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Handcuffing of pupils unwarranted, say groups

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KUALA LUMPUR, Tues. - Teachers, lawyers, parents, a youth movement, psychiatrists and even a former Chief Police Officer, said today the practice of police handcuffing pupils was unwarranted and insensitive.

They were reacting to a statement by the Inspector General of Police Tan Sri Rahim Noor who said yesterday that while police would practise utmost discretion when arresting pupils from now on, he could not give his assurance they would not be handcuffed.

President of the National Association of Private Educational Institutions, Dr Siva Ananthan who runs a law college, took it one step further by pointing out that if the suspect is later found innocent, he could sue the police for unlawful arrest or detention.

"To build a good defence, the policeman must show he acted reasonably with probable cause," said Siva today.

"Putting on handcuffs to make an example of the pupil is wrong."

He said in the case of juvenile offenders, a great deal of caution must be exercised as they were young and very impressionable.

"The exuberance of youth leads to youthful follies, and you don't want to put handcuffs on them as it will affect them psychologically," added Siva.

Lawyer Tan Hock Chuan said the use of handcuffs illustrated the delicate balance between the duty of a police officer to properly carry out an arrest, and the protection of a minor's rights.

"Under Section 15 of the Criminal Procedure Code, the participating police officer in the arrest has the discretion to use 'all means necessary to effect an arrest' and supervising officers cannot really lay down limits."

However, Tan said, section 3 of the Juvenile Courts Act does say that juveniles should be treated differently from common criminals.

"My own view is to interpret the law so that whenever possible, one should not use handcuffs. This is not to say that one cannot use them," he said.

Tan suggested alternative measures such as more arresting officers or escorting officers to be deployed to ensure that arrests were done smoothly without the use of handcuffs.

"After all, it makes a difference if you have 10 pupils you want to arrest but only two or four officers," he said.

Lawyer Mah Weng Kwai said the Juvenile Courts Act and Criminal Procedure Code were both silent on the use of handcuffs, whether on juveniles or adult suspects.

He believes the police had a right to use reasonable force to arrest and prevent escape.

In the case of juveniles, however, one would not expect them to behave like hardened criminals.

"They are likely to be submissive once arrested by a police officer. The practice should be strongly against the use of handcuffs except when really absolutely necessary," said Mah who is the chairman of the Bar Council's criminal law committee.

Another lawyer Jagjit Singh said the whole issue of juvenile crime should be taken with a "more positive" approach.

The basic principles in law governing juveniles, he said, was that they be reformed and not stigmatised or traumatised into becoming hardened

criminals.

"In this light, the police should not take the issue in a negative light. There should be a clear policy that juveniles are not to be handcuffed at all unless the rare circumstance arises.

"Only if he is of very violent character or tries to run away, in other words, absolutely necessary," he said.

Former Selangor CPO Datuk Seri P. Alagenda, who had spent 35 years in the force, said it was unnecessary to handcuff pupils as he believed they did not pose any danger to either themselves or the policemen.

The Malaysian Youth Council, in a statement today, said it was not happy with the IGP's explanation yesterday on the need to use handcuffs on pupils.

Its secretary-general Saifuddin Abdullah said police must be more careful when handling cases involving pupils.

"Although there is a possibility of these pupils escaping if they were not handcuffed, we believe police do not need to take such a hard approach as they have an excellent track record," said Saifuddin.

"Are these pupils more dangerous or more likely to escape than the illegal immigrants who are normally not handcuffed when they are brought in?"

Psychiatrist Dr Sidi Hatta warned that long-lasting emotional damage could result from the use of handcuffs, especially when accompanied by sensational publicity.

"It can have a very negative effect on their self-esteem, especially when it occurs in front of their schoolmates or parents.

"The tarnishing of their image can also cause these pupils to develop depression, shame and even rebellious feelings," he said.

"In fact, a teenager may even be a crook but this does not mean he will be a crook all his life.

"Bear in mind that people can change and we should tackle this problem with the intention of helping the young," Sidi said.

Parent Tan Kwong Ngee felt although police had the discretion to handcuff schoolchildren, they should only do so if necessary.

"The police can use their professional experience to determine if a situation warrants handcuffing or not.

"Obviously, a big group of rowdy pupils cannot be treated the same way as one or two subdued ones," she said, adding that the danger from youths already suspected of involvement in crimes could not be underestimated.

Another parent, Assunta Margaret Adriano, also said that police could use handcuffs, but said they should do so sparingly.

"The sight of those children being handcuffed was not a pretty one, but unfortunately drastic methods like that are now becoming necessary.

"However, the police should look at the size and number of pupils as well as the offence, and be very sure of their guilt before arresting them so publicly," said Adriano, a mother of two.

Prime Minister Datuk Seri Dr Mahathir Mohamad had said on Saturday that it was unnecessary to handcuff pupils. He said he hoped such an action would not recur as it would put the children under tremendous pressure.

Dr Mahathir was commenting on the incident in Muar where the 13 pupils, including three primary schoolchildren, were arrested in anti-dadah raids. They were handcuffed and taken to the police station.

When asked to comment on the incident, Dr Mahathir had said: "I feel action should be taken against these children but there is no need to handcuff them. Just bring them in."

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