

Cops admit using preventive arrests after ban on confessions, says leaked US cable

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KUALA LUMPUR, Aug 17 — A senior officer said in 2006 that police had to resort to using preventive detention after an amendment then to the Criminal Procedure Code (CPC) barred the use of police-obtained confessions in trying defendants, according to a leaked US cable.

The diplomatic note sent from Kuala Lumpur to Washington cited current Bukit Aman criminal investigation chief Datuk Seri Mohd Bakri Zinin as criticising the amendment that eliminated prosecutors' use of police-obtained confessions in trying criminal defendants.

The cable leaked by whistleblower site Wikileaks and published on the Malaysia Today news portal quoted Mohd Bakri, who was then acting Sabah police chief, as saying that the amendment — which only allows for confessions made before a magistrate — “will hurt our ability to get convictions.”

“As a result, we'll likely make greater use of (Malaysia's four preventative detention laws), even though we know this will bring criticism from Suhakam and the NGOs,” he was quoted in the document.

According to the document penned by David Shear, then deputy chief of mission, the US embassy here believed in late 2006 that 700 to 1,000 Malaysians suspected of criminal activity were being detained under the Emergency Ordinance (EO) alone.

Malaysia's other preventive detention laws include Internal Security Act (ISA), Restricted Residence Act and Dangerous Drugs Act which allow the government to jail individuals for extended periods without trial or sufficient evidence to obtain a criminal conviction.

The ISA has gained notoriety over recent years due to allegations of political abuse. In September 2008, the government used the law to detain prominent blogger Raja Petra Kamarudin, DAP's Seputeh MP Teresa Kok and a journalist Tan Hoon Cheng, citing rising racial and religious tension.

Most recently, the EO was used on six Parti Sosialis Malaysia (PSM) leaders including Sungai Siput MP Dr Michael Devaraj Jeyakumar after they were accused of reviving communism and “waging war against the Agong” in the run-up to the July 9 Bersih rally which saw police clamping down hard on tens of thousands of demonstrators.

Public pressure during their detention which lasted over a month saw the six being released at the end of July although they are now facing trial for subversion.

According to human rights activists Suaram, there were 24 people still incarcerated under the ISA at the end of 2010 although the home ministry released eight immigration officers at the beginning of this month.

Some 42 individuals were arrested between 2008 to 2010, the NGO told The Malaysian Insider.

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