

Khairuddin's arrest proves fears of Sosma's abuse real

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MP SPEAKS It happened to the Internal Security Act (ISA). Now it resurfaces in the Security Offences (Special Measures) Act (Sosma). Yes, I am referring to a blatant misuse of law by our government. The sweet promises given by the government, at the time Sosma was tabled in Parliament are now being broken.

The recent arrest of former Umno leader Khairuddin Abu Hassan under Sosma raises lingering doubts on whether the promise that such a law would only apply to terrorists is being duly kept and honoured by the government?

The ISA was supposed to combat the communists and insurgencies. That was the promise. On the contrary, what we saw, when the ISA was still alive, was that anybody who posed threats to BN was mercilessly subjected to such a wicked law.

The ISA is dead now. But its spirit never dies. It has a gatekeeper to look after its spirit. The spirit of ISA has now been transplanted to two laws namely the Prevention of Crimes Act (Poca) and the Prevention of Terrorism Act (Pota).

Sosma was designed to fight terrorism. Being a global phenomenon, terrorism is fought universally. Malaysia is no exception. Many believe that government needs a special law in order to deal with this heinous crime.

But the real challenge is not to devise the law but rather how to strike a balance between the rights of the victims and the public in one hand and the rights of the alleged perpetrator of such a crime on the other hand. If this balance is not meticulously maintained, the law may become the source of injustice.

Law is like a double-edged sword. If it falls to a wrong person it would probably produce more harm than benefits. In the name of fighting terrorism, any undemocratic and tyrannical state may legislate a draconian law pretending to punish terrorists but misusing it by fighting its very own citizens who bravely stand up against any form of abuse of power.

Not for combatting terrorists

By having such a harsh law, such a government, in actual fact, seeks to create a climate of fear amongst its own citizens rather than to combat the real terrorists.

That was our fear when BN government introduced Sosma. Parliament seemed to give a knife to an insane person whose notoriety of injuring people is so well known. Despite the government's assurance that such a law would never be abused, we never believed it.

Our traumatic and nightmarish experience with ISA has never been fully abated. The government that introduced ISA and Sosma remains the same. The promises also remained the same.

The latest arrest of Khairuddin under Sosma for lodging police reports against 1MDB in a few foreign countries has triggered a sense of déjà vu. Yes, another promise is broken again.

Sosma is basically a procedural law to try any accused person who allegedly involved in any terrorist act. In any ordinary crimes people are tried under the Criminal Procedure Code (CPC). The BN government was concerned that if any alleged terrorist were to be tried under the CPC, the latter would be easily acquitted. Thus, the emergence of Sosma.

In facing a criminal trial, Sosma is a heaven for the prosecution. It is friendly to the prosecution. It is no exaggeration to conclude that Sosma was deliberately designed in order to assist the prosecution to secure a conviction at all costs.

Even hearsay evidence admissible

The law has considerably relaxed the procedure of adducing evidence in court so much so even hearsay evidence is admissible. Even the court, under Sosma, is at the prosecution's mercy. For instance, a judge has no power to dismiss the prosecution's request to continuously remand the accused person pending an appeal, despite the court having given a verdict of not guilty to the accused.

Since the law was enacted pursuant to Article 149 of the federal constitution, it endorses any unconstitutional means to try the accused. Any provision under Sosma that infringes the federal constitution is still valid and not open to challenge even if it undermines our fundamental liberties.

In short, Sosma is against all tenets of fairness of trial, which is the bedrock of democracy.

With such drastic and powerful law, needless to say, it ought to be applied meticulously. In other words such a law must only deal with real terrorists as it designed to fight.

It is totally unacceptable to apply Sosma to a person like Khairuddin who merely exercised his fundamental right to lodge a police report against wrongdoings of 1MDB regardless of the country in which he lodged such a report. It never occurred to any sensible mind that a person who lodges a police report is deemed to be a terrorist, thus needing to be subject to Sosma.

To add salt to the injury, even his lawyer was harassed by the police for helping him. When the law gives so much power to the law-enforcing agency, such intolerable behaviour is bound to happen.

Khairuddin's arrest only reaffirms our anxiety that Sosma will ultimately reach any Tom,

Dick and Harry and not only the terrorists. The question now is who is next?

If at all Khairuddin is suspected of committing a crime of sabotaging our economy, why would the police need to resort to Sosma, treating him as if he is a terrorist.

If this is not a blatant abuse of Sosma what is? Maybe government has to ask this question - who is really the prime source of our economic disaster? Or who is really the person who has ruined our economy or its financial system?

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