

SPEECH BY INDRANEE RAJAH  
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ON HOSTAGE-TAKING BILL  
16 AUG 2010

Mr Speaker

I would like to speak in support of the Bill.

1. Hostage-taking is a particularly heinous crime. It is calculated to put hostages in fear of their lives and, in so doing, to pressurize governments, or other persons, and force them to do what the hostage takers want.
2. In the context of hostage-taking where the demands are aimed at a government, it is frequently the aim of the hostage taker to put the relevant government in a no-win situation. The intention is that no matter what that government does, it will not be able to get it right.
3. Rejecting their demands could mean the deaths of the hostages which in turn could have a public backlash on the government in question. It also inflicts terrible psychological scars on the hostages' families, their friends and often times, their fellow countrymen. They have to deal with emotions of

fear, guilt, pain, grief, loss and the sense that they and their your loved ones will never be safe again. These scars remain long after the incident is over.

4. On the other hand, acceding to hostage-takers' demands will inevitably undermine confidence in the government in question, as that government will have bowed to the demands of the hostage takers and will be seen to be weak. Once a government gives in to such demands, hostage-taking will be seen as a viable way to coerce governments into doing what hostage takers want and it will only encourage other hostage takers to do more of the same.

5. It is no less heinous when the demands are aimed at persons other than governments or international governmental organizations, because the intention is still the same, which is to use psychological fear and emotional blackmail to compel another person to bow to objectionable and unlawful demands.

6. Given its vicious nature and widespread impact, hostage-taking must be countered by the international community taking an united stand against it, and by means of international co-operation.

7. International co-operation would reduce the hostage takers' ability to find sanctuary, and increase the prospects of them being brought to account for their actions.

8. This Bill is therefore timely as it ratifies and gives effect to the International Convention against the Taking of Hostages adopted by the General Assembly of the United Nations on 17 Dec 1979. The Bill makes hostage-taking an offence, and allows our Government to prosecute the offence of hostage taking wherever the act may have occurred, whether in Singapore or elsewhere.

9. This is one of the rare instances in which our law provides for extra-territorial jurisdiction for a criminal offence, but given the nature of the offence, it is right to do so in this case.

10. I therefore support the provisions of the Bill and the general approach adopted. However, there are 3 issues arising from the proposed Bill on which I would like to seek the Deputy Prime Minister's clarification.

11. Clause 3 – Clause 3 of the Bill describes what constitutes hostage-taking and is the section which makes hostage-taking an offence. Hostage-taking as defined in Clause 3(a) and (b) is the act of:-

- (a) seizing or detaining any person; and
- (b) threatening to cause death or hurt to the person or to continue to detain such person, or giving rise to a reasonable apprehension that such person may be put to death or hurt, or may continue to be detained, or causing death or hurt to such person.

12. This part of the definition is the same irrespective of whether it is to compel a government, or some other person to comply with certain demands. However under Clause 3 the punishments are different depending on whether the person being compelled is a :-

- (i) governmental or international intergovernmental organization; or
- (ii) some other person.

13. If the person being compelled is a government, then the penalty is death or life imprisonment together with fine or caning.

14. If the person being compelled is a non-government entity, then the penalty is imprisonment of up to 15 years, and fine or caning.

15. I appreciate that it is usually more serious when you are trying to force a government than when you are trying to force someone else into doing something. However I am curious as to why the punishments would be different, when the acts committed against the hostages could be the same, irrespective of who the demand is directed at.

16. For example a hostage-taker could threaten to kill a hostage unless the CEO of a private organization complies with certain demands. Given that in today's globalised world, many organizations carry on businesses which have global reach and impact, issuing a demand to such a non-government entity could also have serious consequences. For example, many telcos, transport companies, media companies, oil companies, bankers and internet service providers are private businesses are global in nature, and whose businesses can

have strategic significance. What if a hostage-taker takes someone hostage and tries to compel such an entity to do something which has a strategic significance ? e.g. ask a bank to deliver cash in exchange for a hostage. The funds can then be used to purchase arms for terrorist purposes. The entity may not be a government or an international intergovernmental organization, but the consequences of giving in to a demand could still be very serious with widespread consequences. It seems anomalous to have different punishments depending on whether the target of the act to compel is government or non-government. I would therefore be grateful if the Deputy Prime Minister could explain the thinking behind the difference in penalties.

17. I also note that the definition of the offence of hostage taking includes a situation where death is caused to a hostage. This would be the equivalent of murder unless it can be shown that the causing of death was accidental or unintentional (though it is difficult to see how it could be accidental or unintentional in a hostage situation.)

18. In Singapore the penalty for murder is the death penalty. Under Clause 3(1)(b)(i) of the Bill, if the demand is aimed at a government or an

international intergovernmental organization and if the hostage is killed, then the prescribed penalty would include the death penalty.

19. However, under Clause 3(1)(b)(ii) if the demand is aimed at any other person (i.e. not a government or international governmental organization) and if the hostage is killed, the maximum penalty is only imprisonment of up to 15 years and a fine or caning. There is no provision for the death penalty even if the hostage is killed. This is again inconsistent and I would be grateful for the Minister's clarification on the rationale behind the difference in penalties in the two situations.

20. Clause 5 – Clause 5 of the Bill imposes an obligation on anyone who has information which he knows or believes to be of material assistance in, amongst other things, securing the conviction of a person for the offence of hostage-taking to inform the police. Failure to do so will be an offence.

21. I would support this approach is general but I have a concern about this provision in one very specific scenario. I would like to ask the Minister whether it is intended under Clause 5 to take away the protection of legal professional privilege in a situation where a hostage taker is being prosecuted

and he is defended by counsel? Hostage-taking is a heinous crime and should be prosecuted robustly. However in Singapore, we respect the rule of law and one important aspect of the rule of law is that when a person has been charged in court, he is entitled to put up a defence. A corollary of this is that an accused person must be able to instruct his counsel with the assurance that what is said to his counsel is protected by legal professional privilege. In the course of taking instructions for the defence the counsel may come into possession of information which may be of material assistance in securing the conviction of his client, and this information may not be in the hands of the prosecution. But at the same time he is duty bound to defend the client and is bound by the rules of privilege. This section makes it an offence for the counsel not to disclose the information which puts the counsel in a very difficult position. I therefore wish to ask the Minister for clarification as to exactly how Clause 5 is intended to impact on information that is protected by legal professional privilege, so that defence counsel will know the exact scope of their obligations if they have to defend a hostage-taker.

Mr Speaker, I support the Bill.