



DNA Bill tabled for second reading
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Despite protest from the opposition claiming that the DNA bill, tabled for its first reading last week, was politically motivated, it is currently being read for a second time, allowing it to be debated today.
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However, the bill was not supposed to be tabled for a second reading until the Universities and University Colleges Act (UUCA) bill is tabled for second reading on a date yet to be fixed.

Last week, Home Minister Syed Hamid Albar insisted that the long-overdue bill had to be tabled at the ongoing Parliament sitting to help the police solve crimes.

He said the bill was all encompassing for cases under the Penal Code and anyone arrested or charged under the code would be subjected to DNA testing.

Besides the provision of mandatory DNA testing for suspects, the bill will also allow the setting up of a national DNA database, forensic DNA analysis and the use of DNA profiles.

The opposition, however, had a different take, claiming that the government was pushing through the bill to bolster the sodomy charge against Pakatan de facto leader Anwar Ibrahim.

Anwar has refused to give the police a DNA swab in their probe into the sodomy claim made by a former aide, fearing they might tamper with the sample to implicate him.

The opposition leader was charged with sodomy early this month and his case will be up for mention on Sept 10. He faces up to 20 years in prison if convicted.

Anwar is currently contesting in the Permatang Pauh by-election. Should he win, he would make a comeback to the August House after a 10-year absence.

10 major issues

At the same time the bill was being tabled, the Bar Council warned that if the bill is passed, the country would turn into a 'full fledged police state'.

Bar Council human rights committee president Edmund Bon told a press conference at the Parliament lobby that the bill appears to have been 'rushed through' for debate.

Bon alongside three other Bar Council members were at Parliament to brief opposition MPs on the grave repercussions should the DNA bill be passed.

A memorandum on the issue was also handed over to Rasah DAP MP Anthony Loke Siew Fook and his fellow party MP from Kuching Chong Chieng Jen.



Speaking on the bill further, Bon alleged that there were several dubious clauses in the bill that would infringe human rights should the bill be passed into law.

He said there are 10 major issues deemed to be of extreme contentiousness and has been raised in the memorandum. These were:

1. There are no safeguards in relation to the storage and testing of DNA samples and for DNA profiles as well as how they are to be handled. No regulations were prescribed.
2. No provision for the accused to do his or her own independent DNA test which means that the accused have no way of testing the authenticity of the DNA sample claimed to be his or hers.
3. Categories of persons from whom samples may be taken from are too arbitrary and wide meaning that regardless of whether or not one is being investigated for an offence, DNA sample can be extracted from them.
4. Criteria and power safeguards are lacking in relation to suspected and convicted persons rendering it susceptible to manipulation
5. Privacy rights is illusory and those who refuse to provide samples will be subject to punishment and criminalisation
6. The bill would mean that those who have not been charged or convicted prior to the passing of the bill would be affected by it
7. Destruction of samples should not only be permissive but mandatory after a certain period of time as this provision will leave the head of the DNA databank discretionary powers to do anything with it.
8. Clause 18 of the bill gives no assurance that the extracted DNA sample is not to be used and stored somewhere else after it has been used for a particular case.
9. Clause 24 of the bill states that the extracted samples are conclusive evidence which means that the court and the accused have no authority to question the process of the DNA profiling.
10. Without proper DNA data protection laws, the power to export DNA samples to foreign law agencies should be curtailed all together.

No consultation

Bon said the bill must not be rushed for debate as it has not gone through the proper consultation process.

"I am shocked that the necessary stakeholders like the Bar Council and other civil society groups were not consulted first before it is tabled for debate," he added.

He also said the existing DNA law has not shown any progress towards curtailing crime hence providing no justification for the introduction of a new DNA bill, which he considered to be "draconian."



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Meanwhile, Loke claimed that the BN-led government had ulterior motives to rush the bill.

“Why are they rushing? It was supposed to be debated after the UUCA bill. We are upset and shocked by this need to rush the bill for debate when it was just tabled last week,” he said.

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