

For Immediate Release

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Lawful Video Recording Cannot be Obstruction under Section 186 of Penal Code

Suara Rakyat Malaysia (SUARAM) welcomes the acknowledgement by Director for Criminal Investigation Department, Huzir Mohamed that the act of recording police officers on duty is lawful and permissible. However, SUARAM is concerned with the illogical suggestion that despite the legality of the act of recording, a person can be considered to have obstructed a police officer if they were to record against police request to stop.

SUARAM has iterated in the past that Section 186 of the Penal Code cannot be used to criminalize legal actions by any person. If a person is acting in accordance with the law and has not committed any offence, the police have no rights nor power to stop them arbitrarily and penalize them for a non-existent offence.

As the act of recording is legal as agreed by Huzir Mohamad, there is no requirement for a person to comply with unreasonable police demand. In the context of recording police officer on duty, a person exercising his rights and recording evidence of the proceeding is not an offence, and as such, there are no legal grounds for the police to ask the person to stop the recording. As there is no legal ground for them to stop, the person cannot be said to have obstructed the police.

Furthermore, if a police officer on duty is not ready to be recorded on duty, it would suggest that the police officer is not ready for fieldwork. Policing work is one that would be in constant touch with the greater public and under constant scrutiny. If a police officer is unable or incapable of discharge his or her duty under public scrutiny, be it physically or through digital recording, they should not be allowed to serve in such capacity as it would only be detrimental for the police force when such incidences occur.

The attempts to justify the act of recording as potentially obstructing an investigation and an offence under Section 233 of the Communications and Multimedia Act 1998 is also disingenuous as video evidence is often compelling evidence in establishing a case in court. If a mere video recording of a police raid was able to derail an investigation, it would suggest the investigation itself was flawed and incomplete.

With this in mind, SUARAM reiterates our stand that the act of arresting and detaining Wong Yan Ke was unlawful. The failure to properly address the matter by Huzir Mohamed is yet another damning evidence that the Royal Malaysian Police is incapable of policing itself and a strong and robust Independent Complaints and Misconduct Commission must be in place to provide oversight on police misconduct.

In Solidarity
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