*"; no placards or signs would be transported to Hong Lim Park.
- (4) This leaves the third justification, i.e. concerns over the perceived "*political nature of the program*", as the likely *dominant* factor behind the cancellation. It is also the one which seems most consistent with the objective evidence.
- (5) The Yale report correctly concluded that the third justification (i.e the "*the political nature of the program*") was an "*unconvincing reason in itself*" to cancel the module. However, the conclusion by Yale that "*the evidence does not suggest any violations of academic freedom or open inquiry*" is questionable: the evidence raises justifiable doubts whether there were sufficiently strong academic or legal reasons to cancel the program; the evidence shows that the likely dominant factor behind the cancellation was the "*political nature of the program*"; Yale's own report dismissed this justification as "*unconvincing*". These circumstances merit a reconsideration of the conclusion that there was no violation of academic freedom or open inquiry in this case.
- (6) The recent public disclosures made by Alfian Sa'at also raise valid grounds for concern that aspects of the Yale fact-finding report may have cast an unwarranted slur on him.

It goes without saying that these views can only be confirmed by reference to the full set of relevant documents, including (where available) internal email and communications between the key decision makers.

II. **Assessment of the strength of the evidence that there were legitimate *academic reasons* to cancel the module**

12. The first justification for the cancellation of the module is that it lacked "*academic rigor*". When tested against the objective evidence presented in the Report, this justification faces a number of difficulties.
13. **First, the fact that the Yale-NUS Curriculum Committee did not once, over several months clearly articulate to Alfian Sa'at precisely how the module lacked "*academic rigor*", or what practically he needed to do to shore up the "*academic*" component of the program raises justifiable doubts whether the lack of "*academic rigor*" was the dominant or even a sufficiently weighty reason for the cancellation.**
14. It stands to reason that if the module, after assessment by one or more members of the Curriculum Committee, was deemed to lack "*academic rigor*", one would have expected the Curriculum Committee to *clearly articulate* (i) what the "*academic*" shortcoming(s) in the proposed module were and (ii) what precisely needed to be modified in the proposed syllabus to salvage the module. How else is an instructor in Alfian Sa'at's shoes expected to know what is needed in order to address the Curriculum Committee's professed concern of a lack of "*academic rigor*" in the module?
15. The Report shows that there were many opportunities over several months for the Curriculum Committee to do so, but it didn't (see the chronology in Annex 1). Even now, reading the full 11-page Report, one has difficulty ascertaining what precisely, *in practical terms*, the Curriculum Committee wanted changed in the syllabus to address its concerns of the lack of "*academic rigor*".
16. Looking at the facts in their totality, it is entirely reasonable to conclude that during the whole period from late May 2019 (when Alfian Sa'at first submitted his proposal) to September 2019 (when the cancellation was announced), the Curriculum Committee did not at any time clearly and precisely articulate the changes it wished to see in the syllabus in order for the module to be approved:
 - 1) Looking at the detailed chronology in Annex 1, one sees that there was a period of *well over 3 months* for the Curriculum Committee from late May 2019 to September 2019 to *clearly articulate* its precise concerns over the supposed lack of "*academic rigor*". It did not appear to have done so at any time.
 - 2) The Report itself concludes (at p 9) that "*The instructor should have been given a clearer explanation, sooner, of the inadequacy of the materials he submitted*";

- 3) While the Report states (p5) that tenured members on the Curriculum Committee *“had concerns about the academic content..., which were expressed in late May, communicated to the instructor in June, and never adequately addressed by the instructor in the efforts to revise the syllabus in the following months”*, it is silent on what precisely the academic shortcomings were and what practical changes the tenured members wished to see in the syllabus. Given this, the Report was entirely right to conclude that *“the instructor should have been given a clearer explanation...”*
- 4) The Report itself does not identify that Alfian Sa’at was ever given a clear explanation of the inadequacy of the material he submitted. If he had been given any such clear explanation, one would have expected the Report to say so;
- 5) In two separate parts of the Report, Mr Pericles confirms that *“The instructor felt... that [the CIPE staff] were rather vague about how he should accomplish the critical engagement called for by the Curriculum Committee”* (p2-3), and *“he did not feel he received clear instructions about how to address these concerns”* (p5). Far from disputing this, the Report’s observations that *“it would have been better at this point to have a member of the Curriculum Committee or other senior academic communicate directly with the instructor”* and that *“it would have been more appropriate for a senior academic to have overseen this process closely”* (p5) support the instructor’s position;
- 6) Even now in the Report, it is unclear what precise or practical changes to the syllabus the Curriculum Committee wanted that would have satisfied it. Nor is there any sufficient explanation in the Report why the Curriculum Committee members who were consulted *“by senior leadership on September 12 ... indicated that they did not consider the (5th September) revisions adequate”* (p6); and
- 7) The closest the Report comes to identifying the changes that the Curriculum Committee wished to see appear at p6 of the Report when it identified two conditions the Curriculum Committee imposed in conditionally approving the module: *“There were two conditions: “a more rigorous academic approach” and “attention to the legal risks...”*. On no view of the matter could one regard a condition which reads *“a more rigorous academic approach”* as being a clearly articulated or meaningful condition. How is one to judge whether specific changes to a syllabus satisfy *“a more rigorous academic approach”*?

17. An objective, open-minded reader will not doubt ask, why, if lack of academic standards was the concern, the Curriculum Committee took no, or no meaningful, steps to clearly articulate what it wished to see changed in the syllabus, either directly to Alfian Sa’at or

to the CIPE staff they may have delegated the task of ensuring needed revisions to the syllabus?

18. The Report itself records that even after Alfian Sa'at's final date of employment with Yale-NUS on 31 May, the CIPE staff "*communicated frequently*" with Alfian in June and July, and even met with him on 1 August. Hence, the failure to clearly communicate to Alfian what precise changes the Curriculum Committee wished to see in the syllabus in the material period could not have been attributable to their inability to reach him.
19. The Report does not appear to have fully addressed the question why the Curriculum Committee took no meaningful steps to clearly articulate its precise concerns and what it wanted changed in the syllabus. It simply put down the shortcomings in the overall process of considering the module to errors "*generally administrative in nature*" (p4). "*Administrative error*" is not an explanation one should easily come to on the facts to justify the Curriculum Committee's failure to articulate practical changes it wished to see in the syllabus:
 - 1) The Curriculum Committee comprises not one individual, but four. While one could perhaps, in an appropriate case, come to the view that one single individual committed an "*administrative error*", the facts here would require one to accept that all four professionals committed an "*administrative error*";
 - 2) The Curriculum Committee comprises "*three tenured faculty members and one tenure track faculty member*" (p5). Given their respective seniorities and cumulative academic experience, one would expect that they (or the member delegated to review the proposed syllabus) would readily be in a position to identify and articulate in what way the proposed syllabus lacked the requisite "*academic rigor*" and what practical changes Alfian needed to make to the syllabus. It ought to take strong, compelling evidence before a conclusion is reached that all four experienced members of the Curriculum Committee, over several months, overlooked this on account of an "*administrative error*".
20. Given the above, and the further points below, the Report ought to have asked whether lack of "*academic rigor*" was, in fact, a legitimate justification for the cancellation, and whether there was some other overriding factor behind the cancellation.
- 21. Secondly, the various reasons most recently given by the Curriculum Committee to Yale why they felt the module lacked "*academic rigor*" show the substantive concerns centred around the perceived political nature of the program.**
22. The first time one gets any sense in the Report as to what precisely the Curriculum Committee's concerns were about lack of academic standards is at page 5 of the Report, where the Report articulates a number of different concerns expressed. It is essential in reviewing each of the reasons below to ask (i) which of these are concerns as to *academic*

standards (as that phrase is usually understood); (ii) which of these are, *in substance*, concerns as to the perceived *political* nature of the program; and (iii) taking the reasons given as a whole, does the substantive concern appear to be one of *lack of academic standards in the program* or *the political nature of the program*?

- 1) “On the matter of academic standards, faculty felt that **the proposal sacrificed academic rigor to “emotive activism”**;
- 2) “The Curriculum Committee also felt that the instructor while expert in play writing, did not have academic expertise in the area of the proposed module”;
- 3) “**In particular, they objected to a sentence [in the proposed syllabus] that read, “[students] will learn that in spite of draconian regulations and legislation, resistance is always possible, along with its emancipatory potential”.** “They felt that the module did not propose to study activism so much as to engage it in, and they did not feel this was appropriate for a credit-bearing college module that is part of a required curriculum”
- 4) “**They were concerned about the proposal to bring protest signs to Hong Lim Park.**”
- 5) “**The Curriculum Committee chair emphasises that they did not think that engaging in activism or protest was a legitimate credit-bearing activity irrespective whether the protests were legal or illegal”.**
- 6) “**The tenured College faculty in charge of the decision felt that they should not make political advocacy a formal part of the curriculum”.**
- 7) “**Members of Yale’s Faculty Advisory Committee on Yale-NUS have pointed out that to approve the original syllabus might in fact have infringed the academic freedom of students by requiring them to participate in political protests (we see a legal risk masquerading as a academic freedom concern”**

(emphasis mine)

23. While couched in terms of lack of “*academic rigor*”, the substantive underlying concern appeared to centre around the perceived political nature of the program.

24. While the Report concludes (p7) that “*The decision to withdraw the module... accords with appropriate substantive academic standards*”, it does not explain what those “*substantive academic standards*” are, nor how the 7 reasons outlined above (which appear to articulate concerns as to the political nature of the program) accord with these substantive standards.

25. This is yet another factor that raises justifiable doubts as to the Report’s conclusion that there were legitimate *academic* reasons to cancel the module.

- 26. Third, the events in mid-September involving the personal participation of the senior most leadership of NUS and Yale also lend support to the view that the dominant factor for the cancellation was unlikely to have been a concern over lack of academic standards in the module.**
27. The Report discloses the senior most leadership of both Yale and Yale-NUS were personally and directly engaged in discussions about the cancellation in the days just before the cancellation. The relevant chronology of events is set out in Annex 2. In reviewing that chronology, it must be asked whether the sequence of events is more consistent with the overriding concern being a lack of academic standards in the module or with the perceived political nature of the program.
28. That sequence of activity involving the most senior members of the leadership of Yale-NUS and Yale, including the respective Presidents of Yale-NUS in Singapore and Yale University in New Haven (Connecticut) suggests the substantial concern could not have simply been over the perceived lack of academic standards in this module.
29. The evidence discloses that both the President and Vice-Provost for Global Strategy of Yale University together made several personal calls to the Yale-NUS President (as well as calls to the EVPAA) just before the cancellation to express Yale's concerns. The concern must necessarily have involved something deeper and more fundamental, sufficient to require the direct and personal involvement of the two Presidents and the Vice Provost. While the report is silent on the content of these calls, it is a fair inference that the concerns expressed would likely have centred around the adverse impact the cancellation would have on academic freedom and open inquiry at Yale-NUS. It is noteworthy that the report records that while in Singapore on the fact-finding, the Yale Vice-Provost "*met briefly with a senior Ministry of Education official and emphasised the importance of academic freedom.*"
30. Operational concerns over perceived lack of academic standards in a single module do not typically engage the direct involvement of university Presidents nor attract concerns of academic freedom. On the other hand, fears that modules are being cancelled because of their political nature do attract such concerns.
31. Given the totality of the evidence outlined above, there is an entirely fair basis to query the correctness of the Report's conclusion that there was a "*legitimate*" academic reason for the cancellation.

III. **Assessment of the strength of the evidence that there were legitimate *legal reasons* to cancel the module**

32. The second concern cited by the senior leadership of Yale-NUS in cancelling the module was “*legal risk to students*”. The Report articulates the concern as follows (p8):

*“The Committee was concerned that some of the activities **originally proposed** would expose international students to sanctions for illegal participation in off-campus protests. In particular, the **original syllabus** included designing protest signs and carrying them to Hong Lim Park, where protest by Singapore citizens (but not by international students) is permitted in certain circumstances. It was unclear from the materials submitted in support of the module whether the students would have carried the protest signs they had designed to Hong Lim Park even if a request for a permit had been denied, but in any case it would have been illegal for international students to do so. The Curriculum Committee raised this issue, and CIPE, after seeking legal advice, concluded that students might have courted arrest by doing so.*

Since the program is compulsory and not all students assigned to this particular module selected it as their first choice, this might have meant requiring students to endanger their visa status in Singapore. The College did not receive timely assurance from the instructor that he understood the risks involved, particularly for international students, or would mitigate them.....” (emphasis mine)

33. The Report appears to have assessed the legitimacy of the legal risk by reference to the original proposal, which presumably is the one submitted by Mr Sa’at on May 28. In contrast to this, the information and material disclosed publicly by Mr Sa’at since publication of the Report shows that the original proposal was substantially revised such that, by the time his 5th September proposal was submitted over 3 months later, it had been substantially revised and the “*legal risk*” concerns effectively addressed. In particular, the material disclosed by Alfian Sa’at strongly suggests that under his 5th September revised proposal:

- 1) There would be no protest at Hong Lim Park, actual or “*simulated*”, by the students;
- 2) The program would encompass a visit to Hong Lim Park on the first day. This would take the form of a “*walking tour*” only;
- 3) The sign making workshop would take place *three days later*. This meant that there was no question of any student, local or international, transporting any signs to Hong Lim Park, given that the visit to Hong Lim would have taken place three days earlier;

- 4) This arrangement had been agreed with CIPE staff at a meeting on 28 August;
- 5) The revised proposal submitted on 5 September was “*based on the revisions we had discussed and agreed upon*” on 28 August; and
- 6) Following the 28 August meeting, there was “*absolutely no mention of simulating a protest anymore*” (quote taken from Mr Sa’at’s public disclosures).

34. Mr Sa’at’s account above is substantially supported by three discrete pieces of the contemporaneous evidence: an email he received from one of the CIPE staff on 28 August, the content of his revised proposal submitted on 5 September and a series of WhatsApp messages he sent to the CIPE staff on 11 September. It is instructive to take each of these in turn.

- 1) The extract from the 28 August email from the CIPE staff, following their meeting:

*“We like your suggestion to visit Speakers’ Corner earlier in the week, **in advance of (and separate from)** the protest sign making workshop. This will help to alleviate some concerns about the itinerary, and allow all students to attend both activities, which is nice for the group dynamic”.* (emphasis mine)

- 2) The 5 September revised proposal Mr Sa’at submitted placed the “Visit to Speaker’s Corner” on 27 September and the “Sign-Making Workshop” three days later on 30 September; and
- 3) Mr Sa’at’s 11 September WhatsApp messages to the CIPE staff (based on the public disclosures), 6 days after the submission of the revised proposal, record as follows:

- *“As you can see I’ve split speakers corner and sign making, so they will not be taking those signs to the speaker’s corner”*
- *“And actually a lot of what they’ll be learning is how to negotiate with boundaries related to filmmaking, visual arts and theatre.”*
- *“Not really activist strategies like protests and sit ins and occupy.”*

(emphasis mine)

35. It is unclear why, while the Report makes reference in a different section (at p 6) to the fact that “*In a later version of the proposal, [Mr Sa’at] did separate the sign-making workshop from the visit to Hong Lim Park*”, it failed to highlight that this marked an important change in that:

- 1) There would be no question of the students breaking any Singapore laws by transporting “*protest signs*” to Hong Lim Park given that the sign-making workshop would take place a good three days after the visit to Hong Lim Park;
- 2) The visit to Hong Lim Park, far from involving any protest, would involve a “*walking tour*” only, again removing any risk of violation of Singapore law by any student, local or international; and
- 3) These changes were agreed between Mr Sa’at and CIPE staff. At the very minimum, the CIPE staff welcomed these changes and felt (in their own words) “*this will help alleviate some concerns about the itinerary*”.

36. On any objective view of the above facts, these were important changes from the original proposal which should have substantively addressed any concern of “*legal risk to students*”.

37. What is equally unclear from the Report is why it also proceeded to note (at p6) that while Mr Sa’at had separated the sign-making workshop from the visit to Hong Lim Park, “[*Mr Sa’at*] continued to speak of “*simulating*” protest at the Park” when (based on Mr Sa’at’s recent public disclosures), following the meeting on 28 August, there was “*absolutely no mention of simulating a protest anymore*”. The manner in which these two discrete points were juxtaposed in the Report leave the reader with the distinct (and possibly incorrect) impression that Mr Sa’at continued to speak of “*simulating*” a protest at the Park even after he had agreed to separate the sign making workshop from the visit to Hong Lim Park.

38. At any rate, with these changes, it is difficult to see what possible “*legal risk to students*” there remained as at 5th September. Unfortunately, the Report ought to have, but failed to address what “*legal risk to students*” remained after all these changes. It was a complete red-herring to have dealt with “*legal risks to students*” posed by the *original proposal*, when the facts disclose that those risks had been substantively addressed with the revisions agreed at the 28 August meeting and as reflected under Mr Sa’at’s 5th September proposal.

39. Additionally, the statement (at p8) in the Report that “*The College did not receive timely assurance from the instructor that he understood the risks involved, particularly for international students, or would mitigate them*”, is difficult to square with the objective evidence:

- 1) The objective evidence discloses that Mr Sa’at had, by the time of the 28 August meeting (at least one month before commencement of the module) proposed changes that objectively appear to have addressed the “*legal risk*” concerns.
- 2) Mr Sa’at’s public disclosures assert that he fully understood and appreciated the legal risks involved when he was informed on 21 August that there would be 9 international students in the program. According to Mr Sa’at, he

“immediately raised the problems this would pose”, and proceeded to propose the revisions discussed above, which were welcomed by the CIPE staff.

- 3) These revisions were proposed and put in writing well before the College announced its decision to cancel the module on 13 September.
- 4) The Report is silent why the assurances / revisions Mr Sa’at gave at the 28 August meeting, and contained in the 5 September revised proposal failed to constitute *“timely assurance”* when the course commencement was at least one month away?
- 5) Nor is there any indication that the Curriculum Committee or anyone else in the College set any earlier deadline for Mr Sa’at to give them the requisite assurances concerning the *“legal risks to students”*, which he then failed to meet.

40. In the same vein is the comment in the Report (p 8) in support of the cancellation that *“... as a number of Yale-NUS faculty have pointed out, it is unlikely that a prudent college administrator in any country would encourage, let alone offer a course that required, students to attend an illegal protest, particularly if these were international students who in doing so might endanger their visa status”*. For all the reasons set out above, this does not advance the justification for the cancellation. With all the changes proposed, there was no protest planned at Hong Lim Park, much less an illegal one.

41. Hence, taking the evidence in its totality, it is difficult to see how the Report could have come to the view that *“the College had articulated legitimate... legal reasons to cancel the module”*.

42. There is one final point to be considered before we leave this section: if there were indeed discrete aspects of the module that posed *“legal risks to students”* (say, the Hong Lim Park visit), would a reasonable and proportionate response not have been to simply excise that discrete bit from the module and salvage the rest of the program? Surely, such a course of action would have crossed the minds of the members of the Curriculum Committee. Doesn’t the fact that not one of them appears to have proposed this obvious approach suggest that the substantive concern was not with *“legal risks to students”* posed by any discrete aspect of the program but rather the nature of the program as a whole – i.e. the third justification?

IV. The third justification: concerns over the *“political nature of the program”*

43. The evidence above shows that neither the professed lack of academic standards nor *“legal risk to students”* offers a compelling justification for the cancellation. This leaves the third justification, i.e. concerns over the perceived *“political nature of the program”*,

as the likely *dominant* factor behind the cancellation. It is also the one which seems most consistent with the objective evidence.

44. The overriding concern, as reflected by the personal and direct involvement of the senior most leadership of Yale-NUS, including Yale President Salovey and Mr Pericles, on 11 and 12 September 2019, appears to have involved something deeper and more fundamental. The Report alludes to this specific concern (at p 5) interchangeably as “*the political balance of the syllabus*” and “*the political nature of the program*”. The evidence suggests this was the dominant factor behind the cancellation of the entire module:

- 1) Between all the three justifications given for the cancellation, it is the one which is most consistent with the objective facts discussed earlier as well as the personal direct involvement of Yale President Salovey and Mr Pericles and the concerns they each felt compelled to express to Yale-NUS President Tan and the EVPAA in the numerous telephone calls on 12 September 2019. Neither of the other two justifications fits easily with this aspect of the evidence.
- 2) It is also consistent with the various reasons most recently articulated by the Curriculum Committee to Mr Pericles why they felt the module lacked “*academic rigor*”. As discussed earlier, while couched in terms of lack of “*academic rigor*”, the substantive underlying concern centred around the perceived political nature of the program.

45. It is this third justification which raises concerns about the future of academic freedom and critical inquiry in our tertiary institutions, including at Yale-NUS. This raises an important issue of public policy in Singapore – the proper scope of academic freedom and open inquiry at our universities. There’s no question that there are limits. The real question is where should those limits be drawn?

46. The Report reflects (at p 9) that “*senior leadership*” had sought to justify the cancellation on the basis that “*the module did not include a range of political perspectives*”. While taking the view that “*political advocacy is distinct from academic study and may not be suitable for academic credit*” (a point I will return to later), the Report concluded (rightly in my view) that it did not “*find the concern that a particular module is unbalanced politically to be a convincing reason in itself to cancel a module*”. The Report’s reasoning is worth setting out in full, especially as it lays the foundation for the discussion below on the importance of safeguarding academic freedom and, more generally, critical inquiry at our tertiary institutions:

“A third, related but slightly different concern, raised by senior leadership was that the module did not include a range of political perspectives. *While I personally recognise and agree with the view that political advocacy is distinct from academic study and may not be suitable for academic credit, I do not find the concern that a particular*

module is unbalanced politically to be a convincing reason in itself to cancel a module. If one looks at the entire set of offerings at Yale-NUS, including courses, LAB modules, speakers, and extra-curricular activities, it is clear that Yale-NUS offers a wide range of political, and – more relevantly – academic perspectives. Such offerings in the past year have included several talks by many of the speakers who were who were proposed for this module and screenings of some of the films listed on the draft syllabus. They have also included talks by government ministers and others with pro-government views as well as academic specialists who study political matters with or without advocating on those matters. Faculty have pointed out that student opinion is heterogeneous, and that this diversity leads to lively class discussion and a dynamic campus environment. The faculty have also made it clear that they do not wish their academic program to be co-opted for political purposes by any outside individual or body”. (emphasis mine)

47. The extract above identifies concerns over two distinct types of programs: (i) programs which constitute “*political advocacy*”; and (ii) programs which lack *political balance* ie those that fail to “*include a range of political perspectives*”. The extract suggests that “*senior leadership*” of Yale-NUS believed both types of programs have no place in Singapore’s tertiary institutes. Let’s deal with each class of program separately, starting with programs that lack “*political balance*”.

Programs Lacking “Political Balance”

48. The Report rightly concluded, for the reasons already set out in the extract above, that it is not a valid basis to refuse or cancel a program simply because it purportedly does “*not include a range of political perspectives*”. There is a real danger that if this justification is accepted as a valid basis to exclude any particular program, it will disproportionately impact programs that seek to set out alternative, non-mainstream narratives. Mr Sa’at’s module was one such program.
49. As the Report rightly notes, the spirit of open inquiry is essential to the broadest kind of learning. One cannot and should not shut down a program in an academic institute simply because one disagrees with the worldviews, including contrary political views, being advanced. We jettison the principle of open inquiry to our peril.

What of Programs Involving Activism, Including “Political Advocacy”?

50. It is not within the scope of this analysis to consider all of the pros and cons of permitting programs involving activism on our campuses. Indeed, earlier this week, Parliament discussed the cancellation of the module, with some ministers setting out their thoughts on the circumstances in which our institutes should bar clinical advocacy programs. Those statements warrant a closer review once the full Parliamentary *Hansard* of the

proceedings is publicly accessible. For now, it suffices to make a few broad points why it would be entirely undesirable to impose either a blanket ban or raise an impractically high bar on the conduct of such programs in our tertiary institutions.

51. *First*, what is wrong, in principle, with a program that equips our tertiary level students with the knowledge and skills to plan and peacefully effect policy changes, within the confines of the law, on causes they feel passionate about, such as climate change, human trafficking or the humane treatment of animals?
52. *Secondly*, if the concern is that the students will use the knowledge and skills learned from the program to lobby for change not only on relatively uncontroversial causes such as climate change but on “*political*” causes directed against the Government, again one must ask, what is wrong with that as long as the change is being *peacefully* advocated within the confines of the law? It appears perverse to bar programs on effecting peaceful policy changes via processes which are permitted under the law.
53. *Thirdly*, what of the possible objection that such practical training in peaceful activism is lacking in “*academic rigor*” or is distinct from academic study and may not be suitable for academic credit? The best academic universities around the world, including Singaporean universities, offer various practical, clinical programs bearing full academic credit, including in areas such as entrepreneurship, investments, negotiation and mediation, trial and appellate advocacy, operating a business etc. What marks out experiential programs in “*peaceful activism*” or “*political advocacy*” for different treatment? The mere “*political nature*” of the *practicum* cannot possibly justify the different treatment no more than one could refuse to offer students practical training in in other fields simply because these clinical sessions are principally practice oriented and not purely *academic* in nature.
54. *Fourthly*, we must as a society begin to dissociate the word “*activism*” from all its negative connotations and embrace its positive aspects. History offers us a long tradition of positive, *peaceful, non-violent* activism. Going back to the *Apology* and the *Crito*, one can see Socrates practicing peaceful, civil disobedience. The spirit of academic freedom today traces its origin to Socrates’ example. The early Christians too provide a superb example of peaceful, civil disobedience, to the extent that they were prepared to face all kinds of suffering to stand up for what they knew to be right although it was against the laws of the Roman Empire. More contemporary examples include the civil rights movement and the fight for racial equality, the women’s suffrage movement and the movement against colonialism. We are today the beneficiaries of these rights as well as the fundamental rights and protections written into our Constitution because of the work of past activists.
55. The most superficial look at history shows that no positive social advance comes without the tireless and persistent efforts of dedicated individuals. One only needs a cursory familiarity with the writings of Gandhi and Martin Luther King to appreciate the powerful strand of positive, *peaceful, non-violent* activism. One core principle underlying their philosophy is the belief that violent, destructive means cannot bring about constructive

ends. A properly calibrated policy, while being fully cognizant of any law and order concerns, ought to permit critical engagement with this important tradition.

56. While one may legitimately debate the precise limits of academic freedom and open inquiry at our universities, a program of the type proposed by Alfian Sa'at ought to fall within the permissible boundaries: it neither advocated violence nor involved any breach of the law. Absent any breach of the law (actual or threatened) or clear harm to the public reasonably likely to be caused by a proposed academic or clinical program, one ought not to shut down a module in an academic institution simply because of disagreement with the worldviews, including contrarian political views, being advanced.

V. The Portrayal of Mr Alfian Sa'at in the Report

57. The recent public disclosures made by Alfian Sa'at also raise valid grounds for concern that aspects of the Report may have cast an unwarranted slur on him. Of particular note are the following assertions in the Report:

- 1) *"CIPE staff proposed that the module include an intergroup dialogue session to allow students to exchange views before the off-campus activity. A student who had signed up for the module suggested academic additions to the module, such as a visit by a well-known sociologist. **The instructor rejected all such revisions, thus contributing to concerns about whether he intended to offer critical engagement in the module**" (p6);*
- 2) *"In a later version of the proposal, he did separate the sign-making workshop from the visit to Hong Lim Park, **but he continued to speak of "simulating" protest at the Park**" (p6);*
- 3) In the context of discussing the legal risks to students (p8): *"Since the program is compulsory and not all students assigned to this particular module selected it as their first choice, this might have meant requiring students to endanger their visa status in Singapore. **The College did not receive timely assurance from the instructor that he understood the risks involved, particularly for international students, or would mitigate them**".*

(emphasis mine)

58. Mr Sa'at has in recent days made public disclosures countering the negative impressions created by these aspects of the Report. It is unnecessary to set them out in full in this paper. They are easily accessible to the public and have also been the subject of media reports in Singapore. As at the time of publication of this paper, Yale-NUS does not appear to have disputed Mr Sa'at's account.

59. As I said earlier, one key limitation in preparing this analysis is that the Yale fact finding team has had access to information and documents not available to me. Given this, Yale should carefully review its records, and if they support Mr Sa'at's account, Yale should take appropriate steps remove any taint to Mr Sa'at's personal standing.
60. In making this suggestion, I should make it clear that I do not, in any way, act for Mr Sa'at. I do not know him personally nor have I ever met or spoken with him. Given the material disclosed and the hurt, angst and public humiliation anyone in Mr Sa'at's shoes would legitimately feel, it would have been remiss to complete this analysis without at least some mention of the concerns expressed in this section.
61. The observations here are also made in the faith that given the high standing and reputation of the institutions and members of the senior leadership of both Yale University and Yale-NUS, an independent and robust review of the above matters will be conducted by these institutions and, if the facts so disclose, appropriate action will be undertaken at the highest levels of these institutions to clear any taint to Mr Sa'at's personal standing. Good leadership calls for nothing less.

VI. Conclusion: Did the Cancellation of the Module Violate the Spirit of Academic Freedom or Open Inquiry?

62. The Yale University Report has concluded that "*the evidence does not suggest any violations of academic freedom or open inquiry*". There is a fair basis, given the matters set out in this analysis, to question that conclusion: the evidence raises justifiable doubts whether there were sufficiently weighty academic or legal reasons to cancel the program; the evidence shows that the likely dominant factor behind the cancellation was the "*political nature of the program*"; Yale's own report dismissed this justification as "*unconvincing*". These circumstances merit a reconsideration of the conclusion that there was no violation of academic freedom or open inquiry in this case. In fact, it would entirely defensible, on the publicly available material, to take the view that the cancellation in this case did violate academic freedom and open inquiry.

**Harpreet Singh Nehal, SC
11 October 2019
Singapore**

ANNEX 1

- 1) March 2019: Alfian was approached by “*junior staff*” in the Centre for International and Professional Experience (“CIPE”) to offer a “*week seven*” Learning Across Boundaries (LAB) module off-campus in Singapore starting in late September / early October 2019.
- 2) 28 May 2019: Alfian submitted the proposal.
- 3) 31 May 2019: Conditional approval was given by the Curriculum Committee, “*contingent on substantial revisions to the proposed syllabus*”. The Report itself is silent on what precise “*substantial revisions*” were required by the Curriculum Committee as at 31 May.
- 4) June & July 2019: CIPE staff “*communicated frequently*” with Alfian. There is no indication in the Report that in this period the Curriculum Committee, either directly or via the CIPE staff, had clearly articulated what changes they wished to see in the syllabus.
- 5) 1 August 2019: A face to face meeting took place with Alfian. Again, there is no indication in the Report that the Curriculum Committee, either directly or via the CIPE staff, clearly articulated what changes they wished to see in the syllabus. While the Report records that “*they remained concerned that he (Alfian) had not made the revisions requested by the Curriculum Committee*”, (i) the Report does not specify what these specific revisions were or otherwise state that Alfian was informed at this meeting precisely what changes the Curriculum Committee wished to see in order for the module to be approved; and (ii) any suggestion that Alfian knew at this meeting the precise changes the Curriculum Committee wanted is inconsistent with the Report’s finding that Alfian was not given a clear explanation of the inadequacy of the materials he submitted.
- 6) 13 August 2019: Alfian offered a summary of the module, which was followed by a discussion where “*staff subsequently agreed with [Alfian] to change the title to “Dialogue and Dissent in Singapore”, but they did not reach agreement with him on the content or specific activities of the module*”. Again, there does not appear to have been at this time any indication that the Curriculum Committee, either directly or via the CIPE staff, clearly articulated the changes they wished to see in the syllabus.
- 7) August 15-28: “*Staff continued to try to revise the syllabus in order to receive final Curriculum Committee approval...*” (p3). The Report gives no indication that even at this stage, over two and a half months since Alfian submitted his

proposal, the Curriculum Committee had articulated what precise changes it wished to see to practically address its concern of lack of “*academic rigor*”.

- 8) 28 August 2019: A further meeting was fixed with Alfian where “*they discussed their concerns with him and followed up with an email*”. Here again, apart from this statement, the Report is silent whether at this meeting, as late as 3 months after the proposal was submitted, the Curriculum Committee had clearly articulated and communicated to Alfian the precise changes that needed to be made to satisfy the “*academic rigor*” requirement. The Report also does not state the contents of the follow up email, and whether it clearly set out the specific changes the Curriculum Committee wished to see in the syllabus. Again, if the Curriculum Committee had clearly articulated its position at this time, one would have expected to see some mention of it in the Report.
- 9) 5 September 2019: Alfian submitted a further revision of the syllabus. Yet again, having received this revised syllabus, there is no indication that either the CIPE staff or the Curriculum Committee clearly articulated the precise changes it wished to see in the syllabus so that Alfian could do the necessary.

ANNEX 2

- 1) 5 September 2019: Alfian submitted a further revision of the syllabus.
- 2) 10 September 2019: CIPE staff expressed their concerns about the “*academic rigor*” and “*legal risks*” to the Vice-President responsible for CIPE.
- 3) 11 September 2019: The Vice President for CIPE raised her concerns about “*legal risks to students*” to “*the senior leadership of the College (specifically the President and the Executive Vice President for Academic Affairs)*” (“EVPAA”). It is noteworthy that the Report does not disclose that the Vice President for CIPE raised concerns about lack of “*academic rigor*”. Instead, the Report only documents that she elevated her concern over “*legal risks to students*” to the EVPAA.
- 4) 11 September 2019: the EVPAA and the Vice President responsible for CIPE then alerted the Yale-NUS President that “*they were considering cancelling the module*”.
- 5) 11 September 2019: The Yale-NUS President reached out to the chair of the Yale-NUS Board, who indicated that since this involved cancellation of an academic program, “*the decision should be made by the college leadership, not by the Board*”.
- 6) 11 September 2019: The Yale-NUS President reached out to a Ministry of Education official serving on the Yale-NUS Governing Board to see if the Ministry could intervene with police to ensure that students would not be arrested if they went to Hong Lim Park. She said she did not have authority over the police.
- 7) 11 September 2019: The Yale-NUS President attempted to speak to Yale University President Salovey but was unable to reach him as he was on a flight.
- 8) 11 September 2019: Yale President Salovey asked Yale Vice President and Vice Provost for Global Strategy, Mr Pericles, to call the Yale-NUS President “*and express Yale’s concern*”. The Report does not specify what precisely President’s Salovey’s concern was. It is unlikely to have been an issue of lack of “*academic standards*” in a discrete “*week seven*” module at Yale NUS Singapore to be run by Mr Alfian.
- 9) 12 September 2019: Mr Pericles spoke to Yale-NUS President Tan twice in the morning. He indicated that Yale “*had concerns about any cancellation of the module*”. The Report again does not specify what precisely Yale’s concern was

at this time. It is unlikely to have been an issue of lack of “*academic standards*” in the module, given the chronology above and the seniority of the persons involved.

- 10) 12 September 2019: Mr Pericles called Yale-NUS EVPAA twice that morning. In these calls too, Mr Pericles expressed “*Yale had concerns about any cancellation of the module*”.
- 11) 12 September 2019: Yale President Salovey called Yale-NUS President Tan “*to express concern about any decision to cancel the module*”. Again, the Report does not disclose what the precise concern(s) was which was communicated.
- 12) 13 September 2019: Yale-NUS announces cancellation of the module.