

Review Of Security Offences Bill Is Required
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The Human Rights Commission of Malaysia (the Commission) commends the repeal of the Internal Security Act 1960 (ISA) and welcomes in its place, the Security Offences (Special Measures) Bill, which was tabled in Parliament on 10 April 2012.

The repeal of the ISA is a positive move towards the improvement of the human rights situation in the country. In addition, the Commission takes note of the amendments to the Penal Code, the Evidence Act 1950 and the Criminal Procedure Code, tabled in the Dewan Rakyat on 11 April, following the first reading of the Security Offences (Special Measures) Bill 2012.

The Commission welcomes and supports the Honourable Prime Minister's effort for democratic reforms and to safeguard human rights and freedom, as promised in his special Malaysia Day address on 15 September 2011.

While the Commission acknowledges the need for a counter-terrorism policy to combat terrorism and to maintain national security, it nevertheless maintains its stand that the provisions in the Bill as well as the amendments to the other relevant laws must strike a balance between national security and fundamental liberties and human rights. In this regard, the Commission is pleased to note the Honourable Prime Minister's exhortation to the police on 12 April 2012 to balance their role in ensuring public order and security and respect for individual rights.

The Commission notes that some of the provisions in the Bill are in line with the Commission's recommendations in its report Review of the Internal Security Act 1960 published in 2003. In that report, the Commission recommended that the Internal Security Act be repealed and that a new comprehensive law be enacted in its place to deal with threats against national security (including terrorism) but with provisions that are in line with human rights principles.

Accordingly, the Commission welcomes the new Bill which only allows the police to detain any suspect for a period of up to 29 days for the purpose of investigation, after which the suspect must either be released or charged with one or any of the specified security offences. The Commission welcomes the clause for the review of the provision on the period of detention every five years and for its cessation unless otherwise extended.

However, the Commission has the following concerns which it hopes will be addressed:

- i. The power of arrest and detention under Clause 4 of the Bill does not provide for judicial oversight in the extension of detention period of up to 28 days.
- ii. Although Clause 5 of the Bill allows for notification to the next-of-kin when a person is arrested and detained, the police have the power to deny him immediate access to legal representation for a period of up to 48 hours.
- iii. The provision that permits for the power to intercept communications under Clause 4(6) of the Bill, may infringe personal liberty and the right to privacy. This power should be exercised through a court order.

Notwithstanding the above comments, the Commission looks forward to further and continuing engagements with the government agencies, specifically the Attorney General's Chambers, and other stakeholders to ensure that obsolete and irrelevant laws are abolished and replaced by laws that are consistent with universally accepted human rights principles, thus promoting and protecting human rights in the country. In furtherance of its functions as the national human rights institution, the Commission will

continue to monitor the implementation of the new law as well as the relevant amended laws to ensure that they are in compliance with international human rights principles and norms, specifically the Universal Declarations of Human Rights 1948 (UDHR).

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