

POST EMERGENCY ORDINANCE 1969 : A LEGAL RESEARCH

By

MUHAMAD DANIEL BIN HASRIN	2011153231
NUR IZWANIE BINTI MOHD RIZAN	2011166307
NUR SYAZANA ATHIRAH BINTI AZMI	2011161979
NURUL SYAFIQAH BINTI IZHAR	2011159959

Submitted in Partial Fulfilment of the Requirements for the Bachelor in Legal
Studies (Hons)

Universiti Teknologi Mara

Faculty of Law

June 2014

The students/authors confirm that work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ABSTRACT

The Emergency (Public Order and Crime Prevention) Ordinance 1969, was enacted in 1969 on respond to the May 13 riots. On 15 September 2012 Datuk Seri Najib bin Tun Abdul Razak had repealed the draconian law of the Emergency (Public Order and Crime Prevention) Ordinance 1969 and Internal Security Act 1960. The laws degrade the human value and violate their right. They were detained without trial and the power given to the Minister was totally absolute.

This study intends to review the situation in Malaysia post and past the Emergency (Public Order and Crime Prevention) Ordinance 1969. Therefore a review on law post Emergency (Public Order and Crime Prevention) Ordinance 1969 which are Security Offences (Special Measures) Act 2012 and Amendment POCA are analyses in order to compare with the past the ISA, Emergency (Public Order and Crime Prevention) Ordinance 1969 and POCA 1959. Other than that, this research also review on the adequacy of SECURITY OFFENCES (SPECIAL MEASURES) ACT 2012 and POCA in order to be in par with the current society

For this purpose the relevant provision in six statutes are reviewed and few decided cases are analyzes. There are loopholes in these laws that can be improved in other for the arrested person to have equal treatment before the law.

TABLE OF CONTENTS

Acknowledgement.....	ii
Abstract.....	iii
Table of Contents.....	iv
List of Cases.....	vii
List of Statutes.....	viii

Chapter 1 : Introduction

1.0	Background of Study.....	1
1.1	Problem Statement.....	3
1.2	Aim.....	4
1.3	Objectives of Study.....	4
1.4	Research Methodology.....	5
1.5	Significance of Study.....	5
1.6	Scope and Limitation.....	6
1.7	Literature Review.....	8

Chapter 2 : State Security Past Emergency Ordinance

2.0	Introduction.....	13
2.1	Background of the law; Emergency (Public Order and Prevention of Crime) Ordinance 1969.....	13
2.2	Review on Internal Security Act 1960 and Prevention of Crime Act 1959.....	15
2.2.1	Internal Security Act 1960.....	15
2.2.2	Prevention of Crime Act 1959.....	17

2.3	Malaysian Case Revolving the Legality of Detention.....	18
2.4	The Logic Preventive Detention.....	21
2.5	Conclusion.....	22

Chapter 3: State Security Post Emergency Ordinance 1969

3.0	Introduction.....	24
3.1	Views on the amended law: Prevention of Crime 1959.....	26
3.1.1	Relevant Provision in Prevention of Crime (Amendment and Extension) Act 2013.....	28
3.2	Views on the amended law: Internal Security Act 1960.....	31
3.2.1	Relevant provisions in The Security Offences (Special Measures) Act 2012.....	32
3.3	Conclusion.....	35

Chapter 4 : Analysis Of The Interview

4.0	Introduction.....	37
4.1	Interview.....	37
4.2	Analysis from interview with Tuan Wan Tien Kwang.....	37
4.3	Analysis form interview with Prof Madya Ibrahim bin Lamat.....	39
4.4	Comparison and contrast.....	40
4.5	Conclusion.....	41

CHAPTER 1

INTRODUCTION

1.0 BACKGROUND OF STUDY

Preventive law is the systematic approach to legal issues designed to prevent or remove association legal problems as opposed to merely reacting to legal claims¹. Throughout this chapter, The Emergency (Public Order and Crime Prevention) Ordinance 1969 will be referred as EO, Internal Security Act 1960 referred as ISA, Security Offences (Special Measures) Act 2012 as SOSMA, Universal Declaration of Human Rights as UDHR, and finally Federal Constitution to be read as FC.

Preventive laws in Malaysia are those laid down under PART XI of the FC on “special powers” against subversion and matters prejudicial to the public as well as powers during emergency. YDPA may proclaim an emergency order by virtue of circumstances stated in Article 150(1)² and (2)³ of FC.

“Special powers” mentioned in ISA and the EO indicates whoever arrested under these legislations will undergo a detention without trial. The EO was enacted as an interim step to respond to the racial riots on 13 May 1969. The most controversial provisions are Section 3(1)⁴ and Section 3(3)⁵ in the EO.

¹Retrieved on 2 June 2014 from assnlegalservices.com

² Article 150(1) of the Federal Constitution 1957: 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.

³ Article 150(2) of the Federal Constitution 1957: Yang di-Pertuan Agong may issue a Proclamation of Emergency under Clause (1) before the actual occurrence of the event which threatens the security, or the economic life, or public order in the Federation or any part thereof if the Yang di-Pertuan Agong is satisfied that there is imminent danger of the occurrence of such effect.

⁴ Section 3(1) of the Emergency Ordinance 1969: The police may detain a person suspected of committing an offense under without an arrest warrant. Any person arrested and detained under this section may be detained in police custody for a period up to sixty-days without an order of detention having been made in respect of him.

⁵ Section 3(3) of the Emergency Ordinance 1969: In this act also give a discretion powers to the Minister to make an order of detention for 2 years. Once the Minister is satisfied that with a view to preventing any person from acting in any manner prejudicial to public order and also it is necessary for the prevention of crimes involving violence