

Replacing ISA with new laws is not reform

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The Malaysian prime minister's major announcement that the government would abolish the Internal Security Act (ISA) and other repressive laws should be achieved promptly and without passing new legislation in their place.

Prime Minister Najib Razak promised in a September 15, 2011 speech to revoke the ISA – for half a century the target of international condemnation – and three emergency laws. But subsequent government statements indicate that the law would remain in effect for months and that new preventive detention laws would be enacted.

Actions speak louder than words for Malaysian activists, opposition politicians, and others who suffered long-term detention without trial under the infamous ISA

The government should immediately revoke the abusive laws and release or fairly prosecute those being held in preventive detention.

Prime Minister Najib's speech and subsequent statements by members of his cabinet raise concerns that the proposed changes may have little impact on government practice. Najib said that to prevent "subversive activities, organised terrorism and crime to maintain peace and public order" the government would enact two new laws under Article 149 of the Malaysian Constitution.

Article 149 permits passage of laws with overly broad and vague security provisions that could be used to detain people without charge and deny basic freedoms.

Real human rights reform in Malaysia requires more than abolishing the ISA. Although the government has promised to amend licensing requirements in the Printing Presses and Publications Act, long used to stifle freedom of expression, and to review overly restrictive public assembly provisions in the Police Act, neither proposal goes far enough.

Najib has already indicated that while attention will be paid to freedom of assembly it will be restricted by "a principle that is strongly against street demonstration." Proposed reform of the Printing Presses and Publications Act would end annual renewal requirements but still leave the home minister with unrestricted power to decide what can or cannot be published. Both of these rights-abusing laws should be abolished or significantly revised.

The senior minister in charge of legal affairs, Nazri Aziz, this week announced that detention without trial would continue under two new counterterrorism laws even after the repeal of the ISA and other laws, but that the detention periods would be shorter.

No schedule for action to rescind the ISA and emergency regulations has been set but Nazri Aziz told the media that action might have to wait for the March 2012 legislative session. The Malaysian government should not delay and should set a clear timetable to implement these reforms and take a series of interim steps to demonstrate progress toward their achievement.

Human Rights Watch urges the Malaysian government to demonstrate its intent to end unlawful detention, initially by publicly releasing information on all those detained under the ISA and the Emergency Ordinance, and ensuring immediate access to detainees by legal counsel and family members. The government should immediately release such detainees or charge them with a genuine criminal offense.

Revocation of the three remaining state of emergency proclamations, which Najib also announced on September 15, should be either proposed immediately by the government to the Yang di-Pertuan Agong

(king) for revocation or considered at the October 2011 session of parliament. The government should not pass separate legislation retaining the ill-trained Ikatan Relawan Rakyat Malaysia (Rela) corps, which has been implicated in many abuses.

The government should also ensure that reform of the Printing Presses and Publications Act ends the substantive restrictions on free expression rights rather than just addressing procedural matters such as license renewal dates. It should revoke actions under the act to ban books and to prevent online news portals, like Malaysiakini.com, from issuing print editions.

Police Act reforms should guarantee the right to peaceful public assembly in line with international human rights standards and end restrictive and often discriminatory police permit procedures. The Malaysian government should also broaden its legislative review to include other archaic laws regularly used to violate rights, such as the Sedition Act, the Societies Act, and the Official Secrets Act.

The government should rescind its ban on the Coalition for Clean and Fair Elections (Bersih) under the Societies Act and immediately drop charges against the more than 1,700 people arrested during Bersih's peaceful protest on July 9. The decision of "discharge not amounting to an acquittal" of charges against 30 Parti Socialist Malaysia (PSM) activists on September 19 should be amended to be a full acquittal.

More than a single speech will be needed to convince Malaysians and concerned governments that substantial improvements in freedom of expression and assembly are imminent in Malaysia. Taking action on specific cases now is the best way to convince the world that the Malaysian government is really changing its approach.

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