



**MEDIA RELEASE
HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

“The Human Rights Commission of Malaysia regrets the passing of the Prevention of Terrorism Act 2015”

KUALA LUMPUR (7 APRIL 2015) – The Human Rights Commission of Malaysia (SUHAKAM) at the outset wishes to make clear, that human rights, which are universal in character, do not counteract peace and national security. As such, the Commission had pledged, in its statement of 28 November 2014, its support to the Government in its efforts to combat the growing threats of terrorism and extremism in Malaysia. The Commission had explained that any proposed legislation to combat terrorism must seek to prevent radicalisation, strengthen existing terrorism prevention and investigation measures, and provide control in order to disrupt all forms of terrorist activities. The Commission also clarified that such laws must be correct in substance, unambiguous, legitimate and proportionate.

Although the Government has an obligation to ensure that the constitutional rights of its citizens are protected by taking positive measures to counter threats of terrorism and extremism, the Commission reiterates that such measures must not pose disproportionate challenges to fundamental human rights and the rule of law, and jeopardise the principles of democracy.

The Commission therefore regrets that the Prevention of Terrorism Act 2015 (POTA) was passed by Parliament today despite uncertainty in several of its provisions; and which was formulated without consultation with the Commission which, under its founding Act, is mandated, inter-alia, “to advise and assist the Government in formulating legislation and administrative directives and procedures and recommend the necessary measures to be taken” with respect to human rights. The Commission believes many provisions within the POTA are not in line with international human rights standards, despite Malaysia's assumption of eminent positions at the regional and international levels, where there are expectations of improved human rights standards.

While the Commission acknowledges the assurances by the Honourable Minister of Home Affairs that the legislation will not be misused or used to silence political dissent, the Commission is nevertheless concerned with the legitimacy and human rights implications of

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certain provisions in the Act. Due to the seriousness of the POTA's measures and the need for proper oversight, the Commission shall therefore be making full submissions to the Government in accordance to its statutory mandate.

However, given these concerns and because certain provisions of the Act are wide-reaching without sufficient safeguards against abuse of power, including inadequate oversight and unsatisfactory provision for ensuring transparency and accountability, the Commission would like to highlight the following:

- a) The Commission views the lack of legal representation of an accused person during the Inquiry (section 10(6)) as well as the provision for indefinite detention without trial as matters of serious concern and in breach of the right to a fair trial according to Article 5 of the Federal Constitution as well as Article 10 of the Universal Declaration of Human Rights (UDHR). The Commission asserts that the right to a fair trial is absolute and cannot be limited. Furthermore, arbitrary detention is a serious threat to liberty and to the enjoyment of all other fundamental rights.
- b) The Commission regrets the absence of a right to judicial review, save for the review of procedural matters, which is an affront to the right to a fair hearing and the right to have the legitimacy of one's detention determined by an independent and competent Court of law. The Commission is also concerned with the lack of procedural safeguards necessary for avoiding unlawful detention, and is therefore of the opinion that these directly violate the Federal Constitution and international human rights law.

In consideration of the above, the Commission calls on the Government to be committed to upholding its international human rights obligations and urges for a revision of the Act, with full and meaningful consultations with all stakeholders, including the Commission. The Commission hopes that such consultations will allow for the exchange and consideration of views with the primary aim of aligning the provisions of the Act with a human rights oriented model of criminal law, to ensure fair and proportionate treatment for any person charged.

The Commission has also been, and is consistent in its call that protecting human rights and public safety must be complementary. As such, the POTA must comply with Malaysia's international human rights obligations.

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The Commission thus recommends that the authorities develop an effective, feasible framework for the detention, interrogation and trial of suspected terrorists which would allow the authorities to capitalise on its intelligence agencies to disable suspected terrorist activities.

In any event, the Commission calls on the Government to ensure that all provisions of the Act are in conformity with Articles 7, 9, 10 and 11 of the Universal Declaration of Human Rights and the provisions of the United Nations International Covenant on Civil and Political Rights (ICCPR).

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TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

7 APRIL 2015

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