

For Immediate Release

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Misrepresentation of SOSMA and POCA Must Stop

Suara Rakyat Malaysia (SUARAM) is appalled by the sustained effort by selected quarters to misrepresent the nature of the Security Offences (Special Measures) Act 2012 (SOSMA), the Prevention of Crime Act 1959, the Prevention of Terrorism Act 2015 and other similar draconian laws.

Since Tun Mahathir Mohamad's speech announcing the eventual abolition of SOSMA, several quarters including Opposition Leader, Ahmad Zahid Hamidi and former Inspector General of Police, Musa Hassan has come forward to reject the abolition and made claims that:

- 1) Need for SOSMA to protect national sovereignty (e.g. Lahad Datu incursion)

- 2) SOSMA & POCA is necessary to counter organized crimes and terrorism

- 3) Race and religion provocation will be escalated through social media if SOSMA is abolished

- 4) Human rights should not compromise national security

To that end SUARAM would like to challenge the ludicrous claims put forth by these individuals by pointing out the following.

Need for SOSMA to Protect National Sovereignty

One of the most shocking claim was by Musa Hassan was that SOSMA was instrumental in countering Lahad Datu incursion in 2013. First and foremost, SOSMA, POCA or POTA does NOT contain any provisions for the armed forces to be deployed nor does it outline the time and place in which the armed forces can be deployed to repel a foreign incursion.

The issue of Lahad Datu and the Malayan Emergency were resolved through the deployment of armed forces as part of a state of emergency. The criminal action against those who have committed crimes against the state was resolved post-incident and was not part of the immediate action to defend our national sovereignty.

Furthermore, those who have taken up arms and detained at Lahad Datu were eventually prosecuted and found guilty Section 121 of the Penal Code and not SOSMA. Even without SOSMA, the individuals who have taken up arms and caused the death of countless servicemen and civilians can be prosecuted and made to answer for their crimes.

SOSMA is Necessary to counter organize crimes and terrorism

The claims that without SOSMA or POCA, the police would not have any power to prevent a crime and that organized crimes and terrorism are fictitious at best. Even without SOSMA or POCA, Section 105 of the Criminal Procedure Code provides power for the police to arrest an individual without warrant in order to prevent a seizable offence from being committed.

The only difference between the Criminal Procedure Code, SOSMA and POCA would be that the police would not be able to detain and remand an individual without judicial supervision for an extended period (28 days for SOSMA, 60 for POCA). Under the Criminal Procedure Code, the police MUST bring a detainee for a remand hearing within 24 hours and make application to a Magistrate court for any extension of detention or remand up to a maximum of 14 days.

Again, the offences which a person is prosecuted for SOSMA are found within the Penal Code. The abolition of SOSMA in this case would only set a higher standard for the conduct of the Royal Malaysian Police and ensure that no executive actions can be undertaken without adequate judicial scrutiny and supervision.

Furthermore, many cases of human trafficking under the Anti-Trafficking in Persons and

Anti-Smuggling of Migrants Act 2007 (ATIPSOM) was resolved by the police through the provisions of the Criminal Procedure Code as opposed to utilizing SOSMA. The arrest of many human rights activists under Section 124C (attempt to commit activity detrimental to parliamentary democracy) were also made in line with the provisions of the Criminal Procedure Code and not SOSMA (with the exception of Maria Chin Abdullah's detention). This is the clearest evidence that the police COULD conduct their investigations in line with the provisions of the Criminal Procedure Code if they chose to.

Race and Religion Provocation will Escalate

Of all the disinformation put forward on SOSMA, this claim is likely to be the most comical of them all. The previous administration who introduced SOSMA and its peers have always maintained that these laws were meant for national security and combating organized crime and terrorism. At which point during its enactment and 6 years of existence did SOSMA had a change of purpose and was remodelled to address the rising tension on the issue of race and religion within the country?

If anything at all, it should be noted that the on-going effort of stoking tension on the race and religion remains a monopoly of UMNO. Even after UMNO's ouster from power, UMNO continues to let itself be represented by questionable individuals such Lokman Noor Adam who continue stoke racial and religious tension for political gains. The problem would be resolve if UMNO aspires to step away from racial politicking.

Human Rights should not Compromise National Security

The only semblance of a reasonable counter-argument that have been put forward by advocates or supporters of SOSMA was that national security which is supposedly safeguarded by SOSMA and its peers should not be compromised by human rights. It should be emphasised that SUARAM and other human rights advocates have never claimed that national security should be given a lower priority in our advocacy against draconian laws. SUARAM stands by the principle that human rights do not undermine national security but only serve to strengthen it.

The issue of terrorism is one of ideology. The battle for ideology should not be fought with arms and violence but through the hearts and minds of people. Malaysia should not give into the violent ideology propagated by terrorist groups but counter it with the narrative of peace and moderation that was once advocated by the previous administration.

Whereas with organized crimes, the issue is one of social injustices and lack of economic opportunity amplified by a corrupt police force that have thrived off racketeering and bribes. SOSMA is not and will never be the appropriate nor effective tool to eliminate the existence and proliferation of organized crime within the context of Malaysia.

Either way, human rights, rule of law are part of the core elements necessary to eliminate and curtail the spread of terrorism and organized crimes and not concepts that are detrimental to the fight against terrorism and organized crimes.

Stop Spreading Disinformation

Any sound person would not seek to misrepresent what SOSMA and its peers are and defend how they are crucial for the preservation of national security or racial harmony. The fallacies and deceit propagated by these individuals only serve to provide a smokescreen for the brutal tortures and injustice perpetuated by these laws.

If the federal opposition and the Royal Malaysian Police would like to advocate for the continued existence of these laws, it is time for them to come clean with factual evidence for their claim and answer the following:

- 1) Why have the Royal Malaysian Police avoided the Criminal Procedure Code which serves as the foundation of the Criminal Justice System?
- 2) How has the Royal Malaysian Police investigated the allegations of torture and forced confession under SOSMA and POCA?
- 3) Would the abolition of SOSMA and POCA suddenly strip the Royal Malaysian Police of its capabilities to conduct proper investigations and forensic work?
- 4) Why did the Royal Malaysian Police re-arrested Siti Noor Aishah under POCA after her acquittal by the High Court during her SOSMA detention?

- 5) Why was Maria Chin Abdullah detained for 10 days in solitary confinement under SOSMA?

- 6) Why was Khairuddin Abu Hassan and Matthias Chang detained for a full month under SOSMA?

- 7) Why was Sri Sanjeevan detained under POCA after a series of chain remand?

- 8) Why are there 159 juveniles detained under SOSMA and POCA?

Without reasonable answers to these questions, the proponents of these laws should not even seek a public debate on the matter. A public debate based on the ludicrous reasons and claims would only portray the proponents of these claims as irrational at best.

To this end, SUARAM would like to reiterate our stand that SOSMA, POCA, POTA and other similar draconian laws must be abolished immediately.

In Solidarity

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