

Security Offences Bill Lacks Human Rights Compliance
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By SUARAM

Suara Rakyat Malaysia (SUARAM) and Gerakan Mansuhkan ISA (GMI) views that the Security Offences (Special Measures) Bill 2012 as it provides arbitrary power to the police to arrest and detain a person without warrant and lacking in judicial scrutiny mechanism during the initial 28 days detention.

Broad powers to Police

Clause 4 of the new bill which allows detention for 28 days without being brought before a judge violates the fundamental rights of any individuals. The absence of judicial scrutiny means that the authorities can use the law to detain anyone opposed to them under the pretext of active investigation as the proposed law allows for arrest on basis of a subjective standard of "has reason to believe" that the person may be involved in security offenses. This double vagueness clause would also give the police broad powers to conduct searches and intercept communications without judicial warrant as well making the force susceptible to abuse of power.

The current law is indeed a fundamental move away from the current criminal justice administration that safeguards the rights of a detained person and of his/her presumption of innocence due to strict judicial scrutiny right from the 24 hours' time after an arrest.

We strongly oppose the powers given to the police to detain a person for 28 days without charge and urge for amendment to include the role of the judiciary in providing such order. We are also of the position that the law must allow for habeas corpus application for any person who seek to challenge the initial detention order.

Infringement of personal liberty and privacy

We also oppose the provision that permits the police to unilaterally impose electronic monitoring devices on individuals released from detention, as it is serious infringement of personal liberty and privacy.

Legal access

We have strong concerns on Clause 5 of the bill which allows delays of 48 hours before the suspect has access to a lawyer, which encourages abusive interrogations and torture.

Strengthen the current climate of impunity and abuse of powers!

We are concerned about the repercussion of these proposed legislative changes which would come under even more intense government scrutiny. The new proposed legislation while has reduces the initial detention period but it's merely acts to further limit fundamental right and provide wider power to the police force that have failed to undergo reform as the 2005 recommendations proposed by the Royal Commission on Policing were yet to be implemented.

We have doubts and are very concerned about the powers given to police in this bill as SUARAM in the past years have documented many cases of police abuse of power and human rights violation without any form of oversight and redress mechanism. The current law is believed to only go to strengthen the current climate of impunity and abuse of powers.

Therefore, SUARAM and GMI would like to demand the following:

1. To refer the 2012 Bill to a Select Committee for open consultation with civil society to review the

objectives and provisions of this Bill.

2. We also urge the government to establish an Independent Police Complaints and Misconduct Commission (IPCMC) as per the recommendations made by the 2005 Royal Commission on Policing without further delay.

3. All prisoners detained under the ISA to be released immediately and be paid gratuity equivalent to the torture and sufferings that was experienced by the detainees and family members;

4. All establish a Truth Commission to review all past ISA arrest with a view to bring involved parties in the torture and maltreatment of ISA detainees to justice and open trials;

5. The Government must abolish other detention without laws such as the Dangerous Drugs Act (DDA)

Suara Rakyat Malaysia (SUARAM)

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