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**MESYUARAT JAWATANKUASA PILIHAN KHAS MENIMBANG RANG UNDANG-UNDANG  
BILIK MESYUARAT JAWATANKUASA 2, TINGKAT 2 BLOK UTAMA  
BANGUNAN PARLIMEN, PARLIMEN MALAYSIA  
ISNIN, 14 OKTOBER 2019**

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**AHLI-AHLI JAWATANKUASA**

**Hadir**

YB. Tuan Ramkarpal Singh a/l Karpal Singh [Bukit Gelugor] - *Pengerusi*  
YB. Dr. Su Keong Siong [Kampar]  
YB. Tuan Larry Soon @ Larry Sng Wei Shien [Julau]  
YB. Dato' Sri Azalina Othman Said [Pengerang]  
YB. Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar [Santubong]

**Tidak Hadir [*Dengan Maaf*]**

YB. Puan Rusnah binti Aluai [Tangga Batu]  
YB. Datuk Seri Panglima Wilfred Madius Tangau [Tuaran]  
YBhg. Datuk Roosme binti Hamzah - *Setiausaha*

**URUS SETIA**

Encik Wan Ahmad Syazwan bin Wan Ismail [Ketua Penolong Setiausaha, Seksyen Pengurusan Kamar Khas, Bahagian Pengurusan Dewan Rakyat]  
Cik Aiza binti Ali Raman [Penasihat Undang-undang II, Pejabat Penasihat Undang-undang, Pejabat Ketua Pentadbir]  
Puan Lee Jing Jing [Jurubahasa Serentak Kanan I, Seksyen Jurubahasa dan Terjemahan, Bahagian Pengurusan Dewan Rakyat]  
Cik Fatin 'Izzati binti Mohd Radzi [Jurubahasa Serentak Kanan II, Seksyen Jurubahasa dan Terjemahan, Bahagian Pengurusan Dewan Rakyat]  
Puan Wan Noor Zaleha binti Wan Hassan [Pegawai Penyelidik, Seksyen Antarabangsa dan Keselamatan, Bahagian Penyelidikan dan Perpustakaan]  
Puan Siti Fahlizah binti Padlee [Pegawai Penyelidik, Seksyen Sains, Tenaga dan Teknologi, Bahagian Penyelidikan dan Perpustakaan]

**HADIR BERSAMA**

**Suruhanjaya Integriti Agensi Penguatkuasaan (SIAP)**

YBrs. Tuan Mohamad Onn bin Abd. Aziz [Setiausaha]  
Puan Eda Mazuin binti Abdul Rahman [Penasihat Undang-undang]

*samb/-*

**HADIR BERSAMA (samb/-)****Pusat Governans, Integriti dan Anti-Rasuah (GIACC)**

YBhg. Tan Sri Abu Kassim bin Mohamed [Ketua Pengarah]

YBhg. Datuk Dr. Anis Yusal bin Yusoff [Timbalan Ketua Pengarah (Dasar dan Strategik)]

Encik Noor Rosidi bin Abdul Latif [Pengarah Bahagian Undang-undang]

Puan Kalai Vani a/p Annadorai [Penolong Pengarah Bahagian Undang-undang]

**Polis Diraja Malaysia (PDRM)**

YBhg. SAC Dato' Mohd Azman bin Ahmad Sapri [Ketua Urus Setia KPN (Perundangan)]

**Kementerian Dalam Negeri (KDN)**

Encik Yusran Shah bin Mohd Yusof [Setiausaha Bahagian Keselamatan]

**Bahagian Hal Ehwal Undang-undang (BHEUU)**

YBhg. Dato' Rohaizi bin Bahari [Timbalan Ketua Pengarah (Dasar dan Pembangunan)]

**Pejabat Penasihat Undang-undang JPM**

YBhg. Datuk Almalena Sharmila binti Dato' Dr. Johan [Penasihat Undang-undang]

**Jabatan Peguam Negara**

YBhg. Datuk Siti Zainab binti Omar [Peguam Cara Negara II]

Encik Peh Suan Yong [Timbalan Penggubal Undang-undang Parlimen I]

Puan Farah Azlina binti Latif [Penolong Kanan Penggubal Undang-undang Parlimen]

Puan Marzaitul Azura binti Mokhtar [Ketua Unit Penyelidikan Perlembagaan]

**Universiti Islam Antarabangsa Malaysia (UIAM)**

YBrs. Prof. Madya Dr. Shamrahayu binti Ab. Aziz [Pensyarah Kuliyyah Undang-undang Ahmad Ibrahim]

**Pejabat Ahli Parlimen Bukit Gelugor**

Encik Harshaan Zamani

**Pejabat Ahli Parlimen Julau**

Encik Hadi Khalid

**Pejabat Ahli Parlimen Pengerang**

Encik Hezry Hashim

**Pejabat Ahli Parlimen Tuaran**

Encik Albert Bingkasan

## LAPORAN PROSIDING

### MESYUARAT JAWATANKUASA PILIHAN KHAS MENIMBANG RANG UNDANG-UNDANG PARLIMEN KEEMPAT BELAS, PENGGAL KEDUA

Isnin, 14 Oktober 2019

Bilik Jawatankuasa 2, Tingkat 2 Blok Utama, Parlimen Malaysia, Kuala Lumpur

Mesyuarat dimulakan pada pukul 3.04 petang

[Yang Berhormat Tuan Ramkarpal Singh a/l Karpal Singh *mempengerusikan Mesyuarat*]

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**Tuan Pengerusi:** Selamat petang. *Good afternoon everybody.* Saya mengalu-alukan kehadiran kesemua ahli-ahli jawatankuasa yang hadir petang ini. Kepada mereka yang juga telah pun menyumbang kepada sesi kami yang lepas dari *various stakeholders*, saya juga mengalu-alukan kedatangan mereka. Yang Berbahagia Datuk Roosme *is not here. Is she coming later?* [Disampuk] *I see.*

Seperti yang telah pun kami berbincang pada sesi kami yang terakhir iaitu pada 8 hari bulan, *on the 10th? On the 10th of October*, di mana— seperti mana yang tuan-tuan dan puan-puan sedia maklum, wakil-wakil tetap *ex officio* dari agensi-agensi kerajaan selain daripada ahli-ahli jawatankuasa adalah Jabatan Peguam Negara, Bahagian Hal Ehwal Undang-undang (BHEUU) Jabatan Perdana Menteri, Pusat Governans, Integriti dan Anti-Rasuah Nasional (GIACC), Suruhanjaya Integriti Agensi Penguatkuasaan (EAIC), Kementerian Dalam Negeri (KDN), Polis Diraja Malaysia (PDRM), dan Pejabat Penasihat Undang-undang, Jabatan Perdana Menteri yang kesemua mereka saya percaya hadir juga pada hari ini.

Pada tarikh yang lepas, *of course* kita telah pun berbincang berkenaan dengan *timeline* kami untuk menyelesaikan isu ini. Kami mempunyai hampir enam minggu, *not even six now. I think five plus, so we are a bit short of time. We will discuss that again after the session* tetapi sebelum itu *I think on the last date*, kami telah pun membangkitkan isu *constitutionality of the* rang undang-undang ini dan ada beberapa pihak yang berbelah pandangan berkenaan isu ini. Saya percaya bahawa Jabatan Peguam Negara pada masa kerajaan dahulu mengambil pandangan bahawa rang undang-undang ini tidak berperlembagaan. Manakala sekarang, pandangannya adalah sedikit berbeza di mana *the view now is that it is constitutional.*

Jadi memandangkan keadaan tersebut kami telah pun mengambil kesempatan untuk menjemput beberapa speaker yang boleh memberi keterangan berkenaan isu *constitutionality* ini. Saya mengalu-alukan kehadiran Yang Berbahagia Datuk Siti Zainab binti Omar, Peguam

Cara Negara II yang akan memberi taklimat berkenaan isu ini dan juga selepas Yang Berbahagia, kami akan menjemput Yang Berbahagia Prof. Madya Dr. Shamrahayu binti Ab. Aziz, Pensyarah Undang-undang Universiti Islam Antarabangsa Malaysia yang juga hadir petang ini. Jadi kami menjemput Datuk Siti Zainab binti Omar sekiranya boleh memulakan taklimat.

**Datuk Siti Zainab binti Omar [Pegulam Cara Negara II, Jabatan Pegulam Negara]:**

Terima kasih Yang Berhormat Tuan Pengerusi. Assalamualaikum *and good afternoon* semua Yang Berhormat Ahli-ahli Parlimen. Saya terus kepada isu ya. Mengenai isu yang dibangkitkan oleh Yang Berhormat Tuan Pengerusi, sebenarnya tiada pandangan yang berbeza daripada Jabatan Pegulam Negara dari dulu hingga sekarang. Setelah kami semak, kami dapati bahawa pada tahun dahulu, lebih kurang tahun 2013 isu yang dirujuk kepada Jabatan Pegulam Negara adalah berkenaan dengan cadangan untuk memperkasakan SIAP (EAIC) melalui pindaan kepada Akta 700 iaitu Akta SIAP untuk dijadikan SIAP sebagai pihak berkuasa tatatertib bagi semua agensi penguat kuasa termasuk anggota PDRM.

Jadi pada masa itu, kami telah memberikan pandangan bahawa SIAP tidak boleh menggantikan Lembaga Tatatertib Perkhidmatan Awam kerana SIAP sebagai badan berkanun di bawah Akta Suruhanjaya Integriti Agensi Penguatkuasaan tidak diperuntukkan kuasa untuk menjalankan kawalan tatatertib terhadap semua pegawai-pegawai penguat kuasa. SIAP hanya boleh merujuk kes kepada pihak berkuasa tatatertib untuk tindakan.

Jadi akta itu sendiri tiada peruntukan yang membenarkan SIAP untuk menjalankan kawalan tatatertib. Selain daripada itu, tidak terdapat mana-mana peruntukan dalam Perlembagaan Persekutuan kecuali bagi Suruhanjaya Polis yang memperuntukkan bahawa kawalan tatatertib boleh dijalankan oleh pihak berkuasa lain daripada suruhanjaya perkhidmatan di bawah Bahagian X Perlembagaan Persekutuan.

Pada masa itulah kita berpandangan sekiranya cadangan hendak memperkasakan SIAP sebagai pihak berkuasa tatatertib, itu sebab kita kata kena pinda Perlembagaan, kena tubuhkan lembaga tatatertib khas dan apa-apa cadangan yang lain.

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Jadi berbeza dengan perkara yang dirujuk sekarang. Isu yang dirujuk sekarang kepada Jabatan Pegulam Negara berhubung dengan IPCMC iaitu pihak berkuasa tatatertib bagi semua anggota Polis Diraja Malaysia dan bagi semua jenis aduan salah laku dan pelanggaran tatatertib anggota polis.

Jadi, bagi maksud IPCMC yang hendak ditubuhkan ini, Jabatan Pegulam Negara berpandangan ia boleh melakukan— ia kerana khusus kepada pasukan polis di mana *proviso*, pengecualian kepada Fasal 1 Perkara 140 Perlembagaan Persekutuan telah membolehkan

adalah jelas bagi Suruhanjaya Pasukan Polis sahaja— bagi pihak polis sahaja suatu pihak berkuasa selain daripada Suruhanjaya Pasukan Polis boleh menjalankan kawalan tatatertib ke atas semua anggota PDRM sebagaimana diperuntukkan di bawah suatu undang-undang Persekutuan.

*Proviso* juga memperuntukkan untuk kawalan tatatertib pihak berkuasa polis peruntukan undang-undang sekiranya diperuntukkan di bawah satu undang-undang Persekutuan, ia boleh menjadi tidak sah atas alasan ketidakselarasan dengan mana-mana peruntukan Bahagian X. So, saya rasa Tuan Pengerusi, penjelasan ini saya rasa adalah jelas. Isu yang dibangkitkan dahulu tidak menjurus seperti mana isu yang dibangkitkan sekarang. *It's only on SIAP's power at that time.*

**Tuan Pengerusi:** *So what— boleh saya tanya? Pandangan Jabatan Peguam Negara sekarang is that it is constitutional, isn't it, the IPCMC Bill?*

**Datuk Siti Zainab binti Omar:** *Yes, based on the cadangan sekarang ini. Previous cadangan was different.*

**Tuan Pengerusi:** *Okey. So, issue constitutionality itu tidak timbul then as the result.*

**Datuk Siti Zainab binti Omar:** *Bagi kami tidak timbul. Proviso tersebut membenarkan...*

**Tuan Pengerusi:** 140?

**Datuk Siti Zainab binti Omar:** *140(1) proviso.*

**Tuan Pengerusi:** Kurungan?

**Datuk Siti Zainab binti Omar:** Satu. Fasal (1) Perkara 140 Perlembagaan Persekutuan.

**Tuan Pengerusi:** Jadi, ini bermaksud bahawa ada peruntukan yang diperuntukkan di bawah Perlembagaan Persekutuan untuk penubuhan IPCMC ini?

**Datuk Siti Zainab binti Omar:** Untuk penubuhan satu *authority*, satu pihak berkuasa untuk menjalankan kuasa tatatertib ke atas anggota polis.

**Tuan Pengerusi:** Perkara ini tidak dipertimbangkan pada masa dululah, *in other words?*

**Datuk Siti Zainab binti Omar:** *No.* Dahulu mereka hendakkan SIAP untuk menjalankan kawalan tatatertib ke atas semua perkhidmatan awam.

**Tuan Pengerusi:** SIAP tiada kuasa begitu kan?

**Datuk Siti Zainab binti Omar:** Tidak ada kuasa situ. Suruhanjaya Perkhidmatan Awam lain tidak ada *proviso* sebegini seperti untuk polis. So...

**Tuan Pengerusi:** *Just* untuk pemahaman saya. *Just for my understanding. The previous issue in the previous administration* adalah sama ada SIAP itu boleh diperkasakan kuasanya untuk menjalankan tugas tatatertib. *The answer to that was no, betul? Akan tetapi sekarang*

dengan penubuhan satu badan seperti IPCMC ini... *[Disampuk]* Khusus untuk tindakan tatatertib, ianya diperuntukkan.

**Datuk Siti Zainab binti Omar:** Khusus untuk tatatertib bagi anggota polis, ia boleh dilakukan.

**Tuan Pengerusi:** Yes, adalah diperuntukkan di bawah Artikel 140(5)— 140(1).

**Datuk Siti Zainab binti Omar:** 140(1), proviso to 140(1).

**Tuan Pengerusi:** *Right.*

**Dato' Sri Azalina Othman Said [Pengerang]:** *[Bercakap tanpa menggunakan pembesar suara]*

**Tuan Pengerusi:** *Do we have it on the slide? Syazwan, ada? 140(1), Dato' Sri Azalina, it is there. I think we can see it. The proviso is applicable.*

**Dato' Sri Azalina Othman Said:** *[Bercakap tanpa menggunakan pembesar suara]* So, you look at the second link. The proviso only applies if you take out the disciplinary authority from the SPP. Is that your second argument. So, SPP doesn't handle disciplinary at all?

**Datuk Siti Zainab binti Omar:** Yes.

**Dato' Sri Azalina Othman Said:** Betul atau tidak? *This is your interpretation.*

**Datuk Siti Zainab binti Omar:** Yes.

**Dato' Sri Azalina Othman Said:** *SPP, they will take out the disciplinary power under SPP. Now, SPP has kenaikan pangkat, pelantikan dan turun pangkat.*

**Datuk Siti Zainab binti Omar:** *They will still do that.*

**Dato' Sri Azalina Othman Said:** *So, there will be an entity that takes the disciplinary power fully from SPP. That is why it becomes so constitutional. That is the argument.*

**Datuk Siti Zainab binti Omar:** *That appears to be what the proviso seems to.*

**Dato' Sri Azalina Othman Said:** *So, IPCMC will only handle the disciplinary on the police.*

**Datuk Siti Zainab binti Omar:** *Indeed. The PFC, the commission is still exist to do all the other appointment, confirmation and placement.*

**Dato' Sri Azalina Othman Said:** *So, that is why the compromise will be having the lembaga disiplin in the IPCMC headed by the IGP, part of the five that has been appointed under the commission-lah. But it will not be the 10 of the commissioners. Only their rep. So, that is basically the...*

**Datuk Siti Zainab binti Omar:** *The manner.*

**Dato' Sri Azalina Othman Said:** *Compromise with the disciplinary powers only to the lembaga, kan? But the enforcement of the punishment will not by the second proviso. The punishment will then go back to the SPP to implement the punishment. Is that it? Macam mana?*

*It is because ICAC in Hong Kong, they investigate and all the advice, disciplinary and kenaikan pangkat, are all given back to the police. So, yang ini you are taking out the disciplinary power from the SPP and run by 10 people. This is where the challenge-lah.*

**Datuk Siti Zainab binti Omar:** *Effectively. Yes, that will be... But it is the same as any government service as well, we have our Lembaga Tatatertib. Lembaga Tatatertib akan menjatuhkan hukuman, buang kerja atau turun pangkat. Then, it will be executed by the suruhanjaya itself. So, in that same manner.*

**Dato' Sri Azalina Othman Said:** *So, you are giving this not only the power to investigate but also the disciplinary power so that IPCMC will have the 'gigi', not just as an investigative body.*

**Datuk Siti Zainab binti Omar:** *I believe that is the injunction of the proviso.*

**Dato' Sri Azalina Othman Said:** *Injunction of the proviso. That is what they are saying.*

**Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar [Santubong]:** *Yalah, daripada pandangan AG Chambers mengatakan bahawa disiplin pentadbiran polis itu dibahagikan kepada dua. Satu, di bawah police commission yang ada sekarang ini. Kedua, di bawah IPCMC. Dua-dua boleh dismiss dan dua-dua boleh turunkan pangkat dan sebagai yang disenaraikan dalam undang-undang.*

*Itu yang jadi satu masalah kepada saya kerana dalam Perlembagaan itu tidak ada sebut pun. Dalam undang-undang pun— saya tidak ada lihat dalam undang-undang ini mengatakan okey bahawa disiplin ini akan dipindah keseluruhannya kepada pihak IPCMC dan tidak lagi di bawah polis. Kalau tidak, ia jadi satu masalah juga sebab overlapping in the sense of authority.*

**Datuk Siti Zainab binti Omar:** *Yang Berhormat, I think the perkataan itu, the disciplinary in that event if the authority is other than the commission selain daripada ya, the disciplinary control exercisable by such authority shall not be exercised by the commission. Jadi, dia sudah keluarkan kawalan tatatertib itu daripada Police Force Commission sekiranya kuasa itu telah diberi kepada authority seperti mana IPCMC. Dalam itu agak jelaslah.*

*Akan tetapi saya ingin buat perbandingan for example dengan perkhidmatan awam. Sekiranya atas sebab tertentu, misalnya atas kepentingan awam kita perlu menamatkan perkhidmatan seseorang pegawai itu, saya rasa kalau seperti mana dalam kita punya peraturan-peraturan pelantikan dan kenaikan pangkat semua, jadi peruntukan angka-angka itu masih boleh dilakukanlah.*

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*Akan tetapi sekiranya disciplinary, di bawah authority tetapi atas lain-lain faktor untuk menamatkan kepentingan awam dan sebagainya, masih boleh dilakukan di bawah peraturan-peraturan mengenai pelantikan dan sebagainya.*

**Tuan Pengerusi:** *I think if we...*

**Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar:** Masih ada sedikit pada sayalah. Masih saya lihat ada sedikit— SIAP tidak boleh laksana oleh kerana ia semua agensi di bawah SIAP itu banyak agensi, yang mana SIAP boleh menguatkuasakan ia punya disiplin. Kalau kita hendak *amend* SIAP punya perundangan, kita kena *amend* Perlembagaan pula. Akan tetapi kenapa di sini tidak memerlukan *amendment* kepada Perlembagaan? Ini satu persoalan ya. Macam mana ia *differentiate* aplikasi SIAP itu dengan aplikasi yang satu ini? Walaupun kita memang ada satu khusus Artikel 104 ini, khusus untuk Suruhanjaya Polis dan juga penggubalan undang-undang IPCMC ini di bawah *proviso* Artikel 140 ini juga.

Jadi, kalau kita lihat daripada sudut— mungkin kita lihat daripada sudut ini memang *the creature of the Constitution itself, the police* punya Perlembagaan itu, *act police* punya *commission* itu. Akan tetapi ini *the creature of the Statute which is subject to the Article 140* itu. Jadi, oleh kerana kita hendak bagi kuasa pula, kita *transfer* IGP itu. *IGP sitting down there is not an IGP. He's sitting down there under the IPCMC.* Hanya ia *conduit* sahaja kepada polis, *who is not the discipline of authority. IGP's authority* di bawah *Article 140 is not to be transferred to IPCMC.*

**Datuk Siti Zainab binti Omar:** Yes. Okey, *first* tadi fasal SIAP kan? Seperti mana yang diberitahu, *when the opinion first came to us was SIAP* hendak menguatkuasakan semua perkhidmatan *because their 21 agencies with SIAP* akan *investigate, enforce and— so we are saying that SIAP is a multi— you know, they have overview of multiagency. So, it is not envisaged—* tidak difikirkan wajar suatu agensi yang mempunyai kawalan ke atas banyak agensi penguat kuasa diberikan kuasa disiplin. *I don't think that is...*

**Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar:** Minta maaf ya. Soalan wajar *is not the question here. Soalan constitutionality.*

**Datuk Siti Zainab binti Omar:** Yes. Dari segi *constitutionality*, SIAP selain daripada polis, tidak ada lagi lain-lain suruhanjaya perkhidmatan yang mempunyai *proviso—* tiada peruntukan *proviso* sebegini bagi lain-lain suruhanjaya perkhidmatan awam yang lain. Jadi, *that is why we said it's not constitutional for SIAP to have that power, to look at the discipline for all the other agencies. So, only the— but for police, yes you have this proviso. But to have SIAP, under— if you were to amend SIAP just for the police force it's not— it is also not constitutional because SIAP is not merely for the police force. So, we interpret quite strictly that you know, this is a proviso purely for the police force. It is in a way to jaga the police force also—lah, untuk menjaga the sanctity of the police force itself that the special authority to take the disciplinary control exercisable by that special authority. So, it cannot be an agency like SIAP. That is how...*



**Dato' Sri Azalina Othman Said:** *So, you will take out all the disciplinary power under SPP? You will declare the SPP does not have disciplinary powers by with this IPCMC. Is that what are you going to state?*

**Datuk Siti Zainab binti Omar:** *For Police Force Commission, the disciplinary power is very clear to take out...*

**Dato' Sri Azalina Othman Said:** *It's there— because under the...*

**Datuk Siti Zainab binti Omar:** *Yes...*

**Dato' Sri Azalina Othman Said:** *If I read the citation, ia punya term of reference including this disciplinary power-lah selain daripada the other power.*

**Datuk Siti Zainab binti Omar:** *Yes, but the...*

**Dato' Sri Azalina Othman Said:** *So, with IPCMC— so there will be two disciplinary powers or you will take out from SPP and you give all to IPCMC?*

**Datuk Siti Zainab binti Omar:** *You take out from SPP.*

**Dato' Sri Azalina Othman Said:** *So, you will take out disciplinary power?*

**Datuk Siti Zainab binti Omar:** *Yes.*

**Dato' Sri Azalina Othman Said:** *So, SPP is consists of IGP, KDN Minister and KSU, kenaikan pangkat semua dibuat kecuali disciplinary power?*

**Datuk Siti Zainab binti Omar:** *Yes.*

**Dato' Sri Azalina Othman Said:** *Which is run by 10 people who are not police personnel or former police personnel? So, they are basically everyday people to handle disciplinary issue?*

**Datuk Siti Zainab binti Omar:** *Yes.*

**Tuan Pengerusi:** *If we look at the proviso, if I may the day— the proviso allows the commission to continue with disciplinary proceedings or an authority. Because what it says is if the authority other than the commission meaning that it could be the commission. But if it is other than the commission, it meaning if another body set up, then the commission— then the new authority takes precedence. I think that is very clear, isn't it?*

*Unless of course, there is no authority set up, then the commission continues. But if an authority set up for the purpose in this case, disciplinary proceedings, then the part of the proviso if the authorities other than the commission applies, doesn't it? In other words, the commission's powers cease to exist because the authority comes into effect.*

*So, in other words, the constitution provides for this authority to be set up for the purpose of these real proceedings. Of course, the body of that authority would consist of various individuals. But the point is that the authority is sanctioned by the Constitution. I think that is what the...*

**Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar:** *I understand your rational rather tetapi masih kita subject to the interpretation that it could be two parallel authorities on discipline. Unless very clearly stated in the Constitution, the moment you establish the IPCMC or rather any control other than the police commission itself, then the police commission will cease the exercise discipline on the police.*

**Dato' Sri Azalina Othman Said:** *So, the next suggestion is to amend the Constitution, Article 140(1) to withdraw the word of "exercise the disciplinary control for the SPP". Would it be possible?*

**Datuk Siti Zainab binti Omar:** *No, I think...*

**Dato' Sri Azalina Othman Said:** *Because you take it out and you make it very clear only this new entity handling disciplinary.*

**Datuk Siti Zainab binti Omar:** *Actually...*

**Tuan Pengerusi:** *Could be part of that again...*

**Dato' Sri Azalina Othman Said:** *It is because establishment, promotion, transfer the one in red.*

**Tuan Pengerusi:** *Yes.*

**Dato' Sri Azalina Othman Said:** *Exercise of the disciplinary control. My suggestion is that is it possible to amend the Constitution and withdraw the word "disciplinary for the SPP" to make it's very clear that there is another authority that takes over the disciplinary. What is your position on that?*

**Datuk Siti Zainab binti Omar:** *Okay, the thing is that word has to be there because it says provided that Parliament may by law provide. So, if there is no law, the Police Force Commission need to have that power. But once we exercise the powers under the proviso, it is very clear— one, two, three, four, five, sixth line...*

**Dato' Sri Azalina Othman Said:** *[Bercakap tanpa menggunakan pembesar suara] ...Because of that?*

**Datuk Siti Zainab binti Omar:** *No, because it says in the event if the authority is other than the commission, the disciplinary control exercise by such authority shall not be exercised by the commission. So, the first part needs to be there if there is no law that provides. But once there is a law to provides, then the disciplinary control exercisable by such— they cannot be exercisable by the commission.*

**Dato' Sri Azalina Othman Said:** *[Bercakap tanpa menggunakan pembesar suara] ...140(1)?*

**Datuk Siti Zainab binti Omar:** *No, no. To me, it's very clear on that.*

**Dato' Sri Azalina Othman Said:** *[Bercakap tanpa menggunakan pembesar suara]*

**Datuk Siti Zainab binti Omar:** Yes.

**Dato' Sri Azalina Othman Said:** *In case that this authority that...*

**Datuk Siti Zainab binti Omar:** *There is no other authority, then the Police Force Commission has all the powers.*

**Dato' Sri Azalina Othman Said:** *IPCMC is another commission kan?*

**Datuk Siti Zainab binti Omar:** *But it is an authority that is provided by the law to have the disciplinary control.*

**Dato' Sri Azalina Othman Said:** *So, this is where the— a lots of misunderstanding is there...*

**Datuk Siti Zainab binti Omar:** Yes.

**Dato' Sri Azalina Othman Said:** *...Because the word of Article 140(1) says the disciplinary control.*

**Datuk Siti Zainab binti Omar:** Yes.

**Dato' Sri Azalina Othman Said:** *Then you proviso says the authority. So, that is why some of debate in Parliament that says, why don't you amend the Constitution to make it clear? That was what being put in the debate. I'm just bring forward.*

**Tuan Pengerusi:** *No, no. If...*

**Datuk Siti Zainab binti Omar:** *If the IPCMC doesn't pass through the Parliament, then there will be a vacuum. Then, who will exercise the disciplinary control?*

**Tuan Pengerusi:** *Then it goes back to the commission.*

**Datuk Siti Zainab binti Omar:** *It goes back to the Police Force Commission.*

**Tuan Pengerusi:** *That is right.*

**Dato' Sri Azalina Othman Said:** *No, no. Of course, I would assume that if IPCMC gets passed, I would assume that the Constitution will be done in tandem. That is what I will assume. No?*

**Datuk Siti Zainab binti Omar:** *No, because it says very clearly, once we establish the authority, if it is other than the Police Force Commission, it is not exercisable anymore by the Police Force Commission.*

*Anyway regarding the IGP's role, I believe the mechanism is provided here. That is why IGP cannot be in this IPC commission because the IGP for example will be a member of the disciplinary authority set up under the commission. So...*

■1530

**Dato' Sri Azalina Othman Said:** *So the IGP sits under the commission for disciplinary.*

**Datuk Siti Zainab binti Omar:** *The lembaga itself who will actually decide.*

**Dato' Sri Azalina Othman Said:** *The IGP is not part of IPCMC commissioners.*

**Datuk Siti Zainab binti Omar:** *Yes.*

**Dato' Sri Azalina Othman Said:** *But the IGP sits in the lembaga.*

**Datuk Siti Zainab binti Omar:** *Yes.*

**Dato' Sri Azalina Othman Said:** *Which is, I am quoting to you, the IGP sits under the commissioner lah.*

**Datuk Siti Zainab binti Omar:** *It looks like that.*

**Dato' Sri Azalina Othman Said:** *So, the IGP is under the 10 personalities that we appoint in IPCMC lah. Because the IGP is only handling the Lembaga Disiplin and report to the IPCMC, kan?*

**Datuk Siti Zainab binti Omar:** *Which actually sits and actually decides on the case. The case-by-case.*

**Dato' Sri Azalina Othman Said:** *Okey.*

**Datuk Siti Zainab binti Omar:** *Which then it becomes neutrality-lah because the commission is not in the commission. So he actually can take care of it in the Lembaga Tatatertib when deciding a case.*

**Tuan Pengerusi:** *So if I understand the argument for and against correctly. Correct me if I am wrong-lah. But I think your concern is that there seems to be a vagueness in these articles. On the one hand, you have the commission which clearly spelt out shall be responsible for all those things stated there including disciplinary control and then on the other hand, your worry is that the proviso might be confusing in that it introduces a new body when you already have an existing body, which is responsible for disciplinary control.*

**Dato' Sri Azalina Othman Said:** *[Bercakap tanpa menggunakan pembesar suara]*

**Tuan Pengerusi:** *So that is the concern.*

**Dato' Sri Azalina Othman Said:** *[Bercakap tanpa menggunakan pembesar suara]* *Because of from my understanding, the proviso is a 'may' situation, which is the government may create an entity. That one we understand. So, my motion to the SG II is to make it clearer by amending 140(1) which was debated in the points. But your position is that it is a safety net to have it there rather than you withdrawing it.*

**Datuk Siti Zainab binti Omar:** *Ya, because let's say we pass IPCMC and then later let's say for some reasons few years down the road, we do not need IPCMC. So, who does it go back to? It has to go back to Police Force Commission. So, it has to be there.*

**Dato' Sri Azalina Othman Said:** *But if I was the Minister of Home Affairs and I sit in the SPP with the IGP and the KSU, and this is cited as all the powers within the SPP, and then you take out disciplinary. Would it be a position— would it be a very uncomfortable position for SPP to function because it has all powers except disciplinary?*

**Datuk Siti Zainab binti Omar:** *The point is that the proviso has already— in the Constitution has already provided for that. So, the law enables this authority to be set up to...*

**Dato' Sri Azalina Othman Said:** *Only on discipline-lah?*

**Datuk Siti Zainab binti Omar:** *Only for disciplinary control and not...*

**Dato' Sri Azalina Othman Said:** *So then SPP— I know because I am taking a scenario after passing of this IPCMC in both Houses, you will have another entity as powerful as the SPP because it is handling the disciplinary of the police.*

**Datuk Siti Zainab binti Omar:** *Yes.*

**Dato' Sri Azalina Othman Said:** *Because the armed of police in any country in the world, they handle all the proviso 140(1) which is confirmation, appointment— all that is the role of every police organization. The SPP. Now you have another entity which is non-police running disciplinary of 150,000 police force. So that is why I put it up to you on that situation of having an entity handling the disciplinary of the police force. And your argument is, it is allowed in the Constitution.*

**Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar:** *I think ada dua soalan ini. Two soalan here. One is the question of the constitutionality of the law, that you have answered. The other is the question of command, that is a different story altogether. That is what Dato' Sri Azalina is talking about.*

*The question of command, now IGP becomes the head of the agency who has not the authority of discipline. In discipline force— this is why the rationale behind the whole creation of the monitoring body in Hong Kong, in England, US, Canada, you just name it. They do not enforce discipline for reason that the command must be left with the head of that department, the force. So that is the rational. That is the second part.*

*Constitutionality, you have already answered. As far as you are concerned, you are happy with it. It is constitutional. But the question of command of the police is another story. Can you imagine the police command is— if a police officer asked his police officer to swim in the river, you do not question whether there got crocodile or anything in the river. You have got to swim until the crocodile catches you. But can that IGP command me if I happened to be in the force to do that? Because IPCMC has got to talk with them first. You got to be sure of this impact. That is*

*why I talked about the impact of the law that we created, not only on the constitutionality. Now we do not— we passed the question of constitutionality.*

**Tuan Pengerusi:** *But I think that is what we are discussing first lah whether or not. Because if the issue of constitutionality fails, everything falls. Right? You do not even have to talk about command or anything else. So, you have to pass that first. So, you have to pass that hurdle first. So, assuming that has been passed, then we can go into other aspects of it. You know whether it is practical and so on. So, I think that is the— what the Solicitor General's view is and I think that represents the AG Chambers. That is where we stand today as far as the Attorney General is concern. Is that right? Anything else that hendak tambah for that.*

**Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar:** *I think we have... [Bercakap tanpa menggunakan pembesar suara]*

**Tuan Pengerusi:** *Yes, we are going to go to her next. But before that, anything else would you like to add before?*

**Datuk Siti Zainab binti Omar:** *I think that the question of command and all that, I have already taken care of that. It is in the lembaga and all that. So, it is not an issue. I mean we do have this situation lah that like Dato' Sri mentioned but there it is, the law allows for it.*

**Tuan Pengerusi:** *Okey. Thank you very much Datuk. Maybe we can invite Prof. Madya Dr. Shamrahayu to address us on the same point. Constitutionality.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz [Pensyarah Kuliyyah Undang-undang Ahmad Ibrahim, Universiti Islam Antarabangsa Malaysia (UIAM)]:** *Terima kasih Tuan Pengerusi dan juga para ahli mesyuarat yang bijaksana. Saya sediakan sedikit slaid tetapi dari perbincangan tadi, sedikit sebanyak saya kongsi pandangan bersama dengan SG. Kalau boleh saya terangkan pandangan saya tentang tafsiran kepada peruntukan tadi, yang kita lihat tadi ya.*

*Pada sayalah, bila saya baca itu agak jelas. Asalnya kuasa itu dimiliki oleh Suruhanjaya Pasukan Polis. Akan tetapi bila proviso ini ditambah pada tahun 1976, dari segi sejarahnya asalnya dia memang tidak ada. Saya buat sedikit kajian tentang kenapa ia dimasukkan dalam Perlembagaan pada tahun 1976. Saya dapati tidak ada Hansard yang membincangkannya secara serius tentang why the amendment was made and what was the intention and what was actually the occurrence of the incidences that made the government change the provisions and added in the proviso.*

*Apa pun itulah undang-undang yang ada sekarang. Jadi agak harfiahlah pada saya— ia menyatakan bahawa Parlimen mempunyai kuasa untuk membuat suatu undang-undang for the exercise of such disciplinary control. That such disciplinary control refers to the words or the phrase "disciplinary control" under the content of clause (1). Over all or on everybody or any of*

*the members or some of the members in the police force in such manner and by such authority. Authority itu as may be provided in that law. And if that authority is already created by the law, the commission which exercises the disciplinary control, ceases to have such powers. I think it is quite clear.*

*And no provision of such law shall be invalid on the ground of inconsistency with the provision of this part. This gives a very strong power to the Parliament which some of the powers given by the law, granting the authority on the disciplinary control is a very wide power of the Parliament. Cuma— [Merujuk kepada slaid] minta tolong turunkan. Boleh turun lagi tidak? Tidak apa yang ini kita pass sahajalah. Ini yang concern Dato' Sri tadi ya tentang Yang Berhormat tadi tentang authorities itu semua. Saya hendak pergi kepada issues ya.*

■1540

*These are the issues yang arise from this provision. Does Parliament has the power to legislate law creating an authority to exercise the power in relation to disciplinary control? My answer is yes. The next slide please.*

*So, the answer for the first question is yes because the Parliament has the power to legislate a law creating an authority for the exercise of such disciplinary control. But the Parliament has no power to legislate a law granting other powers than disciplinary control to the authority created by such law. The proposed IPCMC shall have no authority on other matters than the disciplinary control. Okay.*

*So, the second issue— what is meant by disciplinary control? I think the first is the Parliament's power. I think I have answered— shared my opinion. What is meant by disciplinary control? The Constitution does not define what is meant by disciplinary control. I am going to the depth of content of the IPCMC. Although the Parliament has such power, but what is there a limit or what is there a scope of that— the word "disciplinary control". The IPCMC does not define it, if I am not mistaken-lah. It does not define what is meant by disciplinary control.*

*When I read in section 33 of the IPCMC Bill, it says that the Disciplinary Board may impose any or more the following punishments including reduction in rank and dismissal. If the IPCMC has the power to on matters relating to disciplinary control, does it include the power to reduce in rank, demote a person or the officer or dismiss the officer? I do not think the IPCMC has such power. It is because the IPCMC has no power to appoint. Therefore, it has no power to dismiss. This is in section 29 of the Eleventh Schedule of the Federal Constitution. It says that the power to appoint includes power to dismiss.*

*So, on this core— on this point I am of the opinion that the IPCMC has exceeded the powers given under the proviso to clause (1) of Article 140. Therefore, recommend is only*

*oversight function. Not to dismiss and also not to demote a police officer who is been under the investigation.*

*There is another issue in the IPCMC. Does disciplinary control include the power to conduct criminal investigation against the police officer? Section 29(3) of the IPCMC states that, for the purpose of investigating any incident under section 47, or now the proposed amend then become section 51. The members of a task force shall have all powers of investigation under CPC and such powers shall be in addition to the powers provided for under this act and not in derogation thereof. In similar vein, section 22 of the IPCMC Bill states it's recommended that— so, it is okay. I do not quote section 22. Therefore, I say that it is recommended the phrase “disciplinary control” does not include the power of the proposed IPCMC on the power to conduct criminal investigation. If it gives to the IPCMC the power to conduct criminal investigation against the police who is under the disciplinary investigation, then to my mind it against the Constitution.*

*My recommendation is upon the following reasons. One, in the case of Selamat bin Rasumin, it was decided and confirmed early this year that rakaman percakapan pemohon diambil “unlawfully”, secara tidak sah kerana Pegawai Siasatan Tatatertib telah menggunakan “special powers” yang diberikan kepada pegawai penyiasat jenayah di bawah Kanun Prosedur Jenayah, maka rakaman percakapan pemohon di bawah seksyen 112 Kanun Prosedur Jenayah (KPJ) adalah *inadmissible in evidence* kerana beliau tidak mempunyai kuasa untuk mengguna pakai Chapter XIII bagi kes tatatertib. Maknanya pegawai tatatertib tidak boleh mengendalikan criminal investigation. This judgement has been made and confirmed by the Federal Court and it was similar approach taken by the Court of Appeal and also Federal Court. Boleh tengok next slide?*

*Another reason is because the word “discipline” does not mean or does not include the word “crime” and the word “crime” is nowhere found under Article 140, nor found in its proviso. So, the police— I mean the disciplinary authority should not exercise that investigating power. In addition, the proviso to the Article 140(1) does not mention the phrase “criminal investigation”. Therefore, the criminal investigation which appears in Item 3 of the Ninth Schedule, List 1 to the Federal Constitution. If criminal investigation was meant to be included within the meaning of the phrase “disciplinary control” under 140 of the Federal Constitution, it should have been explicitly addressed thereto, in the provision.*

*Do officers under IPCMC investigation guaranteed of fundamental right? People of police who are under the investigation is not given a fundamental right of presumption of innocence, right to be heard or *nemo judex in causa sua* and right against bias. Also, the provision in Article 140(1), the proviso says that “...and no provisions of such law may be invalid on the ground of*



*inconsistency with any provision of this part.” “This part” refers to Part X which includes also Article 135 which safeguard the public services of their right to be heard when they are going to be dismissed or when they are going to be reduce in rank.*

*So to my mind, Part X as I mention it has Article 135 and this is not applicable to the police officer. Alright, I think what if the provision of that law inconsistent with the provisions of the Constitution usually, we understand that it will become void. So, it becomes unconstitutional. But this is a very extraordinary power given to Parliament to make law to disregard or to without giving rights to the police officers. I do not think it is for natural justice. Therefore, this provision which says that the provisions in Part X can be dispaired with by the law.*

*So, the rules of natural justice I believe is the most important matters for everyone who is under the investigation and their presumption of innocence their rights to know the evidence as given in the case of Surinder Sikandar. It a very classic example that everyone has the right to be heard. This is a quite old case and it is very well-known case for us as a practitioner as a law student. When it is involved fundamental liberties, we must refer to the system of law which incorporate the fundamental rules of natural justice. How come you discuss about people and you do not give them the information about themselves?*

*Then, we have the case of— it is a very— so, these cases evolve “save in accordance with law” interpretation. The words “save in accordance with law” under the Article 5, Article 13 of the Federal Constitution. So, the fundamental rules of natural justice must be there for the police. Therefore, I think the IPCMC Bill must respect the rules of natural justice. It follows therefore the bill must include the rights of the officers under the investigation for the purpose of disciplinary control. Therefore, it’s recommended that the IPCMC Bill will be attached with the Police Bills Of Rights.*

■1550

*I think this is one thing which we— if we want to— not to be in a— to be in a situation where everybody respects one another. The government or the enforcement officers also respect the natural justice and fundamental rights.*

*Another issues on constitutionality of the provisions in IPCMC involve functions and powers of the IPCMC. I’m concerned about the powers, definition of “disciplinary controls”. My worry is section 4 of IPCMC states the following functions of IPCMC. To promote integrity within the police force. Is it under the “disciplinary control”? Is it within the meaning of the “disciplinary control”? I think it’s a bit remote.*

*To protect the interest of the public by dealing with the misconduct of any members of the police force. I think it’s a bit remote.*

*To formulate and put in place mechanisms for detection, investigation and prevention of misconduct of any member of the police. I think it should be left to SPP.*

*To advise the government and make recommendations on appropriate measures to be taken in the promotion of integrity within the police force. Ini side dish, tetapi saya rasa it won't be fair for the police. You take it all and give it to the— why I don't say it's fair because these functions much nearer to SPP, Suruhanjaya Pasukan Polis.*

**Dato' Sri Azalina Othman Said:** *Duplicity of function.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Duplicity of function, sebenarnya taking away the function of the SPP and it is not within— but it depends on how we define what is “disciplinary control”.*

*I think it's too far-fetched definition of “disciplinary control” if to include all these functions. The red color items I guess should be reconsidered in order for the IPCMC not to take away most functions of the SPP.*

*What is allowed by the Constitution is an act to provide for the exercise of such disciplinary control. However, the phrase is not defined in the IPCMC, thus in consequence section 4 of the IPCMC Bill can be interpreted widely, it may be without control due to the generality of the functions of the commission as stated therein.*

*Therefore, functions of the commission under section 4 IPCMC may be unconstitutional to include subject matter which on the express provisions which do not form part of disciplinary control. Therefore, it is recommended that the phrase “disciplinary control” must be defined by the IPCMC. Such wide powers may result in abuse of powers and this is against the rule of law, within the principle of natural justice.*

*Powers of IPCMC. The phrase in the section 5, Powers of Commission for, or in connection with, or incidental thereto. This is a very dangerous provision which can be interpreted widely and applied widely by the Executive. And without prejudice, the generality of subsection (1), the commission may assist the government in formulating legislation or recommend administrative measures to the government or the police force to promote integrity and abolish misconduct. If I may say that it is near to disciplinary control but is that the disciplinary control? Is that the real meaning of disciplinary control?*

*Provide for the auditing and monitoring the particular aspect of facilities, logistics, operations and standard operating procedures of the police. Is this disciplinary control? I think this is to promote kemakmuran dalam pasukan polis and it should be under SPP.*

*Visit any place or premises such as police stations, police quarters. It looks like the commission will be uncontrolled powers. It is very powerful and to my mind the phrases which I*

coloured it looks like it's beyond the disciplinary control, which I understand the meaning of the "disciplinary control".

**Dato' Sri Azalina Othman Said:** *[Bercakap tanpa menggunakan pembesar suara]*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *I think the definition itu yang plays a very important role and why the IPCMC did not define it.*

**Dato' Sri Azalina Othman Said:** *So, your submission is— may I Mr. Chairman? Your submission is section, fasal 5 dan fasal 4 itu may overlap with SPP function.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Yes. That's a nice word tagging, it's overlapped. Probably a harsher word is...*

**Dato' Sri Azalina Othman Said:** *Abuse-lah?*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *It has taken away all these SPP powers. So, what's left with SPP then?*

**Dato' Sri Azalina Othman Said:** *So your point is that ten ordinary people doing all these is a bit highly far-fetched job, fasal dia memang— because it was debated also, it was very wide. Thanks.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Alright. Misconduct tadi. Definition of "misconduct". Probably I'm not aware on some changes which have been made but bila I read the amendments itu, I couldn't find it. Maybe I overlooked. But please advise.*

*Tadilah, dia cerita. The commission may receive or deal with complaints against any member of the police force referred to, it on the following misconduct. The commission of any criminal offence by the member of the police force. The provision may justify the conduct of criminal investigation by IPCMC. However, as reasons mentioned earlier, it's unconstitutional for the IPCMC to conduct criminal investigation.*

*The classification of complaints shall be as follows. Where the complaint involves any criminal offence under any other written law, the complaint shall be referred to the relevant authority. Why the complaint being referred to the relevant authority? Was it for investigation or it's just to refer? Just tell the authority that this person, the police officer has conducted or has committed criminal offence.*

*Where the complaint involves any criminal offence under any written law, shall be referred to— the provision does not exclude or deny the power of the IPCMC to conduct investigation. The paragraph should clearly state that who shall conduct the criminal investigation. Then, I would recommend it should not be with IPCMC. And if given then as I argued before, it is unconstitutional.*

*I think I've commented also on the members of the IPCMC. In order to avoid overuse of power to appoint the members of the Commission, it is recommended the bill specify the category of people or officers to be members of the IPCMC. For instance, members of SUHAKAM shall be— dia dah explain. So, it will not be open for abuse. Most important, that is the rule of law. If we make law that creating the ambit or the agony being abused, I think it would be better for us to clarify who. At least tokoh-tokoh terkenal dalam SUHAKAM ini dia gunakan ayat begitu. Akan tetapi kalau saya, saya lebih prefer lebih jelas dan spesifik.*

*The provision should not exclude both categories people who are now over— I think the provisions have been formulated, have been drafted in a negative manner as to say, you are not allowed, you are not allowed. I don't know the skills of drafting but probably the AGC will be the most rightful person. As far as the membership, I think it has to be refined.*

*The IPCMC powers and functions should be restricted only to disciplinary control and it is recommended that the disciplinary control is defined in order to give to the phrase a clear-cut, an express provision in the IPCMC. This is particularly important to respect the fundamental rights of the officers under investigation and also to avoid abuse of powers. To avoid abuse of powers means to uphold the rule of law.*

*It is recommended that the Police Bill of Rights— I think I'm very much with this Police Bill of Rights. They are also human, they also strive and bersedia untuk mati pada bila-bila masa untuk negara kita. Of course, there is abuse of powers, everyone with powers tend to abuse. But I think providing the Police Bill of Rights is a special matter that we want to safeguard the rights and fundamental rights of the police, that is to be presumed innocence until proven otherwise. This applies to everyone, tak kira dia polis pangkat rendah atau pangkat tinggi. This please— before this please.*

#### ■1600

*It is recommended that IPCMC Bill to include penal provision on complainants whose complaint found to be frivolous, vexatious or made it mala fide. Now, orang itu— mala fide pun, oh tidak ada kes then lepas sahaja dia macam itu. So, pada saya masyarakat— kadang-kadang kita kena disiplinkan juga masyarakat. Fikir 10 kali sebelum buat laporan terhadap polis.*

*IPCCM Bill will states the complaint's frivolous. This is to protect the fundamental rights of the police to be respected of their dignity and at the same time to ensure that the complaints made are truthful, sincere and rightful.*

*The IPCMC should be responsible to conduct investigation of misconduct which are within the meaning of phrase "disciplinary control" and should not be. The IPCMC must not be seen as confrontational to the police force and therefore the rights of the police. While the disciplinary*

*control authority is under the IPCMC, the all other authorities on matters concerning the police force are all within the purview of the powers and functions of the Police Force Commission. Therefore, the IPCMC must not be seen as competing with the powers and functions of the Police Force Commission.*

*I also recommend that apart from the IPCMC Bill, there shall also be a bill introduce the pursuant to Article 140(2) of the Federal Constitution. Article 140(2) states that Federal law may provide for the exercise of other functions the Police Force Commission. Yet, we have this provision very much earlier than the proviso under clause (1). But we focus only proviso. Why not we empower the SPP first? This is also some of compromise that we can do in order to ensure there is no overlapping of powers between IPCMC and also the SPP. Thank you Tuan Pengerusi.*

**Tuan Larry Soon @ Larry Sng Wei Shien [Julau]:** *Yes. Prof. Madya Dr. Shamrahayu, I know under your presentation you are very concern of this natural justice you know, for the officers and the— and also I just want to know the definition of the “disciplinary control”. Can I just ask you under the current Police Force Commission provision 140(1), is there any clear definition as to what is the term of “disciplinary control”?*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Tidak ada.*

**Tuan Larry Soon @ Larry Sng Wei Shien:** *Tidak ada ya.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *So, the IPCMC fit the lead picture. Maknanya there is must be research and literature what is meant by disciplinary control. Some people may define what through my short research due to short notice for the meeting but my earlier reading was that disciplinary control, some people say may amount to dismissal— may also to the extent of dismissal. But our law does not allow dismissal. It is because dismissal will be by the appointing authority. So, although some literature says that it may include the power of dismiss but our Constitution does not allows so.*

**Tuan Larry Soon @ Larry Sng Wei Shien:** *So, perhaps since we have already established from the AG’s comments— AG Chambers comments that constitutionally we are good as far as the setup of IPCMC. Perhaps the recommendation or your advice is that we could help— perhaps should have some safeguards, some definition, clear definition ya.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *So, in this issue on the constitutionality we have two things on my observation. One, is whether Parliament has the power or not. My answer is yes. For the Parliament to create authority and the exercise of things related to disciplinary control. But another constitutional issue is whether what are those matters or those powers, functions included in IPCMC is within the ambit of the disciplinary control. That is also involved the constitutional issue. So, constitutional issue comes into two aspects. Thank you.*

**Tuan Pengerusi:** *Can I just get this clear? You of the view that the IPCMC can be setup. There is no hindrance or impediment to that. That is correct, right? But I think you are going a step further by saying that the powers confer on the IPCMC may result in it being unconstitutional. That is your view in the nutshell.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Yes.*

**Tuan Pengerusi:** *I think another major concern of yours is the vague definition of disciplinary control. I think that has let you to believe that the powers can be abused and therefore unconstitutional. So, would you in your mind have any idea in relation to improving the bill as it is to perhaps tackle your concerns such as to give a tighter definition of disciplinary control, for example. You know would that allay your concern, of example.*

*Of course, natural justice is something which is the core of any judicial system. I think that...*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *[Bercakap tanpa menggunakan pembesar suara]*

**Tuan Pengerusi:** *It has their— I don't think anybody in this room would say no. But I think if natural justice not implied in the bill in its section to a certain extent, I think— so do you have any— you have stated a few recommendations there. We thank you for that. But in terms of bill as it is, obviously, well I think you are not happy with it as it is. But can it be improved to a certain level which is acceptable to you? It is because we are trying to get views from everybody here. We heard from the Solicitor General as well. So, what we want to know is whether this bill tidak boleh pakai atau boleh pakai kalau kita improve. So, these are matters which is our business you know to look into.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Correct. Tuan Pengerusi, can I say...*

**Tuan Pengerusi:** *Yes, please.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *As far as the legal issues are concern, there is one things where we can continue but with some major changes which I— I think it's major changes because it is involve functions and powers. So, else it's not, will not contravene to the powers of the Suruhanjaya Pasukan Polis. Then also fundamental rights. This one I think must be a clear-cut recognition of the rights.*

*Akan tetapi at the same time if we want to introduce this bill, I think it won't be fair if we don't introduce bills specifying powers and empowering also SPP. It is because disciplinary of any institutions, any agency is concern, it is involved the well-being. SPP is about well-being of the police. You don't have enough infrastructures in the administration. They don't have enough probably if I say this people say that no one has sufficient pay. But these are the things that we*

should first improve. So, the suggestion has been made that we all know since 2005. But I think there are a lot more improvement to be made in the office or in the balai polis semua kita pergi kan. A lot of changes to be made.

*Empowerment SPP should be the first thing rather than IPCMC. If you want to go, go for empowerment of SPP rather than the IPCMC.*

**Tuan Pengerusi:** *But I think I heard the view of AG just now that cannot be the empowerment of the— it's something which cannot be look at into at this stage...*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *AG was saying about SIAP.*

**Tuan Pengerusi:** *Sorry, sorry. What about— can I just before Yang Berhormat. There are you know broadly speaking. If we look at the entire scheme of things, you have this IPCMC Bill which is brought in like you say correctly pointed out that it is also to do very much for the welfare of the police officers. But at the same time, we have very major cases for example of enforce disappearances of death in lockups. These are very major issue which I had brought about very major concern in relation to the conduct of police and the discipline of police.*

*I think how— of course we have minor offences. No doubt about that. I'm talking about the major one now. The major one such as death in lockup, Kugan— you know all these cases. You know, there have been so many cases reported nearly every year. So, if you have a situation where the police are not monitored to a certain extent and monitoring must be from a party not the police itself. You can't expect the police to monitor themselves when it comes to things like this. I mean these are the broad arguments you know, out there. So how do you have— how do you monitor the police in such cases? You know in such cases involving such a serious matter.*

■1610

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Since it says legally, we can make the IPCMC. But the presumption that they are innocent before proven, I think this is against rules of natural justice. So when we have IPCMC, it must always have the rules of natural justice, whatever it is.*

**Tuan Pengerusi:** *I think the presumption of innocence until proven otherwise, I think it's— I don't think— it is there, it is always there what. You know...*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *It is okay. To me, it is fine to have IPCMC.*

**Tuan Pengerusi:** *No. What do you mean by...*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *My problem is the investigation process...*

**Tuan Pengerusi:** *No, you are referring to the presumption of innocence until proven otherwise. What is your view of that? I just want to understand.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *My opinion is during the investigation process, certain rights have to be given. That is what I meant.*

**Tuan Pengerusi:** *Alright.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *The rules of natural justice during the process. So, during the process we cannot presume that they innocent. They have already committed an offence.*

**Tuan Pengerusi:** *But I don't think that is the intention stated anywhere.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *No, what I mean is that the bill may open to such interpretation...*

**Tuan Pengerusi:** *I see.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *...With some changes.*

**Tuan Pengerusi:** *I am not sure but never mind. Because the thing is— okay, let's look at it from that point of view, assuming that's the case that the bill— can it be improved to accommodate those concerns? For example, if you are of the view that, you know, that right to innocence— the principle of innocent until proven otherwise is not properly or is not clearly stated in the bill? Can it not be improved to give a safeguard?*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *I'm okay with the IPCMC, unless improvement is meet. That is what— that is exactly what I propose.*

**Tuan Pengerusi:** *But you are going a step further to say that you know if those improvements are not made, it is unconstitutional. So, it is not merely cosmetic.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Yes.*

**Tuan Pengerusi:** *It is also to do with the— I think your argument is more, you know, those improvements must be implemented. Failing which is unconstitutional...*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Yes.*

**Tuan Pengerusi:** *From my understanding of it.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *I would say if we give powers of investigation using special powers under CPC, I think this is against the Constitution.*

**Tuan Pengerusi:** *Ya, so that is why I'm asking...*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *That's my opinion.*

**Tuan Pengerusi:** *So, how do we safeguard and improve it to make it constitutional to your mind?*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *So, don't give the investigation powers to the commission.*

**Tuan Pengerusi:** *Then, what's left?*



**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *What I mean is the special powers, investigation can...*

**Datuk Siti Zainab binti Omar:** *[Bercakap tanpa menggunakan pembesar suara]*

**Tuan Pengerusi:** *That's why. Yes, we don't— that's a good point.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Now, is the disciplinary control a crime?*

**Tuan Pengerusi:** *Sorry. What is the...*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Is the word "disciplinary control" includes crime?*

**Tuan Pengerusi:** *I think it's not defined.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Ya, that is why I said...*

**Tuan Pengerusi:** *So...*

**Datuk Siti Zainab binti Omar:** *Okay, I think...*

**Tuan Pengerusi:** *Ya, please.*

**Datuk Siti Zainab binti Omar:** *Yang Berhormat, I'm sorry. I think crime is never a feature of this disciplinary control for this authority. Because it says very clearly, if any findings— I mean this is natural justice, isn't it? When somebody complain, you investigate. You don't presume the thing guilty. That is why we have— any disciplinary authority will have the power to investigate. Then you investigate and it is very clear if the findings disclose any offences under MACC or criminal offence under any written law, then you refer to the relevant authority. Example, make a police report. So, we don't equate crime and disciplinary control here.*

*The disciplinary control really talks about as what is happening now, the function of the Police Force Commission is also on disciplinary authority. So, it is merely taking out that disciplinary control regime into this authority. And nowhere that we said that they go beyond. Example, investigate crime or what not. When it is crime, you refer back. If it is a corruption, you refer to MACC.*

**Tuan Pengerusi:** *[Bercakap tanpa menggunakan pembesar suara] Provided point of view.*

**Datuk Siti Zainab binti Omar:** *Yes.*

*[Ahli-ahli berbincang sesama sendiri]*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *My concern is like section 25 of the IPCMC. The classification of complaint shall be followed, as follows. If the complaint involved— my concern is that it does not deny the IPCMC power to conduct investigation. Can we make it clear in bill that will not— even though it is referred to the— I think I've presented earlier. If the commission report it to the police or report it to the relevant authority, will the commission conduct*

*the investigation? That must we make clear. But the provision does not include. Section 29(3) talks about...*

*[Ahli-ahli berbincang sesama sendiri]*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *This one for the purpose of investigating any offences under section 51, as changed now. Section 27 ini, ia kata ada criminal procedure is contained in the criminal— all the powers. These powers under CPC are special powers, given only on kepada penyiasat jenayah, bukan penyiasat disciplinary authority.*

**Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar:** Tuan Pengerusi.

*[Ahli-ahli berbincang sesama sendiri]*

**Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar:** *Tuan Pengerusi, I think— please, let— just short one. The best choice would be after listening to the Professor, is to create a body just like what Hong Kong and every other country are doing. So, why are we trying to create history for ourselves, to do something not like others? We want to be the first one, why is that? Why should we want to blaze a trail which is full of questions? So, after this thing is through— let's say we got through, we have no problem. I'm not a member of police force. So, let's pass it and somebody challenge it.*

*Based on what Professor were saying, constitutionality on the question of creating law itself, constitutionality on various issues such as investigation, enforcement and all the kind of— include the law of natural justice. I think this is very well thought. I know the university is teaching us a lot on the— especially on administrative law. When you create the law, when you draft the law, you must first think about— the first one you must have in mind, the law of the natural justice.*

*So, I think we have to look into it. You don't have to create history. What we want is a body to monitor the police whether they are doing or not the disciplinary. Of course, we have the complaints like what you've mentioned. Dead in lockup, shooting, mishandling of people. Of course, there are lots of other things we can talk about.*

*Last time when they established the inquest court, I sat together with the police force, preside the committee to decide, it's not just looking at the police force. The problem with this dead in lockup is when investigation is delayed— it is not because the police delay the investigation but because the report from the chemistry department is not coming, for months. The reason is because we don't enhance the chemistry department and they don't have enough people. The chemistry department checking whether the thing is halal into something whether they are suiting or not. Everything is gone into chemistry department and is not being looked into.*

*So, when the Prime Minister Department pass it, I was the one who complained and so was the police force. Because we didn't look into the facilities, the police force requires to do*

*investigation. And then because the thing is being highlighted so much, then came the IPCMC. So, we got to look into all these things, the background history why this commission was created before IPCMC was born. So, the whole things go down to the history of it. Why it happened? Why the police were looked so selekeh? Why the police didn't look so efficient? Why the police looked so brutal? So, you got to go back into history.*

*So, the only way out is look into like what Professor said. Look into all these aspects first. The second thing is you don't have to create history. Create a monitoring body. If for instance, a case is referred to the police force and nothing is being done, the body can call the IGP, ask him to explain why.*

Tuan Pengerusi, *please excuse me. I got some...*

**Tuan Pengerusi:** *Thank you Yang Berhormat for joining us. Do we need a quorum, do we?*

**Setiausaha:** *[Bercakap tanpa menggunakan pembesar suara]*

**Dr. Su Keong Siong [Kampar]:** *May I ask a question?*

**Tuan Pengerusi:** *Yes, please.*

**Dr. Su Keong Siong:** *Professor, in your last recommendation, you recommended that there should be a penal provision for vexatious and frivolous complaints. [Disampuk] In your last recommendation, you have recommended that there should be a penal provision for vexatious and frivolous complaints. Do you think such provision would prevent people or public from coming forward to complain and also make some of them reluctant to file complain against the police?*

■1620

*If there is a penal provision that— you know. Because once they filed a complaint, it is beyond their control. So whether it is frivolous or vexatious, they will have it in their mind that, you know I should not do it.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Dia dua-dua lah. Pada sayalah dia dua. Kalau kita lihat dari masyarakat awam memang macam itulah. Maknanya oh takutlah hendak laporkan. Mungkin begitulah keadaannya. Akan tetapi kalau dia lapor benda yang tidak baik, penggunaan perkataan itu adalah *mala fide*. The section uses the word *mala fide*. Kalau kita sudah buktikan *mala fide*, can we compromise with this person with *mala fide*? Bad faith kan?*

**Dr. Su Keong Siong:** *I think my question is that of course *mala fide* occurs, we should take some sort of actions but to have such provision— because you wanted to catch one, to stop one *mala fide* actually we may prevent 10 other cases from coming forwards. Would that be happening?*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** Saya tengok dalam CPC kan, kalau kita buat laporan kepada polis dengan niat tidak baik pun kita boleh didenda, kan? *Why not we can take that provisions together?*

**Datuk Siti Zainab binti Omar:** *When that— I have been following through— well you know when we first started off. The AG Chambers we only talking about the constitutional, the first part, Prof. We have not gone through all the comments ya. I think this Select Committee is supposed to go through all the provisions, isn't it? In fact, I think some of the provisions Prof. has brought up, I believe there are some strengthening of those provisions as in the amendments which this Select Committee is going through. But as regards these penal provisions, following the arguments by Prof. just now that so many things are outside the purview of IPC. The fact that you want to penalize somebody under this Tuan Pengerusi, isn't it outside the disciplinary control of the IPCMC. Proving mala fide of certain who make police report and whatnot needs another investigation which is outside the purview. So that is why we need to be concern as well-lah.*

*But as regards all the other comments, I believe Select Committee is going through all these provisions. So, I will not give any comments on all these provisions. Like Yang Berhormat mentioned, definitely natural justice and there is nowhere that we say that they are innocent or they are guilty before. This is the very— in fact what the powers of disciplinary control would be akin to the powers of disciplinary control as exercised by the Police Force Commission now and also any other commission which is exercising disciplinary control, where it talks about receiving information, doing investigation and the having bodies to actually decide whether there is— and here we have provided that the bodies that will actually decide on whether the misconduct had happened is provided in this bill.*

*As regards the powers, the investigation I believe where the task force has the powers in the CPC, it is only in respect of the case of grievous hurt or death in custody. So that is provided. So, it is not...*

**Tuan Pengerusi:** *[Bercakap tanpa menggunakan pembesar suara] Very limited.*

**Datuk Siti Zainab binti Omar:** *It is not all. It is only that. That they have the powers— special powers as in the CPC because of death or hurt in custody. But like I say I will not comment on all— it is not for AG Chambers but I believe the Select Committee is here to actually look at all the provisions and to see which one. The constitutionality of having an IPCMC I think both of us agree that you can have. Perhaps it is only to the extent of powers. Thank you.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Can I respond Tuan Pengerusi? Penalizing itu is not necessarily within this IPCMC. We may cross refer to CPC whatever law that can be used, that can be done. Although that special powers apply to specific cases, what is the*

*justification on the point of law to make such that special powers be used by penyiasat disciplinary? Where is the source of power of law to empower this taskforce? Because generally pegawai penyiasat disiplin tak boleh menggunakan kuasa-kuasa khas. Akan tetapi kita ambil kuasa khas itu untuk kes-kes tertentu. Di mana kuasa kita, IPCMC ini hendak beri kuasa tersebut? That is my concern.*

*Kalau ada source of power— I mean kita ada source of law, punca kuasa so kita hendak letak exception itu kat mana? Kalau ada dalam CPC ke apa, I have no question and there is already law allowing such taking special powers itu. I am not against it. It is just that, what is the legality of such exceptions, walaupun ia dua kes grievous caused death kan.*

**Tuan Pengerusi:** *[Bercakap tanpa menggunakan pembesar suara] ...Legislature introduce... in the law itself. Is that not sufficient? I mean that is the source, isn't it? It is coming from the Parliament.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *Ya, but then that special powers is CPC. Does CPC allows you to use it? That is the legal question. AG mungkin boleh carilah.*

**Datuk Siti Zainab binti Om:** *Another way is read that is in investigating— this taskforce has power to investigate. But where it relates to death in custody, then you will have this special power of under CPC. Basically, it is calling witness because death in custody. Police custody. So basically, investigate and if I believe if there are criminal offence, then you go back to section which says that if there is any criminal amend, you refer back to the relevant agency.*

*Definitely I do not envisage if the investigation finds any more than misconduct of the police. For example, you do actually beat or what not, it is an offence in the Penal Code. So, you must refer back to the police again, or make a police report or things like that— to refers and to those under those laws. I do not envisage. It is just that I believe because the sensitivity is death in custody that you need that special powers, especially to call...*

**Tuan Pengerusi:** *Yes.*

**Datuk Siti Zainab binti Om:** *...Witness to that— they do come and tell you actually what happened.*

**Tuan Pengerusi:** *It is only after that you will decide if there is any criminality, isn't it?*

**Datuk Siti Zainab binti Om:** *[Bercakap tanpa menggunakan pembesar suara] Then you go back to...*

**Tuan Pengerusi:** *That is right.*

**Datuk Siti Zainab binti Om:** *[Bercakap tanpa menggunakan pembesar suara] Any criminality, you go back to Penal Code.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** Tuan Pengerusi, sikit. *If that is the intention, it should be made clear in the provision. Not to give all blanket powers, the special powers.*

**Datuk Siti Zainab binti Om:** *[Bercakap tanpa menggunakan pembesar suara] They cannot prosecute anyone.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *But— ya true. But they cannot prosecute but the investigation will empower them.*

**Datuk Siti Zainab binti Om:** *[Bercakap tanpa menggunakan pembesar suara] Yes.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *The point is that...*

**Tuan Pengerusi:** *Only in two types of cases-lah. Only in two types of cases.*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *[Bercakap tanpa menggunakan pembesar suara] True. My concern is in two types of cases but what is actually the power. Tadi Datuk explained tentang panggil witnesses. So, can we limit such powers to certain power sahaja? Kalau kita buat that blanket-wide powers, then means that although in such exceptions, my worry is it become against the Constitution-lah and the decision of the Federal Court.*

**Tuan Pengerusi:** *Which one, the one you mentioned?*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *[Bercakap tanpa menggunakan pembesar suara] Kes tadilah.*

**Tuan Pengerusi:** *The Selamat case?*

**Prof. Madya Dr. Shamrahayu binti Ab. Aziz:** *[Bercakap tanpa menggunakan pembesar suara] Pegawai penyiasat menggunakan kuasa-kuasa khas itu.*

**Tuan Pengerusi:** *The Selamat ya. Selamat bin Rasumin.*

*[Ahli-ahli berbincang sesama sendiri]*

**Tuan Pengerusi:** *Any other questions from anybody else, please? Please feel free. Tan Sri? Anything?*

**Tan Sri Abu Kassim bin Mohamed [Ketua Pengarah, Pusat Governans, Integriti dan Anti-Rasuah (GIACC)]:** *I think the SIAP Law is the power of investigation, am I right? SIAP punya law is power of investigation and the law is taken into considering that the area of investigation on all basically misconduct and also melibatkan death in custody and serious injury. As investigators-lah, I will say that this is my personal opinion-lah. Justice is about everybody's side. It is not about one person or one group sahaja. I believe that an investigation especially if we look in the context of the public wants— justice. You are looking at the ability of the investigators to find the truth of any situation. I respect and I understand that the basic principle of justice must be there. But it's not— it is okay for us to look into and to insert whatever concern has been said.*

■1630

*Secondly, issues yang dibawa— saya minta Encik Onn to explain on some of the research yang you sudah buat on this.*

**Tuan Mohamad Onn bin Abd. Aziz [Setiausaha, Suruhanjaya Integriti Agensi Penguatkuasaan (SIAP)]:** Tuan Pengerusi, sebenarnya peruntukan **point 7** ini sama. *It is actually the same as appeared in section 30 task force yang bawah EAIC. So, kita ada dua kes yang mana kita ambil pun daripada AICX— seksyen berapa? [Bertanya kepada pegawai di sebelah] Yang mana kita— tetapi kita hendak untuk IPCMC, we confine to death in custody and... So, kalau kita tengok sekarang punya, as we are now, right now, kita ada dua kes. Satu, Kugan dan satu lagi kes Johor Bahru. Dua-dua itu melibatkan kes kematian dalam tahanan.*

*Then, kita siasat dan kita ambil semua kuasa-kuasa di bawah CPC then kita refer kepada DBP. Tidak bangkit pun isu Perlembagaan pada waktu itu, in fact sudah sampai Court of Appeal. So, saya tidak nampaklah kenapa isu Perlembagaan yang dikaitkan dengan peruntukan kuasa di bawah CPC ini sebab benda ini tested pun, sudah pergi ke High Court dan sudah pergi ke Court of Appeal dan mahkamah telah membuat keputusan dan tidak berbangkitlah isu-isu berkenaan dengan kuasa-kuasa kami di bawah CPC itu. Tidak bangkit Tuan Pengerusi. Itu yang boleh dikatakanlah dengan pasti. It is tested dan telah dibawa ke mahkamah. Dua kes. Terima kasih Tuan Pengerusi. [Disampuk] Syed Azlan and Kugan. Thank you.*

**Tuan Pengerusi:** *Kugan and which one?*

**Tuan Mohamad Onn bin Abd. Aziz:** *Syed Azlan di Johor Bahru.*

**Tuan Pengerusi:** *Anything else? So, I think... [Disampuk] So, I think if there is no further questions, I think that was very insightful and I would like to take the opportunity to thank both of our speakers, the SG, Datuk Siti Zainab binti Omar and also Prof. Dr. Shamrahayu for coming and joining us today.*

*Today is the first actual session where we have actually started taking views and so on. We will continue doing this like you correctly pointed out. We have to seriously look into the actual amendments. I think we have to scrutinize all of them one by one. We have many others coming in to enlighten us and give us their views as well over the next five weeks. So, thank you very much again and if there is anything that we might need your assistance, we will let you know. Thank you again.*

**[Mesyuarat ditangguhkan pada pukul 4.33 petang]**