

PM on need to remove powers of the court to review ISA detention orders

For the sake of national security

By K.P. WARAN

KUALA LUMPUR, Fri. — The powers of the courts to review detention orders under the Internal Security Act have to be removed so the Government can carry out its responsibility of controlling and upkeeping the nation's security.

Prime Minister Datuk Seri Dr Mahathir Mohamad said today only the Government was in a position to weigh and determine, from information it received, what action was necessary to preserve the country's security and stability.

When tabling the Internal Security (Amendment) Bill in the Dewan Rakyat for a second reading, Dr Mahathir said allowing courts to substitute the decisions of the Government meant the country's security was not in the hands of the Executive but the courts'.

The courts, he said, were not experts on security.

Responsibility

"It is not appropriate for us to follow the practice in other countries where courts play an interventionist role in substituting the decisions of the Executive, as this is against the concept of 'separation of powers' between the Executive and the Judiciary.

"If courts are allowed to reverse the decisions of the Executive then the Executive would not be able to make decisions, as it would be worried that these decisions would be changed by the courts," he said.

With the amendments to the Bill, the Government proposes to remove the powers of judicial review of the courts in proceedings instituted by way of:

- an application for any of the prerogative orders of *mandamus*, prohibition and *certiorari*;

- an application for a declaration or an injunction;

- a writ of *habeas corpus*; and

- any other suit, action or other legal proceedings relating to or arising from any act or decision made by the Yang di-Pertuan Agong or by the Home Minister.

The amendments also propose to allow judicial review only on questions of compliance with procedural requirements governing these laws or decisions made by the Yang di-Pertuan Agong or the Home Minister.

Dr Mahathir said if decisions by the Home Minister to detain someone is questioned by judges, it would be difficult for the Government to back its detention orders as there may be secret matters relating to national security which could not be revealed in court.

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DR MAHATHIR

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"It is essential that this situation is continuously guaranteed by legislation as it is the Government which is the appropriate authority to take action to protect security and stability in the country," he said.

He said Malaysia practised democracy which allowed individuals and groups to carry out their activities freely.

"However, this freedom is often abused by individuals and certain quarters for their own ends. They are using democratic freedom to threaten democracy itself.

"In this case, we Malaysians who uphold democracy should always be alert so that democracy is not used to threaten democracy itself and the benefits we look for in the system," he said.

He added that the Government would not compromise with any quarter in implementing its responsibility towards national security as the security situation was the basis for the nation's progress and development.