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1. Function 8 submits on “Preventive Detention” or more accurately “indefinite imprisonment without trial” that is permitted by three Singapore statutes: the Internal Security Act, the Criminal Law (Temporary Provisions) Act and the Misuse of Drugs Act. This power to arbitrarily arrest and imprison people without trial negates Articles 9 and 10 of the Universal Declaration of Human Rights. The People’s Action Party (PAP) government has since 1959 freely exercised this arbitrary power. Imprisonment without trial has severe and detrimental consequences for Singaporeans and the world as other countries, not knowing fully how this power is used, attempt to emulate Singapore.
2. **Internal Security Act (ISA)**
 - 2.1 **Position of Muslim prisoners today**
 - 2.1.1 Singapore’s response to questions on preventive detention at the interactive dialogue on 11 July 2011 was that “it [preventive detention] was used only as a last resort in very exceptional circumstances, and with appropriate procedural safeguards.” (WGUPR 81). The recommendations by Slovenia and Canada that Singapore review preventive detention so as not to violate the right to fair trial and right to counsel did not enjoy Singapore’s support. (WGUPR 97.10 and 97.11)
 - 2.1.2 Singapore’s National Report states: “Since December 2001, over 50 persons have been held in preventive detention for involvement in terrorism-related activities.” From our documentation, 81 Muslims (including 3 who were re-arrested) have been imprisoned since August 2001, 13 of whom were arrested after the date of the National Report. Instead of using the vague phrase of “over 50 people”, the government should have stated that 68 people or nearly 70 people were imprisoned. The manner in which the number of prisoners is officially reported to an august body, the UN, shows the government’s reluctance to give full and frank disclosure.
 - 2.1.3 No evidence has been produced against any of the 81 imprisoned and none has been charged or tried in open court. Three of these prisoners are still in prison and each of them has now spent more than 13 years in jail without trial, a record equivalent or even worse than the Guantanamo prisoners.
 - 2.1.4 In April and May 2015, two young Muslims, aged 19 and 17, were arrested and imprisoned without trial under the ISA.¹ The government alleged that these unarmed young people were self-radicalised and harboured the intention to carry out violent attacks. Again, these allegations were not substantiated by any evidence. No weapons or documents showing plans to carry out violent attacks were disclosed. Singapore is peaceful and incident-free. These are clear cases of the government using the ISA, not “as a last resort in very exceptional circumstances” but for political

¹ <http://www.mha.gov.sg/Newsroom/press-releases/Pages/Arrest%20and%20Detention%20of%20Self-Radicalised%20Singaporeans%20under%20the%20Internal%20Security%20Act.aspx>

reasons. In view of the crisis in Syria and elsewhere, its intent is to show that young people may be influenced by such conflicts and the ISA is necessary to suppress such developments.

- 2.1.5 Today, there are 11 people, all Muslims, being imprisoned under this law. Their names and dates of arrests are: Haji Ibrahim bin Haji Maidin (Dec 2001), Alahuddeen bin Abdullah (Oct 2002), Mohd Aslam bin Yar Ali Khan (Dec 2002), Mas Selamat bin Kastari (Sept 2010), Abdul Rahim bin Abdul Rahman (Feb 2012), Husaini bin Ismail (May 2012), Abdul Basheer s/o Abdul Kader (Sept 2012), Asyrani bin Hussaini (Mar 2013), Masyhadi bin Mas Selamat (Oct 2013), M Arifil Azim Putra Norja'i (Apr 2015) and a 17-year-old unnamed youth (May 2015).

2.2 “Preventive Detention” a misnomer

- 2.2.1 The term “preventive detention” is misleading. It presupposes that certain individuals ought to be incarcerated as a pre-emptive move to prevent the committing of offences which might endanger national security. In reality, since the PAP came into power in 1959, thousands had been imprisoned without any charge being brought against them. It was not coincidental that those individuals were key political opponents of the PAP. It is this extensive use of such arbitrary power of arrests and indefinite imprisonment without trial that helped perpetuate the rule of the PAP. Such detentions should be called “Executive imprisonment without trial” since it is ordered by the executive or simply “imprisonment without trial”. With this draconian power in their hands, the ruling PAP is effective in curbing the growth of organised dissent and maintaining near-absolute majority rule.

2.3 Background on the use of the ISA and its consequences

- 2.3.1 In the 1960s and 70s, the ISA was used against political opponents, trade unionists, journalists, professionals, activists and students in order to prevent them from challenging the PAP's hold on power. By the 1980s, only professionals and activists remained to be imprisoned under the ISA. From 1990 to 2000, there were no arrests. From 2001 till today, 81 Muslims were arrested.
- 2.3.2 The length of imprisonment under the ISA is indefinite. No opposition political leader is released unless he is mentally unfit, or agrees to eschew politics, leave Singapore or until he is past his prime and will never return to the political scene. Singapore's political prisoner, Mr Chia Thye Poh, a Barisan Sosialis member of parliament, spent 32 years in prison. He was in his 20s when arrested. By the time he was freed, he had passed the prime of his life and his party had been made totally irrelevant. Many other ISA prisoners were made to spend 10 to 20 years in jail. The PAP thus prevented key political opponents from entering parliament. This is how the PAP retains power since 1959.
- 2.3.3 In February 1963, the PAP together with the government of Malaya and Britain used the Preservation of Public Security Ordinance 1955 (the forerunner of the ISA) to arrest more than 133 opposition leaders. After the general election in September that year, more opposition leaders were arrested. The arrests included three elected members of the legislative assembly.² Two other elected members, Wong Soon Fong and Chan Sun Wing, escaped and went into exile. They are still in political exile today.³

² Lee Tee Tong, S T Bani and Loh Miaw Gong

³ https://www.youtube.com/watch?v=17UR_xHJ9Ac

- 2.3.4 Appendix 1 is a list of ISA prisoners compiled by former ISA prisoners. As can be seen from this list, from 1963 to 1981, there were arrests every year. In 1987 and 1988, 24 professionals, church workers, activists and students were arrested. The frequent arrests and imprisonment of people who could have become community leaders and opposition members of parliament, instilled fear in the general population. It is this fear that enables the PAP to stay in power since 1959. Within these 56 years, there was a period of 15 years (from 1966 to 1980) when there was not a single opposition member in parliament. These years of absolute and near-absolute PAP rule have enabled parliament to enact laws without debate. Fundamental liberties guaranteed by the Constitution had been curtailed. Death penalty and corporal punishment were introduced for crimes that did not carry such penalties previously. Parliament even went to the extent of amending laws to abolish appeals to the Privy Council and judicial review for ISA cases with retrospective effect. Hurried parliamentary intervention sabotaged a prisoner's attempt to take her appeal to the Privy Council.⁴
- 2.3.5 Living in fear is deeply ingrained in the psyche of Singaporeans. Fear has silenced and tamed Singaporeans. For decades, Singaporeans fear joining opposition parties, or even participating in non-PAP endorsed NGO activities,⁵ and would only speak in whispers when they oppose PAP policies.
- 2.3.6 Until the last six years, former ISA prisoners had largely remained silent. It is only recently, that books and articles written by former ISA prisoners have appeared in Singapore. Historians who have inspected archival documents have also begun to interpret events differently from the official narrative.⁶ But fear is still part of the Singaporean psyche. Singaporeans have internalised fear for 56 years and it will take a long time to undo this damage.
- 2.3.7 Another severe detrimental effect of indefinite imprisonment without trial is the exceedingly high cost to the families of those arrested. They are left to fend for themselves while the breadwinners are in prison. The education of young children is adversely affected. The families undergo tremendous financial and emotional hardship. The government has never taken responsibility for this heavy cost to families of those imprisoned.
- 2.3.8 The government's current and historical use of the ISA is beyond public scrutiny because of the absence of Freedom of Information legislation and the courts' reluctance to challenge any government's claim based on national security grounds. In answer to a parliamentary question posed by Mrs Lina Chiam, a Non-constituency Member of Parliament on 21 November 2011, the Minister of Home Affairs revealed that 2,460 people were imprisoned under the ISA from 1959 to 1990.⁷ We do not know if this number is accurate. As can be seen from above, the government is

⁴ *Beyond the Blue Gate Recollections of a Political Prisoner* by Teo Soh Lung, Function 8 Limited, Revised Edn 2011; Sections 8B and 8C of the Internal Security Act as at 30 Jan 1989.

⁵ *Where I was, a memoir from the margins* by Constance Singam, Select Publishing, 2013.

⁶ *The May 13 Generation, The Chinese Middle Schools Student Movement and Singapore Politics in the 1950s*, Edited by Tan Jing Quee, Tan Kok Chiang and Hong Lysa, Strategic Information and Research Development Centre, 2011; *Escape from the Lion's Paw, Reflections of Singapore's Political Exiles* Edited by Teo Soh Lung and Low Yit Leng, Function 8 Limited, 2012; *Smokescreens & Mirrors, Tracing the 'Marxist Conspiracy'* by Tan Wah Piow, Function 8 Limited, 2012; *The 1963 Operation Coldstore in Singapore, Commemorating 50 Years*, Edited by Poh Soo Kai, Tan Kok Fang and Hong Lysa, Strategic Information and Research Development Centre, 2013; *Youth on Trial*, Edited by Chan Wai Han, Function 8 Ltd, 2014; *Priest in Geylang, The Untold Story of the Geylang Catholic Centre* by Fr Guillaume Arotcarena, Ethos Books, 2015.

⁷ http://sprs.parl.gov.sg/search/topic.jsp?currentTopicID=00076651-WA¤tPubID=00076180-WA&topicKey=00076180-WA.00076651-WA_7%2BhansardContent43a675dd-5000-42da-9fd5-40978d79310f%2B

capable of glossing over numbers. Appendix 1 is a list of 1314 names of people arrested from 1959 to 31 May 2015 under the ISA. The 1315th prisoner is an unnamed 17-year-old Muslim youth.

- 2.3.9 Imprisonment without trial is cruel, inhuman and the manner it is used in Singapore should per se be deemed as torture and a crime against humanity because it is unwarranted and designed to sap the political will of its victims. Many were imprisoned beyond the PAP's political needs. It is torture and a breach of Articles 9 and 10 of the Universal Declaration of Human Rights. The late Mr Lim Chin Siong, who was a founding member of the PAP and a legislative assemblyman, was arrested and imprisoned thrice under the ISA. He said in an interview with historian Melanie Chew:

“The fact is that all of us were detained without trial, for ages. Not knowing when we would be coming out. That I would say is a torture. A torture. You are detained for years until such a time that you are willing to humiliate your own integrity. Until you are humiliated publicly. So much so, when you come out, you cannot put your head up, you cannot see your friends. Alright, then they may release you. It is a very cruel torture.

It is worse than in the Japanese time, when with a knife, they just slaughter you. One shot, you die. But this humiliation will carry on for life. It is very cruel.”⁸

- 2.3.10 Indefinite imprisonment without trial has enabled the PAP to imprison people who pose a challenge to them. Although such imprisonment is also contrary to constitutional guarantees of the right to life and personal liberty, the Singapore courts appear unwilling to take a robust approach to rein in the executive. This was clearly seen in the application for judicial review of several political prisoners in “Operation Spectrum” in 1987.⁹ It has resulted in the citizens of Singapore being deprived of fundamental liberties guaranteed by the Constitution of Singapore.

2.4 Lack of checks and balances

- 2.4.1 There are no safeguards in the ISA. The Advisory Board conducts hearings behind closed doors. A High Court judge may be a member of the Board but he is ineffective. No prisoner appearing before the Board is permitted to see the evidence against him or to question the person who made allegations against him. Hearing is private and may take just a few minutes. Prisoners in 1987 were specifically advised by their ISD handlers that launching any legal challenge against their imprisonment would result in prolonged incarceration. The fact that the lawyer for several of the prisoners, Mr Francis Seow, was himself arrested when he went to interview his clients in prison, makes a mockery of any claim of safeguards.¹⁰

2.5 Singapore a bad model for the World

- 2.5.1 The Singapore government boasts in its National Report that “Governments around the world increasingly recognise the need for preventive powers within a comprehensive institutionalised legal framework to deal effectively with terrorism and all forms of violent extremism.”

⁸ *Leaders of Singapore* by Melanie Chew, Resource Press Pte Ltd, 1996 p. 119.

⁹ *Beyond the Blue Gate, Recollections of a Political Prisoner* by Teo Soh Lung, Function 8 Limited, 2011.

¹⁰ *Ibid.*

- 2.5.2 Arbitrary arrests and indefinite imprisonment without trial merely enable an undemocratic regime to carry on governing a country unchecked. The PAP's use of the ISA is targeted, sophisticated and ruthless. It does not use the sword or the bullet to kill off political opponents. But its method as opined by the late Mr Lim Chin Siong, is worse than the bullet and the sword. The PAP targets the cream of society but does not kill them physically.

3. Criminal Law (Temporary Provisions) Act (CLPTA)

- 3.1 This law also authorises indefinite imprisonment without trial. When it was enacted in 1955, it was meant to be temporary and specifically to deal with gangsterism. It now applies to cases of alleged drug trafficking, illegal moneylending and international soccer match fixing.¹¹ By using the power of indefinite imprisonment without trial to deal with various crimes, the government has undermined the basic tenets of the rule of law. Everyone is innocent until proven guilty. This tenet should at all times be upheld in any democratic society. The government does not report on the number of people imprisoned under this law.

4. Misuse of Drugs Act

- 4.1 Any person who is suspected of being a drug addict can be detained in an institution for three years under Part IV of this law. There is no safeguard to ensure if the person needs rehabilitation in such an institution and whether institutionalising him is the best way to treat drug addiction. This is not the way to resolve a universal drug abuse problem. Again, the government does not report on the number of people detained under this law.

5. Conclusion and Recommendations:

- 5.1 All human beings are born free and those suspected of committing offences (as defined by the law of the land) have the right to a fair and public trial. The Internal Security Act, the Criminal Law (Temporary Provisions) Act and Part IV of the Misuse of Drugs Act have no place in a democratic country. Singapore has ample resources to train its police force to improve detection and evidence gathering techniques to combat crimes and terrorism. Offenders can be brought to court and given a fair trial. If there is a need to maintain confidentiality of witnesses, the trial can be held in camera. These laws breed complacency and undermine the efficacy of the police force. The government should respect the supremacy of the Constitution of Singapore which guarantees fundamental liberties to all citizens. No one is above the law, least of all, the executive.
- 5.2 Therefore we urge the Singapore government to:
- 5.2.1 Repeal the ISA and the CLTPA
 - 5.2.2 Repeal Part IV of the Misuse of Drugs Act
 - 5.2.3 Release all prisoners detained under the ISA, CLTPA and Misuse of Drugs Act or charge them in open court
 - 5.2.4 Sign and ratify the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

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¹¹ Tan Seet Eng v Attorney-General [2015] SGHC 18.