

Grave Concerns Over New Security Laws
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The tabling of the Security Offences (Special Measures) Bill 2012 to repeal the 52-year Internal Security Act which vests pernicious, draconian and undemocratic detention-without-trial powers on the Executive which could be extended every two years is welcome as it is long overdue.

This is the victory of the decades-long struggle for democracy and human rights which have been waged by patriotic Malaysians cutting across race and religion, many paying a heavy price in terms of personal liberties - culminating in the pledge by the Pakatan Rakyat for the repeal of the ISA.

However, the replacement of the slew of new security laws in the four bills presented to Parliament, namely the Security Offences (Special Measures) Bill 2012, the Penal Code (Amendment) Bill 2012, the Criminal Procedure Code (Amendment)(No. 2) Bill 2012 and the Evidence (Amendment) (No. 2) Bill 2012 raise grave concerns about new human rights abuses which must be met and addressed by the Prime Minister, Najib Razak if Malaysia hopes to approximate to be "the best democracy in the world" - practising "a functional and inclusive democracy where public peace and prosperity is preserved in accordance with the supremacy of the Constitution, rule of law and respect for basic human rights and individual rights".

The Internal Security Act has stunted the growth of democracy in Malaysia. What is there to guarantee that although the ISA powers of indefinite detention-without-trial is repealed, the new provision limiting detention without charge to 28 days "for purposes of investigation" without judicial review will not be the new bane for democracy and human rights in Malaysia?

Several proposals in the new bills have adverse impacts on fundamental human rights particularly with regard to personal liberty and privacy as well the rule of law.

These include the powers to the police to impose electronic monitoring devices on individuals released from detention, delays of 48 hours before the suspect has access to a lawyer, and powers to police to make an arrest without a warrant if the officer merely "has reason to believe" that the person may be involved in security offences, many of which are vaguely defined.

The Security Offences Bill also provides for trials with secret witnesses, unlawfully obtained evidence and continued detention of those found not guilty.

Of great concern is the new offence created by the Penal Code Amendment Bill under section 124B -"Activity detrimental to parliamentary democracy" where "Whoever, by any means, directly or indirectly, commits an activity detrimental to parliamentary democracy shall be punished with a imprisonment for a term which may extend to twenty years".

Section 124C provides for a jail sentence "which may extend to fifteen years" for the offence of "Attempt to commit activity detrimental to parliamentary democracy".

This is followed by five other sections on offences relating to "activity detrimental to parliamentary democracy, ranging from "printing, sale, etc. of documents", "possession of documents", "importation of document and publication", "posting of placards", "receipt of document and publications", all carrying hefty penalties of maximum jail terms from five to ten and even 15 years.

Section 130A (a) defines "activity detrimental to parliamentary democracy" as "an activity carried out by a person or a group of persons designed to overthrow or undermine parliamentary democracy by violent or unconstitutional means".

These new-fangled offences relating to "activity detrimental to parliamentary democracy" with their heavy penalties constitute grave threats to the healthy growth and development of democracy and human rights in post-ISA Malaysia – especially with the unreformed key national institutions like the judiciary and police which have yet to regain public confidence in their independence, integrity and professionalism.

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