

Rain clouds still hover over Sunshine bill
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The Selangor government still has a lot of work to do before rolling out the Freedom of Information enactment.

But more importantly, the select committee is now looking at widening its scope to include government-linked companies as well.

NONE In their first public feedback session, the committee, headed by Hulu Kelang assemblyperson Saari Sungip, met five NGOs who agreed that the implementation of the bill needed to be widened to also include state business subsidiaries.

"There has to be inclusion of GLCs into this act, and not just state government departments. In fact, anyone who has received some form of funding, grants or businesses from the state government should also be bound by this act," said Bar Council vice-president Lim Chee Wee.

His colleague Andrew Khoo, also the council's human rights committee chairperson, also pushed for the bill to be all encompassing, and to not just focus on the results from the information requested.

"The FOI bill must not be taken in isolation. There has to be other democratic practices in place. At the moment, we are just talking about results. We have to take the other processes into consideration," he told the select committee at the Selangor state secretariat building this morning.

NONE "The definition of the document produced must not be just the results, but also how the results are made. We have to look at the document as a whole, taking into consideration the environment and circumstances under which it was produced," he said.

Khoo (right in photo) also challenged the state government to adopt a strong stand against private companies with confidentiality clauses in their contracts.

"They must say that they won't sign any contracts with a confidentiality clause. They will have to be prepared to tell the companies to take their business elsewhere. This is the fundamental principle to adopt," he said.

At the same time, they also suggested an ombudsman for regulating the information disclosure process by state government departments.

Judicial review necessary

The Bar Council and the National Union of Journalists also tore into the bill, which disallows judicial review of the FOI Appeal Board's decisions.

"The council is vehemently against ouster clauses. The courts will always have to be the final resort for any case. There has to be some level of confidence in the courts," said Lim.

NONE NUJ secretary-general V Anbalagan (left) echoed Lim, saying that there has to be a provision for applicants for information to turn to the courts in the event that the Appeal Board rejects their application.

"Let it go all the way up to the Federal Court if necessary," he said.

As stated in the bill, the Appeal Board is a committee which will decide whether or not an applicant has the right to a particular piece of information in the face of a rejection by the state's information in the first.

However, the Appeals Board's chairperson is not bound to conform to the opinions of the other board members.

Information a right, not privilege

Meanwhile, Centre of Independent Journalism executive director V Gayathry said that information should be treated as a right that the public has, and not a newfound privilege with the FOI bill.

"Public bodies must be ready to give out information as a matter of routine, and not just through individuals who would come in once in a while to get information. There should be a scheduled release of information," she said.

She also said the clause for exception in the bill can still be abused to deny the rights of the public as they would still have to write in for information.

The bill states that the department may refuse applicants if they are not entitled to access the information or not under its control.

She also said that the penalty for the applicants to use the information for other purposes is too harsh, defeating the purpose of the FOI bill.

cij media expression 2008 report 220109 v gayathry "If, say I am a Kota Damansara resident, and I request for information about a project that is behind my house. But as a result I uncover something else and then I give a press conference about it, would that mean I would be punished?" Gayathry (right) asked.

According to the bill, it is an offence for an applicant to use the information obtained through the enactment contrary to the reason that they have stated in the application.

They are then liable to a fine of not more than RM50,000.00 or a jail term of no more than 5 years.

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