

A BRIEFING PAPER ON THE PUBLIC ORDER (ADDITIONAL TEMPORARY PROVISIONS) BILL

1. Introduction

1.1 The Public Order (Additional Temporary Provisions) Bill was introduced in Parliament on 20 January 2014. This Briefing Paper examines the new powers Parliament is being asked to give the Executive. It hopes to:

- (a) Raise concerns regarding weaknesses in the Bill;
- (b) Educate citizens on the provision of the Bill; and
- (c) Enlighten Members of Parliament should the Bill be put to a vote in the House.

This paper will also identify areas for reconsideration and make recommendations for the Bill's long-term effectiveness.

1.2 The Bill is likely to be debated when Parliament sits again on 17 February with a view to swift enactment soon after. According to the parliamentary statement of Home Affairs Minister, Teo Chee Hean, on 20 January, the Bill is,

[A] temporary law to provide Police with powers to continue to take calibrated measures to maintain public order and calm in Little India post-riot. The new law will allow Police and other agencies to enforce the alcohol restrictions and regulate the movement of persons. This new law is scoped more tightly compared to the wide-ranging powers that come into effect when the Public Order (Preservation) Act is invoked, and provides only for the additional powers needed for the purposes I have stated earlier compared to the former. The Bill proposes that the law will be valid for one year. This will provide sufficient time for my Ministry to enact longer term legislation to take into account the findings and recommendations of the COI, and recommendations arising from public consultations on the review of the liquor licensing regime.¹

1.3 This Bill, when enacted, will join a large number of statutes which regulate and control the behaviour of individuals:

¹ Singapore Parliamentary Debates, Official Report 20 January 2014, Vol 91.

- Arms Offences Act (Chapter 14)
- Corrosive and Explosive Substances and Offensive Weapons Act (Chapter 65)
- Criminal Law (Temporary Provisions) Act (Chapter 67)
- Explosive Substances Act (Chapter 100)
- Internal Security Act (Chapter 143)
- Intoxicating Substances Act (Chapter 146A)
- Miscellaneous Offences (Public Order and Nuisance) Act (Chapter 184)
- National Registration Act (Chapter 201)
- Penal Code (Chapter 224)
- Public Entertainments and Meetings Act (Chapter 257)
- Public Order Act (Chapter 257A)
- Public Order (Preservation) Act (Chapter 258)
- Terrorism (Suppression of Bombings) Act (Chapter 324A)
- Vandalism Act (Chapter 341)

1.4 It is largely accurate to say that all the legal powers in the new Bill are already present in the above statutes. Law Minister, K Shanmugam, as reported in Today Online on 22 January, echoed Minister Teo in suggesting three reasons why the new Bill is required:

- (a) The powers of other legislation are too “strong”;
- (b) Temporary measures are required which necessitate Parliamentary renewal; and
- (c) The numbers of foreign workers in the area covered by the Bill are not duplicated elsewhere.²

1.5 The government acted promptly in dealing with the riot on 8 December 2013. Police Units brought the situation under control in a very short time and the area has remained calm in the two months since. Additionally, migrant workers had flocked to Little India in extremely large numbers for more than a decade without a similar incident occurring previously.

1.6 As such, it is unclear why additional measures are required to complement already existing powers in the other statutes listed above, much less whether the three reasons above are coherent or persuasive. Furthermore, given the government’s acknowledgment that the

² <http://www.todayonline.com/singapore/shanmugam-responds-criticism-over-new-bill>. Technically, Shanmugam is incorrect about Parliamentary approval: the Bill in its present form does not provide a mechanism for renewal beyond its one year life.

Committee of Inquiry, appointed on 13 December 2013, should be allowed “to study the issue thoroughly, come to a fair and objective assessment, and submit their recommendations thereafter”, the measures proposed in the Bill may be insufficiently substantiated and, therefore, precipitate.³ In this context, it should also be queried why the powers under current legislation are too “strong” since the present Bill does not circumscribe those current powers (for example, see Clause 11(5)) but in fact extends them without the availability of external oversight.

Outline of Briefing Paper

1.7 This Briefing Paper will address itself to three issues:

- (a) The underlying issues of jurisprudence concerning the constitutionality of the Bill, the extent of Executive power and availability of judicial oversight, and the desirability of making law on the basis of unconfirmed data which may, therefore, be disproportionate, preemptive, and unsuited to resolving the problems thrown up by the riot;
- (b) Social ramifications resulting from the professional standards of policing and concerns over racial and geographical profiling;
- (c) Public policy issues such as implementing initiatives which are insufficiently based on the available data, precedents set by preempting the Committee of Inquiry (which is a statutory body) and the criminal proceedings, and making policy on the basis of reaction rather than a sober consideration of long-term implications.

1.8 A brief summary of the structure of the Bill is provided following this Introduction. The paper then addresses the key concerns of a fundamental nature, ie. those which concern the principles underlying the management of public affairs, and the weaknesses, either of law or of practice, that the Bill throws up. It then addresses public policy ramifications arising from the Bill as well as from its enactment at this time and some undesirable precedents that it will establish. Finally, the paper will highlight the key safeguards which the Bill does not contain but which are essential to due process and the Rule of Law. In this light, it will then make some recommendations to improve the Bill.

³ Ministry of Home Affairs Press Release dated 13 December 2013 announcing the appointment of the Committee of inquiry: http://www.mha.gov.sg/news_details.aspx?nid=MzA1OA%3D%3D-smkPXX7bzI4%3D.

2. Summary of provisions

2.1 The Bill contains 21 clauses and one Schedule which sets out the boundaries of the Special Zone created by Clause 3.⁴ The Bill provides seven elements:

- (a) Creation of a Special Zone (and the power to expand or reduce the area of the zone);
- (b) Prohibiting within the zone the sale or consumption of alcohol as well as the bringing of ‘prohibited items’ (defined according to the Arms and Explosives Act (Chapter 13), Corrosive and Explosive Substances and Offensive Weapons Act (Chapter 65), and Dangerous Fireworks Act (Chapter 72), or whatever the Minister considers to be a prohibited item);
- (c) Powers conferred on the police and (in some circumstances) auxiliary police agencies to stop and search (including strip search) and prevent entry to the Special Zone to persons reasonably suspected of being a danger to public order;
- (d) Powers conferred on the police to enter and inspect a vehicle, vessel, aircraft or premises, not necessarily in the Special Zone;
- (e) Powers conferred on the police to close access to the zone;
- (f) Extensive discretionary powers conferred on the authorities (ie. the Minister and the Republic of Singapore Police) as well as auxiliary police agencies to exercise the above powers, in all cases, without a warrant; and
- (g) No external oversight or monitoring of the actions of the authorities such as via the Courts.

2.2 Significantly, despite its wide-ranging discretionary powers, the Bill also grants the authorities immunity from prosecution and claims for damages at Clause 19(3):

No liability shall be incurred by the Government because of the enactment of this Act or for anything which is done or intended to be done in good faith and with reasonable care, in the exercise or purported exercise of any power, or the performance or purported performance of any function or duty, under this Act.”

⁴ For clarity, a piece of proposed legislation before Parliament is called a Bill; after it is enacted (ie. passed by Parliament) it is called an Act. Provisions contained in the document while it is a Bill are called Clauses. When it becomes an Act, the provisions are known as Sections. A Schedule is an additional section in a piece of legislation which contains further information or expands, clarifies, or otherwise spells out additional material. It has the same force as any other part of the Act. Often, statutes contain an Explanatory Statement to explain its provisions. This section is for assistance only and does not form part of the statute. However, it can have persuasive authority, for example, in the Courts when judges seek to interpret the will of Parliament concerning a particular law.

As will be discussed below, this becomes problematic in the context of the test of ‘reasonableness’ which the authorities are required to exercise when operating the Act. Indeed the Bill precludes any adjudication of its operation via the Courts or other external body except in respect of appeals on certain actions (such as regarding alcohol licences) which may be made to the Minister.

3. Fundamental concerns

3.1 Given that the Committee of Inquiry (CoI) has not yet presented its report, the tabling of the Bill at this time must be considered a disproportionate reaction to the riot. While it is laudable that the government is taking pains to ensure the peace and safety of residents following the riot, without the data that the CoI will yield, the Bill cannot at this time be seen as a reasoned and considered response. This throws up two issues:

- (a) Governance on the basis of reaction rather than data can result in implementing the inappropriate solutions to the problem; and
- (b) The status and standing of a CoI, whose role is to independently and fearlessly identify problems of governance, may be weakened.

3.2 Extensive discretionary powers conferred on the government and its agencies such as the Republic of Singapore Police (as well as auxiliary police agencies in some cases) without the availability of external oversight (such as before the courts) may result in arbitrary state action irrelevant to the objectives of the Bill. In short, they are open to abuse.

3.3 In a recent interview, Minister Shanmugam noted that Singaporean laws go through a strict drafting process:

- (a) Drafting by the Attorney General’s Chambers (AGC) and checking by the Ministry of Law to ensure constitutional compliance;
- (b) Vetting by the Presidential Council for Minority Rights (where appropriate); and
- (c) Legal advice provided to ministries.⁵

⁵ <http://www.singapolitics.sg/supperclub/shanmugam-no-country-wants-send-anyone-death>. An insightful article which deals with judicial oversight can be found at <http://www.singaporelawwatch.sg/slw/headlinesnews/36360-when-citizens-take-the-government-to-court.html>.

- 3.4 Important though these safeguards are, they do not control the sound and proper operation of laws on the ground. In respect of the present Bill, the lack of external oversight raises problems. For example, the actions of the policing authorities are required to meet the test of ‘reasonableness’. However, given the likelihood that the police official and the suspected individual concerned may both have different conceptions of what is reasonable, the absence of an external adjudicator means that the reasonableness of state action can never be settled.
- 3.5 This is also the case in respect of Clause 19(3) (see paragraph 2.2 above). This clause offers three conditions after which the government cannot be held liable for action in respect of the Act:
- (a) It must be done in good faith;
 - (b) With reasonable care; and
 - (c) In furtherance of the functions or duties under the Act.

In the absence of external oversight, these three conditions can never be adjudicated to the satisfaction of both the authorities *and* the aggrieved person. Consequently, regardless of how well the Bill is drafted, an unfair operation of the Act by an individual police official or the government as a whole can never be adjudicated because the Bill does not provide for this.

- 3.6 It follows from this that the high standards of evidence of our legal system cannot be safeguarded by the Bill because citizens are precluded from referring a grievance to the judgment of the Courts. Therefore, the test of ‘reasonableness’ is only determined by individual officers on the ground who do not possess the fine-tuned legal knowledge and experience of our judges. This implies that the standard of evidence required to exercise the provisions of the Act will be lowered.
- 3.7 In other words, so far as this Bill is concerned, juridical responsibility has been relocated from the judges to the Executive. Regardless of how trustworthy and honourable members of the Executive may be, the removal of such a fundamental facility in a complex society such as ours and the precedent that this sets for future legislation is of grave concern. One only needs to recall the several cases of corruption in government agencies in the last two years as well as the

alleged corruption by a previous National Development Minister in December 1986 (which resulted in his suicide) to acknowledge the importance of external oversight of executive action.

- 3.8 In addition, wide discretionary powers are provided to the authorities to, for example, enlarge the Special Zone, search an individual or enter a vehicle or premises, issue a banning order for up to 30 days or prohibit an individual from entering the zone for up to 24 hours, or close access to the zone, without being required to publish or disclose the reasons for the exercise of these powers. Without the availability of external oversight, regardless of how fairly and objectively these powers are exercised, the government and its officers will always be vulnerable to accusations of arbitrariness and injustice regardless of how innocent they might be. There is no facility by which an officer can be exonerated of such an accusation.
- 3.9 The Bill is limited to the area traditionally understood as Little India, to the concerns arising from the consumption of alcohol and, as both Ministers Teo and Shanmugam articulated, have South Asian migrant workers in mind. Many South Asians, whether Singaporean or otherwise, frequent Little India for shopping, socialising and consumption. The migrant workers who go there are largely of South Asian origin. Given that migrants frequent other areas in similar density if not volume (eg Chinese in Geylang, Burmese in North Bridge Road, Filipinos in Orchard Road, and Caucasians in the Quays), the suspicion that the Bill has a racial profile in mind cannot be avoided. This is bad for community relations as well as for the sense of belonging and dignity that Singaporean South Asians should feel as a matter of right.
- 3.10 It is useful to acknowledge that the experience of other countries with policies and legislation containing a racial objective or implication such as the United States, Britain, Australia, and France has been negative. That relationships between citizens of certain ethnic groups and the authorities deteriorated as a result of such policies is an unhappy consequence that we should at all costs try to avoid. While it is acknowledged that the present Bill is not, on the face of it, based in a racial assessment, the suspicion of South Asians, whether Singaporean or foreign, that they are being targeted for control cannot be avoided.
- 3.11 Notwithstanding Minister Shanmugam's views regarding the finely-tuned legal drafting process referred to at paragraph 3.3 above, the present Bill raises an additional concern regarding the desirability of Parliament enacting legislation in response to a single incident rather than

reviewing existing legislation to ensure their compliance with the objects to be secured in resolving the incident or preventing its repeat. As mentioned in Section 1 above, the current legislative framework contains the provisions that the present Bill contains and the absence of a riot in the last 45 years is a testament to their effectiveness. Legislation made on the basis of a knee-jerk reaction motivated by needing to be seen to be doing something makes for bad law.

3.12 Finally, the Bill weakens the Constitutional guarantee of freedom of movement in Article 13(2):

Subject to any law relating to the security of Singapore or any part thereof, public order, public health or the punishment of offenders, every citizen of Singapore has the right to move freely throughout Singapore and to reside in any part thereof.

and of assembly in Article 14(1)(b): [A]ll citizens of Singapore have the right to assemble peaceably and without arms.

While it is acknowledged that these provisions are subject to security and public order, the reasons for the Bill provided by Ministers Teo and Shanmugam (See paragraphs 1.2 and 1.4 above) and in the Bill itself, do not indicate what are the security and public order concerns not covered by existing legislation.

4. Weaknesses of the Bill

4.1 In general, the Bill provides formidable powers to the authorities, the power to act without warrant, the power to adjudicate without manifestly sound rationale, and the power to take action without external oversight. It should be noted that the Bill is not directed at a particular group of persons but is equally applicable to citizens.

4.2 The experience of other countries' security legislation made on the basis of single issues such as the US's Patriot Act, and the British laws in Northern Ireland is that such laws can, and are, used against citizens for legitimate activities and activism. In respect of Clause 11 of the present Bill concerning entry or removal from the Special Zone, on page 34 of the Explanatory Statement, can be found the sentence,

This may include a lone demonstration of support of causes within a special zone that may heighten tensions for the community in the special zone.

It is concerning that this is stated in the Explanatory Statement but a similar statement cannot be found in Clause 11 or anywhere else in the Bill. Given that cause-related activity is already circumscribed in other legislation, the inclusion of this statement may lead to the suspicion that the government wishes Parliament to further circumscribe legitimate activism by the back door, so to speak. Furthermore, the inclusion of this statement in the Explanatory Statement, which does not form part of the Act itself, would lead to an ambiguity in law. In short, either the statement should be placed in the Bill itself or it should be removed from the Explanatory Statement. If it is replaced in the Bill proper, then Parliament will need to reconsider the description of the Bill on page 3 of the Bill which states,

An Act to make temporary provisions for the area in Singapore commonly known as Little India so as to continue to maintain public order in that area following the violence on 8th December 2013 in that area.

If the Bill is intended purely to avoid a repeat of the riot, then a statement about cause-related activities is inappropriate, regardless of where it is placed, and opens the government to the accusation that it is enlarging the scope of the Bill without being explicit about it. If, conversely, the government is of the view that cause-related activity might lead to a repeat of the riot, then it should say so explicitly for the avoidance of doubt. This would then change the overall shape of the debate on the Bill, which is a desirable outcome for public policymaking.

4.3 The following specific weaknesses arise:

- (a) Clause 1(2) – The Bill does not indicate if the Act may be renewed after 12 months or will need to be reenacted in the normal way. Additionally, the Bill is not clear on what would happen to the Act if a similar incident were to occur within the one year life of the Act.
- (b) Clause 3(3) and 3(4) – The Bill gives extraordinarily wide and generally non-specific powers to the Minister to enlarge or reduce the area of the Special Zone and does not mandate him to publish the reasons. At Clause 3(3)(d), the phrase “prejudices the recovery of the community” is used and in Clause 3(4)(a) the phrase “the additional area as part of a special zone is needed for the well-being of the communities in or near the additional area covered”. These are ambiguous phrasings because “recovery” and “well-

being” have multiple meanings: the effect is to afford the minister another non-specific power without reasonable basis.

- (c) Clause 5(2) authorises the Commissioner of Police to allow “different classes of persons” to conduct themselves differently to what is proscribed by Clauses 4 (alcohol consumption) and 8 (bringing of prohibited items). This allows the police to apply differential standards to different persons which raises again the suspicion of profiling.
- (d) Clause 5(6) and elsewhere precludes judicial review of administrative action. This goes contrary to Minister Shanmugam’s view expressed in the article referenced at Footnote 5 above, where he said:

The right to apply (for judicial review), where it is fair or where it is properly applied for, is a matter for the courts. People have a right to apply and that has always been a part of our law. You must allow people to apply.

- (e) Clause 9 provides wide-ranging powers to the police and auxiliary police to inspect and search an individuals’ possessions, clothing or vehicle even to the extent of strip searching. These powers are circumscribed in Clause 9(2) where the officer must “reasonably [consider] it necessary to make a request”. However, the conditions giving rise to reasonable necessity are not spelt out. This implies that an officer is open to the opportunity of exercising Section 9 without having to furnish his reasons for so doing.
- (f) At Clause 9(4), personal property is defined as including “things apparently in the immediate control of the person”. This is phrased in such a way as to lead to ambiguity because the word “apparently” requires a judgment call on the part of the officer and the phrase “immediate control of the person” does not lend itself to self-evident meaning. The Explanatory Statement does not shed light on the phrase.
- (g) Clause 10 allows a police or auxiliary police officer to require the personal details of an individual as well as his reasons for entering the Special Zone, whether he is subject to a banning notice and, if in possession of alcohol, how he came by it. This clause is not subject to the test of reasonableness thus giving rise to the possibility of abuse. Given also the widespread view that the sole culprits of the riot were South Asian men, the possibility arises that this group, whether local or foreign, will be more subject than others to this.
- (h) Clause 11 empowers a police or auxiliary police officer to refuse an individual entry into the Special Zone or require him to leave it. It is based on the test, among other things, that the individual’s entry into the zone “increases the likelihood of, or prejudices the

prevention of or preparedness against, any riot or other civil disturbance in the special zone or prejudices the recovery by the community in the special zone from the riot". This clause, therefore, asks an ordinary officer to predict the likelihood of such a risk. The absence of parameters around the exercise of this power, except that of reasonableness, makes this a power open to abuse or, at the very least, incompetent or inconsistent application.

- (i) The Clause also allows an officer to issue a ban of up to 24 hours. A ban is, in consequence, a punishment: the Bill is therefore asking Parliament to approve of police or auxiliary police meting out punishments based solely on reasonableness. In effect, it is a usurpation of the jurisdiction of the Courts and contravenes Article 9(1) of the Constitution:

No person shall be deprived of his life or personal liberty save in accordance with law.

and Article 93, that,

The judicial power of Singapore shall be vested in a Supreme Court and in such subordinate courts as may be provided by any written law for the time being in force."

- (j) Additionally, Clause 11(3) allows police and auxiliary police officers to use force. Given that the training of auxiliary police officers is of a lower standard than that of the Republic of Singapore Police officers and they are employees of a private company, whose 'bottom line' is the compliance with KPIs rather than to protect the peace, the vesting of such a power in these officers is inimical to the security and safety of individuals. In addition, the auxiliary police agencies employ foreign workers: therefore Parliament is being asked to give foreign employees of a private company the right to use force against a Singapore citizen. (It may be noted in this regard that if members of the Singaporean Malay community are prohibited from serving in sensitive sectors of the military on grounds of their suspect loyalty to Singapore, the giving of such powers to foreign employees of a private company is deeply problematic.)
- (k) Clause 12 allows for stop, entry, search, removal and retention of premises or vehicles, vessels and aircraft on the basis that an offense is likely to be committed. It is impossible to ascertain that an offense is *likely* to be committed and, therefore, a power on the basis of likelihood makes for bad law. The officer on the ground is expected to essentially read the mind of the individual concerned. The problematic nature of this provision is further

exacerbated by the fact that its powers can be exercised anywhere in Singapore, not just in, close to, or approaching the Special Zone.

- (l) Additionally, even if no alcohol or prohibited item is found, an officer can still refuse entry to the Special Zone. Presumably this is based on the test of likelihood but the effect is to give the officer on the ground the power to refuse entry without justification on the assumption that 'likelihood' is a subjective judgment.
- (m) Clause 13 gives the police power to issue a Special Zone Banning Notice of up to 30 days again on the assumption of likelihood. Such a notice may be given arbitrarily without recourse to the individual concerned. For example, if an individual is rushing to his home within the Special Zone to tend to a sick relative, he may be prevented from doing so on the assessment that he is likely to commit an offense; The individual is prevented from being allowed to explain his need to enter the zone.
- (n) Clause 14 allows the police to close access to any part of the Special Zone. This is a deeply worrying provision because it gives the authorities power to cut off access by journalists, activists or others to report on an incident which potentially embarrasses the government. Recall that on 18 July 2010, Asiaone reported that a Lianhe Wanbao photographer was handcuffed while attempting to take photographs of a flood at Bukit Timah Road.⁶
- (o) Clause 21 enables the Minister to make Regulations in respect of the Act. At Clause 21(2) the Minister is empowered to apply a fine of up to \$5,000 and/or three months imprisonment for failure to comply with such Regulations. Parliament is, therefore, being asked to approve punishments ahead of time for offenses that have yet to be legislated.

5. Public policy issues

5.1 The hasty enactment of the Bill raises public policy concerns which may set problematic precedents for future governance. First among them is the pre-empting of the CoI's findings. A CoI is an august body charged by statute. By acting before it has published its findings, Parliament will weaken its stature and the stature of future CoIs.

5.2 Additionally, the numerous statements by Cabinet ministers and government MPs about the causes of the riot taken together with legislation based on these alleged causes may indirectly influence the CoI to coincide its findings with the government's preferred causal explanation,

⁶ See report at <http://news.asiaone.com/News/AsiaOne+News/Singapore/Story/A1Story20100718-227478.html>.

thus negating the potential of the CoI to make a deep analysis of the riot and its causes in order that the nation as a whole might learn the lessons. It also makes the government vulnerable to the accusation that it does not intend to explore wider issues but confine the causal explanation to those that are relatively uncontroversial vis-à-vis the government's migrant labour policy.

- 5.3 In this vein, it is argued that the enactment of the Bill at this juncture is a precipitate, disproportionate, panic-oriented prejudgment of the issue which will set the tone of the discourse surrounding the riot and miss the opportunity to carry out a soul searching of the issues. It would be a chance lost. It is inadequate for the government to claim that the Bill is a temporary response pending the CoI because by acting without the CoI's findings (and indeed the criminal proceedings which may, themselves, yield useful data), the government is already influencing the assessment that the CoI would be minded to offer.
- 5.4 The vesting of so many powers in the hands of the auxiliary police agencies neglects to take into account the cultural differences of its officers, the concern that they may find it challenging to empathise with individuals, their basic objective which is to meet their KPIs rather than keep the peace while maintaining the dignity of individuals, and their limited expertise in assessing risk or carrying out their duties with regard to the time-honoured test of reasonableness. In short, they possess neither the public service ethos nor the professionalism of the Republic of Singapore Police which is the hallmark of policing. Ms Sylvia Lim, MP, has already raised the issue of auxiliary police being given extended powers in the prisons. The straying of powers into what should be the sole task of professional police officers is an undesirable precedent.
- 5.5 The wide powers of the Bill may give rise to a deterioration in relations between the community and the police and auxiliary police. For the sake of good working conditions on the part of these officers and for effective community policing, a better balance between the exercise of these powers and the availability of external oversight should not be underestimated.
- 5.6 The concerns listed in this section may generate undesirable precedents for future governance. The weakening of the stature of CoIs may lead to Singaporeans having less faith in their potential to contribute to good government. It may also lead future governments to appoint CoIs with little respect for their findings – from a political point of view it might be desirable for a CoI to be appointed because it offers the semblance of action without substance.

- 5.7 Furthermore, making policy or enacting legislation on the basis of one incident while not yet in possession of sufficient data to do so would give rise to government by reaction rather than action. It is more desirable to understand the totality of the legal framework in terms of its current and future impact as well as on the basis of a systemic approach to community functioning as a whole.

6. Safeguards

- 6.1 In view of the issues raised in this Briefing Paper, a number of safeguards not currently present in the Bill but which Parliament should look into arise:
- (a) Clear statement on what will happen at the end of the one year life of the Act and an indication of how Parliament may respond should there be a further incident;
 - (b) What oversight measures the government intends to institute and whether these measures should be in the Act and if not, why;
 - (c) What guarantees will operate to ensure that the test of reasonableness as it is understood by our judges will obtain on the ground;
 - (d) What guarantees will operate on the ground to ensure that arbitrary, unreasonable, disproportionate, irrational, unjust, incoherent, or inconsistent decisions are not taken by the Minister, the police and auxiliary police in respect of the powers granted to them by the Act; and
 - (e) What measures will be taken to improve the professionalism of officers in the light of such widespread powers given to them under the Act.

7. Recommendations

- 7.1 This Briefing Paper, therefore, recommends the following to Parliament:
- (a) Maintain current policing mechanisms in place for the time being;
 - (b) Wait for the CoI and criminal proceedings to be completed before implementing new legislation;
 - (c) Conduct a public consultation exercise on the measures to be proposed in the Bill;
 - (d) Submit the findings of (b) and (c) above to a Parliamentary Select Committee to be considered alongside the proposed Bill;

- (e) Vary the CoI's Terms of reference to enable it to comment on the proposed legislation;
- (f) In the medium term, conduct a broader review of migrant labour policy in terms of their pay and conditions as well as their social and cultural amenities; and
- (g) Subject to the parliamentary schedule, in the medium term conduct a broader review of the public order legislation so as to consolidate what is at present a huge and sometimes conflicting, contradictory, or outdated range of statutory provisions.

8. Conclusion

8.1 The production of this Briefing Paper is motivated by the belief that the riot provides an unprecedented opportunity for the nation to carry out a systematic and far-reaching review of all the issues surrounding the riot. It is believed that the government is as serious as citizens are of the desire to improve policy in relation to public order and migrant workers and therefore safeguard the community from further incidents of this nature. This paper is submitted to Parliament and to the nation as a serious contribution to the debate that the riot has rightly and appropriately given rise to.

Drafted by:

Ms Lynn Lee

Mr Andrew Loh

Ms Shelley Thio

Dr Vincent Wijesingha

Ms Rachel Zeng

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