

# The Malaysian National Security Law may be abused



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THE MALAYSIAN INSIGHT  
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*Preventive laws are necessary for a country, but at the same time, since such laws attach broad and enormous powers, the question is, how to ensure that such laws are not abused? (File photo: Perspective Malaysia)*

Let's be fair, even the democratically developed Western countries have their own version of the preventive law, for example, in the United States, they have the Patriot Act, which allows indefinite detention without trial. To make matters worse, the detention camps at Guantánamo Bay are a clear violation of human rights, and prisoners are tortured, humiliated and even killed while in detention. That is one of the reasons why internment camps must be established in Cuba, not in the United States.

Even so, we rarely hear from those in power in these Western democracies using laws to detain political opponents. The debate between their pros and cons of preventive laws was largely based on human rights, justice and national security, and the abuse of such laws to detain political opponents never arose.

Unfortunately, the opposite is true in Malaysia. To be sure, the National Security Offences (Special Measures) Act is necessary, especially when dealing with serious and urgent cases. This is because it may be difficult to bring terrorists or potential offenders to justice through normal judicial procedures, and because of the high threshold of criminal justice, it may be difficult to successfully convict unless beyond reasonable doubt. Therefore, personally, I would not, in principle, completely deny the existence of such a preventive law.

However, the law explicitly mentions that it cannot be used for political beliefs or activities, but in practice, this is not the case. A good example is the 2016 Election League rally, where Maria Chan was detained. Everyone with a clear head can understand the rally as an exercise of democratic rights, or in a political perspective, but hardly associate it with a threat to national security.

When I heard Interior Minister Han Cha Zainuddin speak to Congress, he cited the case where SOSMA was used to help prevent and detain criminals. It's funny, and I'm sure most people won't object to his statement. But he also avoided the serious and could not convince those detained for political reasons.

Of course, the official justification is all in the way SOSMA is met, as in the case of Maria Chan. As I have mentioned many times in previous articles, the most common problem in Malaysian political circles is that politicians in the opposite government reject their own ideas, and they are unable to reach a solution, not because they cannot reach an agreement, but often because they argue separately.

For example, if the opposition is concerned about abuses by the ruling party, if the government denies that this will happen, is it possible to establish a bipartisan council or committee to review or reject such detention and avoid abuse? Or, if there is a clear crime that cannot be prosecuted by law, can the opposition party accept that arrest is first invoked to investigate and convict?

Frankly, I don't think it's a simple matter to cancel without an alternative provision to fill in. If the 28-day detention was to be abolished, and it was acceptable that there was no alternative, PH had done it early on, because amending the provisions of the decree would only require a simple majority to pass.

On this subject, if you are aware, this article and those speeches in the parliamentary debate SOSMA focus on principles, not technology. More precisely, the recently passed motion concerns the 28-day detention controversy within the SOSMA Act, rather than reviewing the Act as a whole, because SOSMA specifically states that the 28-day detention clause must be reviewed every 5 years, otherwise it will automatically lapse. The reason for discussing SOSMA as a whole, rather than focusing solely on the 28-day detention provision, shows that SOSMA itself is controversial.

总结来说，预防性法律对一个国家是必要的，但同时由于这样的法律附有广泛和巨大的权力，问题是，如何确保这样的法律不会被滥用？这是一个政府需要说服公众的问题。

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