

ISA reforms: More than a political smokescreen?

Malaysiakini.com

September 21, 2011

Credit must be given to Prime Minister Najib Abdul Razak for announcing the abolition of the infamous Internal Security Act (ISA), the lifting of three states of emergencies and along with that the Emergency Ordinance.

It is our hope that without these laws, detention without trial in Malaysia shall now forever be confined to the annals of history.

The prime minister has won his plaudits, most noticeably from the United States, and rightfully so. I mean why not give the man credit for what he appears to be doing, even if it is for the wrong reasons?

If our nation, which has been plagued by oppressive laws even before independence, can boast ourselves to be a progressive democracy, the detention of political leaders, NGO heads, and not forgetting newspaper reporters has to be gotten rid of.

Naturally this optimism of reforms have been dampened somewhat by his announcement that there shall be two alternative laws which would then place preventative measures in place to counter terrorism, safeguarding public order and put in place race relations legislation.

The fear is that these laws may be sufficiently ambiguous for politicians to be detained without trial under the purview of these new laws.

De facto law minister Mohd Nazri Abdul Aziz announced that these laws would not be repressive, but as I know the learned minister would understand that this is wholly dependent on the scope of these laws and their enforcement.

Furthermore, the two safeguards Nazri mentioned are sufficiently ambiguous that they can be subject to abuse.

The first safeguard is that one cannot be detained on the basis of political belief. The second is that extended detention can only be approved by the courts.

The first safeguard is purely the subject of interpretation. Where the police would see fit to charge a politician giving a ceramah regarding views that he or she may have about religious practice, under the new law they can be detained.

I would go so far to submit that there no one was detained under the ISA based purely on political beliefs or alignment.

Looking at the history of ISA detention, it is more as to what they had said, written or done which had landed them in hot soup with the government, not so much their political leanings.

When elements of speeches can be taken out of context and the charges framed to interpret those elements as subversive, inciting racial hatred or disruptive to public order, charges under the new laws can certainly be laid.

Perhaps the second issue, which is the judiciary, would be of another concern. This would be a safeguard only if we knew our judiciary was an independent body.

With the farce of the Anwar Ibrahim case continuing, public opinion would not favour the judiciary to protect the interests of the public rather than the government of that day.

If we were to have an independent and competent judiciary, our legal system would flourish. Would there still be bias? Certainly. However, we shall be assured that there would be no element of coercion for judges to make decisions pleasing to their political masters.

In order for the prime minister to prove the sincerity about the reforms to be made, he should also ensure that there should be stringent laws enforced against any interference in the judicial process.

Judicial reforms would additionally have a positive impact on the economy and boost foreign investor confidence.

Perhaps the subsequent string of attacks on the opposition parties was not particularly fair. Yes, Najib is responsible for announcing the abolition of the ISA, but the constant pressure from the opposition, NGOs and the rakyat certainly led to the action finally being taken.

Smear campaigns are certainly part of politics and Pakatan Rakyat has to quickly re-brand and re-position themselves for the upcoming elections.

There is no doubt that the prime minister's image has improved as a result of this, but will it be a political smokescreen or is it possible that the BN leadership can actually show some forward thinking? We will be watching closely.

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