

Checks and balance needed for ISA to prevent abuse by an all-powerful government

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Executive Chairman of Banyan Tree Holdings, Mr Ho Kwon Ping calls for more checks and balance on the extra-ordinary powers granted by Singapore's Internal Security Act (ISA).

Mr Ho was formerly detained under the ISA in 1977 when he was working as a journalist for writing articles with a pro-Communist slant.

In his lecture on security and sustainability, Mr Ho touched on the controversial issue of preventive detention which has been heavily criticized by Western governments and NGO's.

It is however noted that preventive detention has become accepted as a necessary means by countries especially after the September 11 attack in United States of America.

Mr Ho said on Thursday that the concern of the potential abuse of the ISA does not imply a distrust of the current government and the People's Action Party but a newly-elected, non-PAP government might be a cause for worry.

"Potential abuse resides in any government with unconstrained powers, regardless of political heritage or ideology."

Mr Ho went on to state that his primary concern is that preventive detention must not be unconstrained and must have checks and balances which serve the legitimate purposes of security agencies whilst making abuse more difficult, if not entirely impossible.

Giving an example of the reduction of the current two year detention period to an initial one year period which is still unconditional and unconstrained.

But he noted that subsequent detention periods could require a higher degree of external review, with two high court justices rather than the current single judge and two persons appointed by the President.

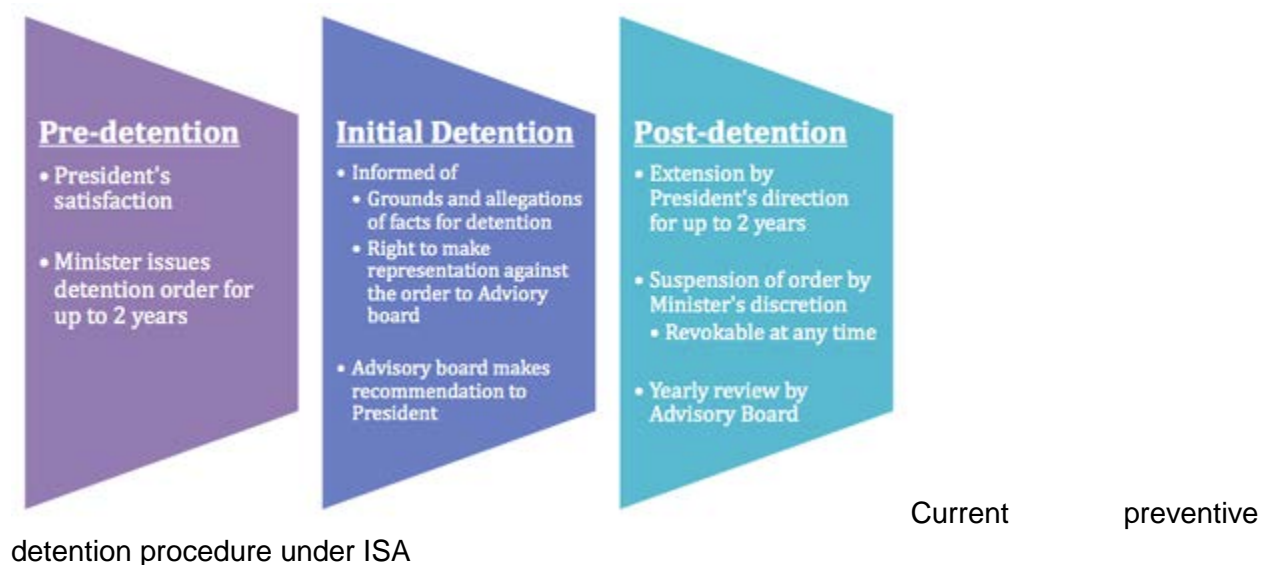
"Failure to achieve unanimous approval for further detention would trigger a process of further review by for example, a non-partisan panel comprising members of the legislature. There could also be a cap on the maximum number of consecutive detention periods unless specifically approved by a similar legislative panel."

Mr Ho acknowledges while such measures cannot fully prevent abuse by an all-powerful government, but true national security threats and abuses could be differentiated in a parliamentary system with at least some opposition representation and brought to public attention.

In his final words on the issue of preventive detention, Mr Ho cautioned that people should be constantly aware of the peril for surrendering too much extra-ordinary powers to any government.

“A society which allows preventive detention should be acutely aware of the risks this brings to its hard-won, much-cherished freedoms and civil liberties. It must reflect deeply on the need for a balance between a government requiring extra-ordinary powers to deal with extra-ordinary threats, and a civil society requiring space to freely express its views without fear of detention.”

Singapore’s ISA is an act which allows the government to detain people without trial if they are deemed to pose a threat to national security.



The act originates from the Malayan ISA which was first drafted in the Malaya on 1960 to replace the Preservation of Public Security Ordinance 1955. When Singapore joined the Federation of Malaya in 1963, the Malayan ISA was extended to Singapore. The Act was retained in Singapore even after its separation from Malaysia in 1965.

In 1989, the drafter of the Malayan ISA, Hugh Hickling commented that he “could not imagine then that the time would come when the power of detention, carefully and deliberately interlocked with Article 149 of the Constitution, would be used against political opponents, welfare workers and others dedicated to nonviolent, peaceful activities”. But although Hickling had questioned the application of the act, he changed his mind in the wake of worldwide terrorist attacks such as 9/11.