

AMERICAN BAR ASSOCIATION

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PLEASE REPLY TO
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WASHINGTON, D.C. 20036

January 12, 1990

The Honorable Lee Kuan Yew
Prime Minister
Office of the Prime Minister
Istana Annexe, Orchard Road
Singapore 0922
Republic of Singapore

Dear Mr. Prime Minister:

I am writing to you in my capacity as President of the American Bar Association. Our Association and its more than 350,000 member lawyers have a deep commitment to the preservation of the rule of law in the international community. In particular, we seek to encourage the maintenance of judicial systems which are independent from government interference, and which respect the independence of judges and lawyers in order to maintain internationally recognized standards of fairness and justice. These objectives are embodied in a "Rule of Law Resolution" adopted by the Association's House of Delegates in February 1975.

Pursuant to this Resolution, I am writing to you to express our deep concern regarding the detention of Attorney Teo Soh Lung, a founding member of the Criminal Legal Aid Scheme of the Singapore Law Society. We are also deeply concerned over amendments to the Internal Security Act denying courts the power to review the Government's reasons for detentions pursuant to that Act, which authorized indefinite detention without trial.

According to press and other reports that we have received, Ms. Teo was arrested and detained pursuant to the Internal Security Act (ISA) on May 21, 1987, along with fifteen other social activists. She was released in September 1987, but was rearrested on April 18, 1988, after issuing a public statement earlier that day in which she stated that she had been mistreated during her 1987 detention and that she was innocent of participation in subversive activities. Two attorneys representing ISA detainees, Patrick Seong, and Francis Seow, were also detained shortly thereafter, but were released later in 1988. On June 17, 1989, the ISA detention order against Ms. Teo was extended for an additional year.

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It was our understanding that no credible evidence of illegal or subversive activity has been presented against Ms. Teo. It is further our understanding that Ms. Teo has been rearrested and detained under the ISA because of a public statement indicating that there were no grounds for her 1987 detention and that she had been mistreated in prison.

We have been advised that the Internal Security Act was amended in January 1989 to preclude any judicial review of the substantive grounds for ISA detention orders. This was in response to language in the decision of the Singapore Court of Appeal ordering Ms. Teo's release which indicated that the courts could engage in substantive review of ISA detention orders. However, it is our understanding that Ms. Teo's habeas corpus petition was granted on procedural grounds; these procedural errors were quickly corrected and a new detention order was served on her just as she was about to leave the detention center. It is further our understanding that courts can only review ISA detention orders for compliance with the Act's procedural requirements, which as Ms. Teo's case illustrates, renders ISA orders effectively non-reviewable in any court of law (the Act was also amended to deny detainees the right to appeal to the Judicial Committee of the Privy Council).

These concerns, if our information is correct, reflect serious violations of the rule of law in Singapore. The ability of lawyers to represent their clients is fundamental to maintaining international norms of equal justice for all. Ms. Teo's continued detention, the detention of attorneys Patrick Seong and Francis Seow, the lack of any due process rights for individuals being detained without charge as well as the use of such detention against critics of the government, in a non-emergency situation, have undoubtedly had a chilling effect on the independence of judges and lawyers and the rule of law in Singapore. It should be noted that Article 9 of the Universal Declaration on Human Rights proscribes arbitrary arrest and detention; Article 9 of the International Covenant on Civil and Political Rights mandates judicial review of the legality of detention. This right to judicial review can only be suspended in the course of a public emergency which threatens the life of the nation. Article 4, International Covenant on Civil and Political Rights.

The sole concern of the American Bar Association is for the maintenance of the rule of law in the international community and the elements necessary to sustain it. We agree that preservation of the security of the state and public order are responsibilities of any government. Nevertheless, these concerns cannot justify arbitrary detention of Ms. Teo and the elimination of any effective safeguards against arbitrary detention as a result of the 1989 ISA amendments.

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We respectfully suggest that you release Ms. Teo unless she is charged with a criminal offense and brought promptly and fairly to trial. We also respectfully inquire as to when your government will start to repeal the 1989 ISA amendments and to seek amendments to the Act which would explicitly authorize judicial review of detention orders on substantive grounds. Finally, we respectfully urge that your government consider suspending application of the Act at this time, considering the lack of an emergency situation in Singapore.

Thank you for your consideration of our concerns and your attention to these important matters. We look forward to your response.

Sincerely,



L. Stanley Chauvin, Jr.
President

cc: The Honorable James A. Baker, III
His Excellency Ambassador Tommy B. Koh
Professor S. Jayakumar