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PARLIAMENT-MAHATHIR R' R' R'  
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KUALA LUMPUR, JUNE 23 (BERNAMA) -- PRIME MINISTER DATUK SERI MAHATHIR MOHAMAD SAID TODAY THE GOVERNMENT'S APPLICATION OF THE PRINCIPLES OF +SUBJECTIVE TEST+ TO MAINTAIN SECURITY AND PUBLIC ORDER HAD BEEN EFFECTIVE AGAINST THOSE TRYING TO UNDERMINE THE NATION'S STABILITY.

DATUK SERI DR MAHATHIR MOHAMAD SAID +IT IS VITAL THAT THIS POSITION IS GUARANTEED BY LAW BECAUSE THE EXECUTIVE IS THE MOST SUITABLE AND APPROPRIATE AUTHORITY TO MAKE EVALUATIONS OF AVAILABLE INFORMATION IN ORDER TO DECIDE ON PRECAUTIONARY MEASURES TO BE TAKEN TO PRESERVE NATIONAL SECURITY AND STABILITY+.

+IF THE GOVERNMENT'S MANAGEMENT OF SECURITY MATTERS BRINGS ABOUT ADVERSE EFFECTS TO THE NATION OR DISCRIMINATES AGAINST THE PEOPLE, THEN THE GOVERNMENT CAN BE REPLACED THROUGH THE DEMOCRATIC PROCESS,+ HE ADDED WHEN TABLING THE INTERNAL SECURITY ACT (AMENDMENT) BILL FOR SECOND READING IN THE DEWAN RAKYAT.

THE PRIME MINISTER SAID THE MAIN PURPOSE OF THE PROPOSED AMENDMENT WAS TO ENSURE THAT THE COURTS DID NOT QUESTION DETENTION ORDERS SIGNED BY THE MINISTER AGAINST PERSONS DEEMED TO POSE THREATS TO NATIONAL SECURITY. -- MORE  
1825MST 23 06 89

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PARLIAMENT-MAHATHIR 2 KUALA LUMPUR

+THIS IS BECAUSE, OF LATE, THE MINISTER'S DETENTION ORDERS WERE OFTEN CHALLENGED AND QUESTIONED IN THE COURTS,+ HE ADDED.

+IF THE COURTS ARE ALLOWED TO REPLACE EXECUTIVE DECISIONS WITH COURT DECISIONS, THIS MEANS THAT THE RESPONSIBILITY FOR NATIONAL SECURITY NO LONGER RESTS WITH THE GOVERNMENT BUT INSTEAD HAS BEEN ENTRUSTED IN THE COURTS, WHICH ARE ACTUALLY NOT THE EXPERTS IN SECURITY MATTERS.+

THE PRIME MINISTER SAID IT WAS NOT SUITABLE TO FOLLOW DECISIONS BY AND THE TRENDS OF FOREIGN COURTS TO PLAY +INTERVENTIONIST+ ROLES TO REPLACE EXECUTIVE DECISIONS WITH COURT DECISIONS.

THIS IS BECAUSE IT IS AGAINST THE CONCEPT OF SEPARATION OF POWERS BETWEEN THE EXECUTIVE AND THE JUDICIARY WHICH IS UPHELD IN THIS COUNTRY, HE SAID.

HE SAID: +IF THE COURTS CAN REVERSE EXECUTIVE DECISIONS, THE EXECUTIVE CANNOT DO ANYTHING AS IT FEARS THAT THE COURTS WILL REVERSE ITS DECISIONS. AS SUCH, THE EXECUTIVE CANNOT FUNCTION AS IT HAS TO WAIT FOR COURT DECISIONS AND APPEALS TO SUPERIOR COURTS.+ -- MORE

1835MST 23 06 89

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PARLIAMENT-MAHATHIR 3 KUALA LUMPUR

THE PRIME MINISTER SAID IF JUDGES OR THE COURTS QUESTIONED THE MINISTER'S DECISION, IT WOULD BE DIFFICULT FOR THE GOVERNMENT TO DEFEND THE ORDER AS CONFIDENTIAL NATIONAL SECURITY MATTERS COULD NOT BE REVEALED IN COURTS BECAUSE OF SECURITY CONSIDERATIONS AND RELATIONS WITH OTHER COUNTRIES.

DATUK SERI DR MAHATHIR SAID IT WAS DIFFICULT TO GUARANTEE THAT THE COUNTRY WOULD ALWAYS BE PEACEFUL AS THERE WERE VARIOUS FORMS OF THREATS.

+ON THIS BASIS, THE GOVERNMENT ALWAYS GIVES PRIORITY TO ITS ROLE IN SAFEGUARDING NATIONAL SECURITY AND PUBLIC ORDER,+ HE ADDED.

AS SUCH, HE SAID, THE INTERNAL SECURITY ACT WAS DRAFTED IN SUCH A MANNER THAT IT DID NOT ONLY COVER THREATS OF COMMUNIST SUBVERSION BUT ALSO ANY FORM OF THREATS WHICH COULD JEOPARDISE PUBLIC ORDER AND NATIONAL SECURITY.

THE BILL SEEKS TO INCLUDE A NEW SECTION 8B WHICH REMOVES FROM JUDICIAL REVIEW ALL ACTS DONE AND DECISIONS BY THE YANG DI-PERTUAN AGONG OR THE MINISTER IN EXERCISING THEIR DISCRETIONARY POWERS UNDER THE ACT, EXCEPT IN REGARD TO ANY PROCEDURAL REQUIREMENT GOVERNING SUCH ACT OR DECISION. -- MORE  
1857MST 23 06 89

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PARLIAMENT-MAHATHIR 4 KUALA LUMPUR

THE NEW SECTION IS TO DECISIVELY REAFFIRM THE PRINCIPLE THAT THE SUBJECTIVE TEST APPLIES IN DETERMINING THE PROPER EXERCISE OF DISCRETIONARY POWER BY THE MINISTER.

THIS PROVISION IS NECESSARY TO AVOID ANY POSSIBILITY OF THE COURTS SUBSTITUTING THEIR JUDGEMENT FOR THAT OF THE EXECUTIVE IN MATTERS CONCERNING THE SECURITY OF THE COUNTRY AS HAS BEEN DONE BY COURTS IN CERTAIN FOREIGN COUNTRIES WHICH BASED THEIR DECISIONS ON CONDITIONS TOTALLY DIFFERENT FROM MALAYSIA'S.

DATUK SERI DR MAHATHIR SAID THE GOVERNMENT COULD NOT COMPROMISE WITH ANY QUARTER IN DISCHARGING ITS RESPONSIBILITY TOWARDS NATIONAL SECURITY AS THIS WOULD BE THE BASIS OF WHETHER THE NATION COULD CONTINUE TO DEVELOP OR NOT.

HE SAID THERE WERE ALLEGATIONS THAT THE GOVERNMENT HAD ABUSED ITS POWERS UNDER THE INTERNAL SECURITY ACT AND THERE WERE CALLS FOR THE ABOLITION OF THE ACT AS IT WAS CLAIMED THAT IT WAS NO LONGER RELEVANT.

HE SAID IT WAS EASY FOR THOSE NOT BEARING THE BURDEN AND THE RESPONSIBILITY OF SAFEGUARDING PUBLIC ORDER AND NATIONAL SECURITY TO THROW THESE ALLEGATIONS AND CRITICISMS, WHEREAS IT WAS THE MAIN TASK OF ANY GOVERNMENT. -- MORE  
1924MST 23 06 89

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PARLIAMENT-MAHATHIR 5 KUALA LUMPUR

+THE BURDEN OF THIS RESPONSIBILITY IS FELT MORE SO IN OUR COUNTRY WITH ITS DIVERSE RACIAL, RELIGIOUS AND CULTURAL BACKGROUNDS AND WE DO ACKNOWLEDGE THAT SUCH A PLURAL SOCIETY IS ALWAYS VULNERABLE TO VARIOUS FORMS OF THREATS AGAINST ITS STABILITY AND SECURITY WHETHER FROM WITHIN OR WITHOUT.+

THE PRIME MINISTER SAID AS A LIBERAL COUNTRY PRACTISING AN OPEN DEMOCRACY AND WHERE FREEDOM EXISTS, MALAYSIANS NATURALLY ENJOYED FREEDOM OF EXPRESSION.

+THIS IS PROOF THAT MALAYSIA PRACTISES DEMOCRACY. DEMOCRACY PROVIDES VARIOUS TYPES OF FREEDOMS TO INDIVIDUALS AND GROUPS IN THE COUNTRY IN CARRYING OUT THEIR ACTIVITIES AND DUTIES,+ HE SAID.

UNFORTUNATELY, THE FREEDOMS WERE OFTEN ABUSED BY INDIVIDUALS AND CERTAIN QUARTERS FOR THEIR OWN INTERESTS, HE SAID, ADDING THAT THEY HAD USED DEMOCRATIC FREEDOMS TO THREATEN DEMOCRACY ITSELF.

MALAYSIANS WHO UPHOLD DEMOCRACY MUST ALWAYS BE WARY THAT DEMOCRACY WAS NOT USED AS A TOOL TO UNDERMINE DEMOCRACY ITSELF AND THE GOOD THAT WAS EXPECTED FROM IT, HE SAID.

HE SAID THE PROPOSED AMENDMENT WAS SOLELY MEANT TO CLEARLY DEFINE THE FUNCTION AND JURISDICTION OF THE HOME MINISTER AND THOSE OF A COURT JUDGE SO THAT DETENTION ORDERS MADE BY THE MINISTER WOULD NO LONGER BE QUESTIONED OR CHALLENGED IN COURT EXCEPT FOR PROCEDURAL MATTERS IF PROVISIONS OF THE LAW WERE CONTRAVENED. -- BERNAMA  
1931MST 23 06 89