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FIDH – INTERNATIONAL FEDERATION FOR HUMAN RIGHTS



and

FUNCTION 8 (F8)



Restart • Rejuvenate • Reclaim

FUNCTION 8 LTD

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FIDH – INTERNATIONAL FEDERATION FOR HUMAN RIGHTS

The International Federation for Human Rights, known by its French acronym FIDH, is an international human rights NGO representing 192 organizations from 117 countries. Since 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration of Human Rights.

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FUNCTION 8

Function 8 (F8) is a social enterprise initiative established by a group of individuals who believe that there is a need to facilitate the sharing of social, political and economic experiences of those who are eager to contribute to society through reflection and civic discussion. The name “Function 8” represents the hope that, just as the F8 key in a computer resets itself to a “safe” and basic mode for trouble-shooting, there can also be a reflection over the basics of what makes societies strong, just, and meaningful and the role of democratic processes in achieving those goals. F8 organizes community-based seminars, talks, workshops, discussions and reflections, with the aim to restart the process of critical thinking, rejuvenate the incompleteness of a society based on economic expediency and reclaim the human dignity and freedom, which is the basis of our humanity. Function 8 was incorporated in Singapore on 15 December 2010.

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Introduction

1. The joint FIDH-F8 submission focuses on the Singaporean government's ongoing use of draconian laws that are inconsistent with various international human rights standards.
2. These laws include the Internal Security Act (ISA) and the Criminal Law (Temporary Provisions) Act (CLTPA), which provide the legal basis for indefinite detention of individuals without trial. Such deprivation of liberty is inconsistent with international human rights standards, particularly those related to the right to liberty and the right to a fair trial. Prolonged detention without any judicial oversight increases the risk of detainees being subjected to torture or other cruel, inhuman or degrading treatment or punishment. These detainees are also at heightened risk of being denied their right to be treated with humanity and with respect for the inherent dignity of the human person.
3. During its second UPR cycle in 2016, the Singaporean government did not accept all four recommendations that called for the amendment of legislation that allows such detentions. In response to these recommendations, the government delegation extolled the benefits of these laws in combating "serious organized criminal activities" and "the threat of terrorism."
4. The joint FIDH-F8 submission also details how two other laws, the Terrorism (Suppression of Financing) Act (TSOFA) and the Misuse of Drugs Act, have been used to detain individuals pursuant to dubious procedures that lack transparency and due process and have been applied in a manner that appears to be inconsistent with the purpose for which these laws were enacted.

Internal Security Act (ISA) and Terrorism (Suppression of Financing) Act (TSOFA)

5. The ISA has been in force since 1963.¹ Under the ISA, police have the power to arrest alleged suspects without an arrest warrant. Alleged suspects can be detained for 48 hours for investigation and another 28 days for further investigation. Detention after 30 days requires the issue of a detention order under Section 8(1) of the Act.² During this 30-day period, detainees are at risk of torture and ill-treatment.
6. Muslims in Singapore have been the primary target of the ISA. All 156 individuals detained under ISA from August 2001 to January 2020 were Muslims. Forty of them were detained after Singapore's second UPR in January 2016. As of October 2020, at least 24 individuals remained detained in Singapore as a result of the enforcement of the ISA. At least four of them were charged and sentenced to prison terms under the TSOFA after being initially detained under the ISA [For details of three of such cases, see below, *para. 10*]. Three ISA detainees have been behind bars for nearly 19 years.

7. Children have also been detained under the ISA, in breach of Singapore's human rights obligations under Article 37 of the Convention on the Rights of the Child (CRC), to which it is a state party. Article 37 stipulates that the arrest, detention or imprisonment of a child "shall be used only as a measure of last resort and for the shortest appropriate period of time." In January 2020, authorities detained a 17-year-old secondary school student under the ISA. The government alleged he "had been radicalized by a foreign online contact who introduced him to pro-ISIS [Islamic State of Iraq and Syria] social media groups in 2017."³
8. The ISA has been especially used to target and repress migrant workers. On 20 January 2016, the Minister of Home Affairs announced that between 16 November and 1 December 2015, 27 Bangladeshi construction workers had been arrested under the ISA. The Minister of Home Affairs alleged that 26 of them "supported the armed jihad ideology of terrorist groups," and one had been "found to be in the process of becoming radicalized and was supportive of extremist preachers." All the workers, except one, were deported to Bangladesh. One worker remained in prison because he had to serve a jail term for attempting to leave Singapore illegally.⁴
9. In April 2016, the Internal Security Department detained eight Bangladeshi workers under the ISA.⁵ This time, detention orders were issued against all of them. It was the first time detention orders were issued against migrant workers under the ISA. Six of the eight were then charged under Section 4(a) [now renumbered as 4(1)(a)] of the TSOFA for remitting amounts ranging from S\$200 (US\$146) to S\$1,800 (US\$1,315).⁶ Four pleaded guilty and were punished with prison sentences ranging from two to five years. Two of the six workers who had initially denied the charges, eventually pleaded guilty and, in August 2016, were sentenced to two and two and a half years in prison, respectively.⁷ The remaining two were deported in September 2016.⁸ The eight men were also designated as terrorists under the TSOFA [For details of this procedure, see below, *para. 11*].⁹
10. In August 2019, three Indonesian female migrant workers were arrested under the ISA. Detention orders were issued against them and they were then charged for financing terrorism under the TSOFA. They had remitted a total of S\$130 (US\$95) (between February and July 2019), S\$140 (US\$102) (between March and April 2019), and S\$1,216 (US\$888) (between September 2018 and May 2019), respectively, to Indonesia-based individuals. Singaporean authorities said they "had reasonable grounds to believe" that the funds would be used to facilitate terrorist acts overseas.¹⁰ All three pleaded guilty and were sentenced to prison terms of one and a half years, two years, and three years and nine months, respectively.¹¹ All three were also designated as terrorists under the TSOFA.¹²
11. Since Singapore's second UPR, ISA has been repeatedly used in conjunction with the TSOFA. The TSOFA was enacted in 2002 "to suppress the financing of terrorism, to give effect to the International Convention for the Suppression of the Financing of Terrorism and for matters connected therewith." Section 38(a) of TSOFA grants the

Minister of Home Affairs the power to officially designate ISA detainees as “terrorists” through orders that “amend, add [...] or vary” the TSOFA’s First Schedule and are published in the Gazette. The Minister exercises such power without any judicial oversight. In addition, under Section 21 of the TSOFA, the public prosecutor can apply to the court to seize properties of individuals who have been designated as terrorists pursuant to Section 38(a) of the TSOFA.

12. The government has used the TSOFA against both Singaporeans and migrant workers. However, from 2002 (the year of the enactment of the TSOFA) to 2013, the government did not add the First Schedule to the TSOFA in order to empower the Minister to officially designate ISA detainees as terrorists. The First Schedule was added to TSOFA in 2013, and, on 26 February 2015, 12 Singaporeans were the first ISA detainees to be officially designated as terrorists under the First Schedule. In 2016, the TSOFA was used for the first time to charge migrant workers who had been detained under the ISA [See above, *para. 9*].
13. The use of the TSOFA against Bangladeshi and Indonesian migrant workers for sending small sums of money to individuals who the Singaporean government alleged had ties to terrorist organizations [See above, *paras. 9-10*], has raised serious questions as to whether the TSOFA has been in fact used to suppress the financing of terrorism.
14. In some cases, migrant workers detained under the ISA were charged under the TSOFA after detention orders were issued against them under the ISA. Rather than face indefinite detention without trial under the ISA, the workers pleaded guilty to offenses under the TSOFA. The Singaporean government has regularly revoked detention orders issued under the ISA after convictions in court under other laws.

Criminal Law (Temporary Provisions) Act (CLTPA)

15. The CLTPA is another piece of legislation that allows for indefinite detention without trial. Under Section 30 of the CLTPA, the Minister of Home Affairs can issue detention orders of up to 12 months. Under Section 38, such detention orders can be extended by another 12 months. Like the ISA, detention orders issued under the CLTPA can be extended indefinitely.¹³
16. The Minister’s detention orders issued under the CLTPA are considered “final,” and the Minister’s decision is made without judicial oversight. Orders are only reviewed by government-appointed advisory committees within 28 days from being issued. Hearings before advisory committees are held behind closed doors, and, as a result, do not guarantee due process. Advisory committees submit reports to the President of Singapore and may make recommendations concerning the order. Based on such reports, the President “may” cancel, confirm, or amend the orders.
17. The CLTPA was enacted in 1955 and was meant to be a temporary measure to contain certain crimes existing at that time. However, after 65 years, the CLTPA is still very

much in use. According to the Ministry of Home Affairs, the CLTPA is called “temporary” because, every five years, its extension has to be approved by Parliament – which has been dominated by the ruling People’s Action Party (PAP) since 1959.¹⁴ On 6 Feb 2018, the CLTPA’s latest renewal was approved with the support of 77 PAP members while 10 opposition members voted against it. There were two abstentions.¹⁵

18. From 2016 to 2019, the number of CLTPA detainees has remained fairly constant: 109 in 2016; 103 in 2017; 104 in 2018; and 97 in 2019.¹⁶
19. During the 65 years the CLTPA has been in effect, the legality of arrests and detentions under its provisions has only been challenged in court once. On 25 November 2015, the Court of Appeal ruled that the detention under the CLTPA of a Singaporean man who had been accused of international soccer match fixing was unlawful.¹⁷ The man was released as a result of the court’s decision but was rearrested on 1 December 2015 on unknown charges.¹⁸ His fate or whereabouts were unknown at the time of this submission.
20. In January 2018, the CLTPA was amended to allow for the detention without trial for a wide range of crimes.¹⁹ Such crimes include: unlicensed moneylending; drug trafficking; involvement in a secret society; human trafficking; robbery using firearms; murder; gang rape; kidnapping; and organized crime. The offenses enumerated in the amendment to the CLTPA are already covered by various existing laws.
21. Detention without trial pursuant to the CLTPA risks undermining due process because law enforcement authorities tend to rely on sworn statements to accuse defendants of committing a certain crime rather than look for evidence of the commission of the crime as part of their investigation.

Misuse of Drugs Act (MDA)

22. The Misuse of Drugs Act (MDA) was enacted in 1973. Its primary aim was “the control of dangerous or otherwise harmful drugs.” Section 37 of the MDA empowers the Director of the Central Narcotics Bureau to order the detention in government-approved drug rehabilitation centers of “any person whom he reasonably suspects to be a drug addict” for treatment and rehabilitation. The detention orders must follow a “medical examination or observation” of the drug addicts whose treatment and rehabilitation is being sought.²⁰ The MDA set the initial detention period at six months, which could be extended for subsequent periods of six more months, up to a maximum of three years.
23. The process that results in the decisions to detain individuals for treatment and rehabilitation rests solely with the Director of the Central Narcotics Bureau. The process lacks transparency and it is unclear on what evidence the Director of the Central Narcotics Bureau bases such decisions. Detained individuals can be discharged

only by a decision of the Director of the Central Narcotics Bureau or Review Committees appointed by the government in the drug rehabilitation center.²¹ Courts can also discharge detained individuals following an investigation triggered by a complaint that alleges an “improper” detention.²²

24. The MDA originally prescribed that drug addicts may voluntarily seek treatment and rehabilitation at government-approved drug rehabilitation centers.²³ In 1998, the voluntary aspect of treatment was abolished.²⁴ The initial detention period remained at six months, extendable to a maximum of up to three years. On 15 January 2019, Parliament adopted amendments to the MDA, which resulted in the extension of the initial period from six to 12 months, and the extension of the maximum period from three to four years.²⁵

25. It is not known how effective the rehabilitation program for drug abusers is. The recidivism rate (percentage of inmates detained, convicted, and imprisoned again for a new offense within two years of their release) indicates that a significant number of drug abusers held in drug rehabilitation centers are, in fact, not rehabilitated. The recidivism rates for 2016 and 2017 were 23.8% and 28.1%, respectively.²⁶

26. In addition, official figures show that the number of individuals held in the drug rehabilitation center from 2016 to 2019 did not decrease.²⁷ The number of individuals held in the drug rehabilitation center for 2016, 2017, and 2018 was 1,263, 1,152, and 1,257, respectively.²⁸ In 2019, the number jumped by 60%, to 2,080. Authorities attributed this sharp increase to the fact that, as a result of the January 2019 amendments to the MDA, third time offenders were no longer sent to prison but given an opportunity to rehabilitate at the approved drug rehabilitation center.²⁹ Prior to the MDA amendments, drug abusers convicted for a third time were given prison sentences of between five to seven years and between three and six strokes of the cane.³⁰

Recommendations

27. FIDH and F8 call on UN member states to make the following recommendations to the government of Singapore:

- Consider repealing the ISA.
- Refrain from using the ISA and the TSOFA to restrict the rights to freedom of religion, freedom of opinion and expression, and freedom of peaceful assembly.
- Ensure individuals detained under the ISA are either released or tried in fair and public hearings by a competent, independent, and impartial tribunal without undue delay.
- Ratify the International Covenant on Civil and Political Rights (ICCPR).
- Establish an independent national human rights institution in accordance with the Paris Principles.

- Publish comprehensive information concerning the total number of prisoners detained under the CLTPA and the amount of time for which these prisoners have been incarcerated.
- Consider repealing the CLTPA.
- Amend the Misuse of Drugs Act to ensure that individuals subject to this legislation undergo rehabilitation treatment voluntarily.
- Discontinue the use of the drug rehabilitation center and implement proper treatment centers that do not confine drug users to prison-like conditions.

¹¹ The ISA replaced the 1955 Preservation of Public Security Ordinance, which had succeeded the 1948 Emergency Regulations Ordinance.

² See Sections 8(1), 74(2), (3) and (4) of the ISA; available at: <https://sso.agc.gov.sg/Act/ISA1960?ProvIds=pr65-,pr66-,pr74->

³ Ministry of Home Affairs, *Update on Cases Under the Internal Security Act*, 10 February 2020; available at:

<https://www.mha.gov.sg/newsroom/press-release/news/update-on-cases-under-the-internal-security-act>

⁴ Ministry of Home Affairs, *Arrests of 27 Radicalised Bangladeshi Nationals under the Internal Security Act*, 20 January 2016;

available at: <https://www.mha.gov.sg/newsroom/press-release/news/arrests-of-27-radicalised-bangladeshi-nationals-under-the-internal-security-act>

⁵ Ministry of Home Affairs, *Detention of Eight Radicalised Bangladeshi Nationals under the Internal Security Act*, 3 May 2016; available at: <https://www.mha.gov.sg/newsroom/press-release/news/detention-of-eight-radicalised-bangladeshi-nationals-under-the-internal-security-act> (accessed on 5 Oct 2020)

⁶ Straits Times, *Terror group formed during void deck meeting*, 1 June 2016; available at:

<https://www.straitstimes.com/singapore/courts-crime/terror-group-formed-during-void-deck-meeting>; Reuters, *Singapore jails two Bangladeshis for 'financing terrorism'*, 30 August 2016; available at: <https://fr.reuters.com/article/us-singapore-bangladesh-idUSKCN1151CE>; exchange rate

⁷ Reuters, *Singapore jails two Bangladeshis for 'financing terrorism'*, 30 August 2016; available at:

<https://fr.reuters.com/article/us-singapore-bangladesh-idUSKCN1151CE>

⁸ Ministry of Foreign Affairs, *MHA Statement on Issuance of Restriction Order, Release on Suspension Direction and Cancellation of Orders of Detention*, 6 October 2016; available at:

<https://www.mha.gov.sg/newsroom/press-release/news/mha-statement-on-issuance-of-restriction-order-release-on-suspension-direction-and-cancellation-of-orders-of-detention>

⁹ Terrorism (Suppression of Financing) Act (TSOFA) (Revised edition, 2002), First Schedule; available at:

<https://sso.agc.gov.sg/Act/TSFA2002>

¹⁰ Ministry of Home Affairs, *Three Indonesian Nationals Charged with Financing of Terrorism*, 23 October 2019; available at:

<https://www.mha.gov.sg/newsroom/press-release/news/three-indonesian-nationals-charged-with-financing-of-terrorism>

¹¹ Straits Times, *2 maids jailed for terrorism financing offences; one gave the largest amount so far*, 12 February 2020;

available at: <https://www.straitstimes.com/singapore/courts-crime/2-maids-jailed-for-terrorism-financing-offences-one-gave-the-largest-amount>; Straits Times, *Maid jailed for giving cash to support terrorist acts*, 6 March 2020; available at:

<https://www.straitstimes.com/singapore/courts-crime/maid-jailed-for-giving-cash-to-support-terrorist-acts>

¹² Terrorism (Suppression of Financing) Act (TSOFA) (Revised edition, 2002), First Schedule; available at:

<https://sso.agc.gov.sg/Act/TSFA2002>

¹³ Criminal Law (Temporary Provisions) Act (revised edition, 2000); available at: <https://sso.agc.gov.sg/Act/CLTPA1955>

¹⁴ Ministry of Home Affairs, *Criminal Law (Temporary Provisions) Act Factsheet*; available at:

<https://www.mha.gov.sg/docs/default-source/others/cltpa-factsheet.pdf>

¹⁵ <https://sprs.parl.gov.sg/search/sprs3topic?reportid=bill-262>

¹⁶ Singapore Prison Service, *Annual report 2017* - page 39; available at: [https://www.sps.gov.sg/docs/default-source/publication/singapore-prison-service-ar-2017-\(interactive---apr-30\).pdf](https://www.sps.gov.sg/docs/default-source/publication/singapore-prison-service-ar-2017-(interactive---apr-30).pdf); Singapore Prison Service, *Annual report 2018* - page 50; available at: <https://www.sps.gov.sg/docs/default-source/publication/prison-fa-27-jun.pdf>; Singapore

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¹⁷ Straits Times, *Alleged match-fixer Dan Tan re-arrested*, 1 December 2015; available at:

<https://www.straitstimes.com/singapore/courts-crime/alleged-match-fixer-dan-tan-re-arrested>

¹⁸ Straits Times, *Alleged match-fixer Dan Tan re-arrested*, 1 December 2015; available at:

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¹⁹ Criminal Law (Temporary Provisions) Act (revised edition, 2000); available at: <https://sso.agc.gov.sg/Act/CLTPA1955>

²⁰ Misuse of Drugs Act (revised edition, 1985), Section 37; available at:

<https://sso.agc.gov.sg/Act/MDA1973/Historical/19870330?DocDate=19870330&ValidDate=19870330&ProvIds>

²¹ Only one government-approved drug rehabilitation center was known to be operating in Singapore at the time of this submission.

²² Misuse of Drugs Act (revised edition, 2000), Section 39; available at: <https://sso.agc.gov.sg/Act/MDA1973?ProvIds>

²³ Misuse of Drugs Act (revised edition, 1985), Section 37(4)(5); available at:

<https://sso.agc.gov.sg/Act/MDA1973/Historical/19870330?DocDate=19870330&ValidDate=19870330&ProvIds>

²⁴ Misuse of Drugs Act (revised edition, 1997), Section 37; available at:
<https://sso.agc.gov.sg/Act/MDA1973/Historical/19980720?DocDate=19981215&ValidDate=19980720>

²⁵ Straits Times, *New provisions under Misuse of Drugs Act to kick in Aug 1*, 31 July 2019; available at:
<https://www.straitstimes.com/singapore/new-provisions-under-misuse-of-drugs-act-to-kick-in-aug-1>

²⁶ Channel News Asia, *More admitted to drug rehab centre in 2019, driven by changes in law aimed at reducing relapse*, 7 February 2020; available at: <https://www.channelnewsasia.com/news/singapore/drug-rehab-centre-2019-reintegration-reducing-relapse-12404292>

²⁷ Channel News Asia, *More admitted to drug rehab centre in 2019, driven by changes in law aimed at reducing relapse*, 7 February 2020; available at: <https://www.channelnewsasia.com/news/singapore/drug-rehab-centre-2019-reintegration-reducing-relapse-12404292>

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³⁰ Misuse of Drugs Act (revised edition, 1997), Section 33A; available at:
<https://sso.agc.gov.sg/Act/MDA1973/Historical/19980720?DocDate=19981215&ValidDate=19980720>