



Majlis Perundingan Malaysia Agama Buddha, Kristian, Hindu, Sikh dan Tao

Malaysian Consultative Council of Buddhism
Christianity, Hinduism, Sikhism and Taoism

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MCCBCHST : NSC Bill undermines the constitution and civil liberties

The Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism (MCCBCHST) is dismayed that the National Security Council (NSC) Bill was passed in a hurry on 3rd December, 2015 being the last day of the Parliament's sitting. This is because the NSC Bill has serious consequences as it appears to over-ride certain provisions of the Federal Constitution and puts civil liberties in jeopardy and abuse.

The following are some of the obnoxious features contained in the Bill:

- (i) Being a Bill dealing with National Security it should have been formulated under Article 149 of the Federal Constitution as was done in the case of the Security Offences (Special Measure) Act 2012.

Article 149 of the Federal Constitution concerns legislation against subversion, actions prejudicial to public order, fear of organised violence, etc, and thus this provision should have been cited in this NSC Bill.

- (ii) The NSC Bill also appears to have contravened Article 150 (I) of the Federal Constitution which provides "If the Yang Di-Pertuan Agong is satisfied that a grave emergency exists whereby the security or the economic life, or public order in the Federation or any part thereof is threatened, he may issue a Proclamation of Emergency making therein a declaration to that effect."

Thus, the NSC Bill appears to be usurping the powers of the Yang Di-Pertuan Agong when it comes to declaring an emergency or in the words of the NSC Bill declaring of a "security area" which has a similar effect as a Declaration of Emergency, where then civil liberty provisions are suspended.

Thus, the NSC which is headed by the Prime Minister, and where members of the NSC are appointed by the Prime Minister, will be able by declaration of a “security area” to exercise all emergency powers under the NSC which are akin to Emergency powers invoked under Article 150 (I) after the Declaration of Emergency by the Yang Di-Pertuan Agong.

- (iii) The definition of “National Security” is so wide as to amount to a “catch-all” phrase. It encompasses “sovereignty, territorial integrity, defence, socio-political stability, economic stability, strategic resources, national unity, and other interests relating to national security [Section 4 (a) of the NSC Bill].
- (iv) The legislation in many areas is open-ended and vague, thus allowing the Security Council to determine what constitutes a security issue [see Section 18 (1) of the NSC Bill].

What makes it more obnoxious is that the Bill protects the NSC members from any suits, thus rendering them completely unaccountable for their actions.

- (v) The security forces are also given excessive powers. They can take possession of any land, building, or moveable property in a security area. They also have powers to destroy any building or structure within a security area. Incredibly, there is also power to dispense with inquests of members of the security forces and persons killed within the security area as long as the Magistrate is satisfied that the person had been killed in the security area as a result of operations undertaken by security forces.
- (vi) Our NSC Bill appears to be modelled according to the US National Security Council. But the US chapter serves as an advisory and policy forum for the President of the US to discuss national security and foreign policy matters.

A further objection to the NSC Bill is that it has over-focussed on empowering the Prime Minister and the drafters of the Bill appear to have completely forgotten to require the NSC to produce a National Security Policy. It is understood that the Malaysian Government has not produced any document on National Security Policy until today.

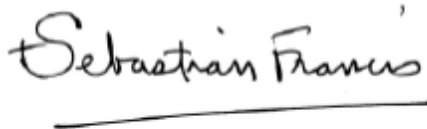
Since there is no National Security Policy formulated, the NSC Bill if not suspended, must be expanded to include representation from other Barisan Nasional component parties in the Cabinet including Ministers from Sabah and Sarawak so that the National Security Policy is inclusive of all interests.

We wish to conclude by appealing to the Government to suspend the NSC Bill. If the Bill is not suspended then it must be amended to include Cabinet Ministers from other Barisan Nasional component parties so that a proper National Security Policy could be formulated and followed. Finally, the Bill must allow for a legal challenge in courts, so that any abuse could be checked. In a democracy, such vast powers without check and balance cannot be given to a body.

16 December 2015



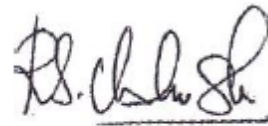
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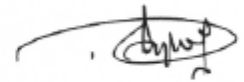
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