
SESI PENDENGARAN AWAM**JAWATANKUASA PILIHAN KHAS MENIMBANG RANG UNDANG-UNDANG
BILIK GERAKAN DEWAN NEGERI, BANGUNAN SULTAN ISMAIL
KOTA ISKANDAR, ISKANDAR PUTERI, JOHOR****JUMAAT, 8 NOVEMBER 2019**

AHLI-AHLI JAWATANKUASA**Hadir:**

YB. Tuan Ramkarpal Singh a/l Karpal Singh [Bukit Gelugor] - *Pengerusi*
YB. Dr. Su Keong Siong [Kampar]
YB. Datuk Seri Panglima Wilfred Madius Tangau [Tuaran]
YB. Dato' Sri Azalina Othman Said [Pengerang]
YB. Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar [Santubong]
YBhg. Datuk Roosme binti Hamzah - *Setiausaha*

Tidak Hadir [Dengan Maaf]:

YB. Puan Rusnah binti Aluai [Tangga Batu]
YB. Tuan Larry Soon @ Larry Sng Wei Shien [Julau]

URUS SETIA

Encik Wan Ahmad Syazwan bin Wan Ismail [Ketua Penolong Setiausaha,
Seksyen Pengurusan Kamar Khas Bahagian Pengurusan Dewan Rakyat]
Encik Muhammad Amir Lutfi bin Makhtar [Penolong Setiausaha Seksyen Perundangan dan
Prosiding, Bahagian Pengurusan Dewan Rakyat]
Puan Siti Fahlizah binti Padlee [Pegawai Penyelidik, Seksyen Sains, Tenaga dan Teknologi,
Bahagian Penyelidikan dan Perpustakaan]
Cik Aiza binti Ali Raman [Penasihat Undang-undang II Parlimen Malaysia]

HADIR BERSAMA**Suruhanjaya Integriti Agensi Penguatkuasaan (SIAP)**

Tuan Mohamad Onn bin Abd. Aziz [Setiausaha]
Puan Eda Mazuin A. Rahman [Penasihat Undang-undang]
Encik Muhammad Hakeem bin Buang [Penolong Pegawai Undang-undang]

Pusat Governans, Integriti dan Anti-Rasuah Nasional (GIACC)

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

Polis Diraja Malaysia (PDRM)

SAC Dato' Mohd Azman bin Ahmad Sapri [Ketua Urus Setia Ketua Polis Negara
(Perundangan)]

Kementerian Dalam Negeri

Datuk Yusran Shah bin Mohd Yusof [Setiausaha Bahagian Keselamatan]

samb/-

HADIR BERSAMA (*samb/-*)**Bahagian Hal Ehwal Undang-undang, Jabatan Perdana Menteri**

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

Pejabat Penasihat Undang-undang, Jabatan Perdana Menteri

Puan Jastina binti Zainal Abidin [Pegawai Undang-undang]

Jabatan Peguam Negara

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

PEMBENTANG**Persatuan Pegawai-pegawai Kanan Polis (Bahagian A)**

SAC Yusof bin Ahmad [Ketua Jabatan Siasatan Jenayah Johor]

SAC Razimi bin Ahmad [Ketua Jabatan Pencegahan Jenayah dan Keselamatan Komuniti Johor]

ACP M. Kumar a/l S. Muthuvelu [Timbalan Ketua Jabatan Siasatan Jenayah (Siasatan dan Perundangan) Johor]

ACP Zaharuddin bin Md. Rasip [Ketua Polis Daerah Muar]

ACP Salim bin Youb [Ketua Cawangan Khas Melaka]

ACP Mohd. Nor Yhazid bin Idris [Ketua Jabatan Siasatan Jenayah Melaka]

ACP Dr. Zafari bin Zulkifli [Ketua Cawangan Khas Negeri Sembilan]

ACP Mohd Said bin Ibrahim [Ketua Polis Daerah Seremban]

Persatuan Pegawai-pegawai Kanan Polis (Bahagian B)

INSP Harminder Singh a/l Pritam Singh [Pengerusi Kontinjen Negeri Sembilan]

INSP Zaidi bin Mohd Nor [Pengerusi Kontinjen Johor]

Persatuan Pegawai Rendah Polis Diraja Malaysia

SI Mohd Isa bin Haji Simbok [Timbalan Presiden]

Persatuan Pegawai-pegawai Kanan Polis Bersara Malaysia (Johor)

Datuk A. Sabapathy [Pengerusi]

Tetuan Azam Aziz Shaharudinali & Co

Dato' Shaharudin bin Datuk Haji Ali [Peguambela dan Peguamcara]

Encik Muhammad Noor Azfar bin Noor Azmi [Peguam]

Persatuan Kepolisian Komuniti Taman Nesa

Puan Kogilavani a/p Supermaniam [Pengerusi]

Puan Janagi Letchumanan [Setiausaha]

Encik Murugan a/l A. Kaliappan [Pengerusi Kawasan Rukun Tetangga Taman Nesa]

samb/-

PEMERHATI**Polis Diraja Malaysia, Kontinjen Johor**

CP Dato' Kamarudin bin Md Din [Ketua Polis Johor]

SAC Razimi bin Ahmad

ACP Dzulkhairi bin Mukhtar

ACP Mohd Zaid Ahmad

ACP Razak Md. Said

ACP Norhasmawaty binti Mustapa

ACP Mohd Safie Yasim

ACP Mohd Nazrol Bongsu

ACP Tan Moh Chuan

ACP Azhan bin Abdul Halim

ACP Mohd Nor bin Mohd Isa

ACP Mohd Zain bin Kalid

ACP Mohd Abduh bin Ismail

SUPT Raub Selamat

SUPT M. Kamanasan

SUPT Noor Azman Jamal

SUPT Ismail Dollah

SUPT Rehiman bin Abdullah

SUPT Ahsmon Bajah

SUPT Lee King Chuan

DSP Azlan Ahmad

DSP Victor Genason

DSP Nik Mohd Razali Husin

DSP Idris bin Abdul Rahman

DSP Alagesan a/l Arumugam

DSP Borhanudin bin Ismail

DSP Azlan Ahmad

DSP Yusof bin Haji Othman

DSP Lye Boon Choy

ASP Billy Macmiller

SI Abdullah Sani

SJN/M Haji Zamri

SJN/M Abd Ghani

SJN/M Rosila

SJN/M Haji Baharuddin

SJN/M Yusuf

SJN/M Yusuf bin Ramji

SJN/M Mohsin bin Kome

SJN Abd. Halim bin Abd. Rahim

SJN Bajuri Mohd Nor

SJN Zamri

SJN Shahrul Hisyam bin Abdul Kapar

KPL Hafiza

KPL Mohd Rizal

KPL Abdul Hadi

KPL Mohd Azwan

KPL Azizi bin Zainal

KPL Abdul Hadi

KPL Radzi bin Abas

Tuan Azman bin Admen

Tuan Mahdi bin Mazelan

samb/-

PEMERHATI (samb/-)**Polis Diraja Malaysia, Kontinjen Melaka**

ACP Beh Eng Lai
SUPT Arshad bin Abu
DSP Idris bin Abdul
ASP Fadilah binti Mohd Nor
INSP Zaida Hartini binti Abdul Rashid
SUB INSP Kamarudzaman bin Khandree
SJN/M Zainal bin Sahain
SJN/M Muzaiyim bin Baharum
SJN/M Mohd Shafiee bin Che Mat
Tuan Zulkiflee bin Haji Rashid
Tuan Reseman bin Ajiman
Tuan Azman bin Khamis
Tuan Masli bin Ali
Tuan Rossali bin Azman
Tuan Ahmad Rahim bin Dollah
Tuan Ahmad Jamil bin Radzi
Tuan Mohd Zin bin Abdul Rahman
Tuan Mohd Fadzli bin Othman
Tuan Mohd Nor Yhazid bin Idris

Polis Diraja Malaysia, Kontinjen Negeri Sembilan

ACP Mohd Said bin Ibrahim
ACP Dr. Zafari bin Zulkifli
ACP Wan Rukman bin Wan Hassan
SUPT Amran bin Mohd Gani
SUPT Aidi Sham bin Mohamad
SUPT Haslah bin Bachok
SUPT Pang Jin Lai
DSP Ikbaal bin Mustafa
DSP Anuar Bakri bin Abdul Salam
ASP Rozman bin Pit
ASP Abdul Mazan bin Yahya
INSP Mohd Amar Zin bin Mohd Zin
SJN/M Sahli bin Kabi
SJN/M Mohd Rauzan bin Dahuri
SJN/M Anwar bin Omar
SJN Zakaria bin Md Juda
KPL Zulkefly bin Abu
KPL Hizod Radzi bin Abas
Tuan Fairuz bin Kamal Subramaniam
Tuan Mohd Hafiz bin Muhammad Nor

Persatuan Pegawai-pegawai Kanan Polis Bersara Malaysia (Negeri Sembilan)

Dato Osman bin Salleh
Dato Mohd Nadzri bin Zainal Abidin
Tuan Haji Abdul Samad bin Abu
Tuan Jamalludin bin Jamin

samb/-

PEMERHATI *(samb/-)*

Persatuan Pegawai-pegawai Kanan Polis Bersara Malaysia (Melaka)

Tuan Ahmad bin Lihat

Orang Awam

Encik Ong Kong Hong

LAPORAN PROSIDING**SESI PENDENGARAN AWAM
MESYUARAT JAWATANKUASA PILIHAN KHAS
MENIMBANG RANG UNDANG-UNDANG
PARLIMEN KEEMPAT BELAS, PENGGAL KEDUA****Jumaat, 8 November 2019****Bilik Gerakan Dewan Negeri, Bangunan Sultan Ismail,
Kota Iskandar, Iskandar Puteri, Johor****Mesyuarat dimulakan pada pukul 9.35 pagi***[Yang Berhormat Tuan Ramkarpal Singh a/l Karpal Singh **mempengerusikan Mesyuarat**]*

[Saksi-saksi daripada Persatuan Pegawai-pegawai Kanan Polis (Bahagian A), Persatuan Pegawai-pegawai Kanan Polis (Bahagian B), Persatuan Pegawai Rendah Polis Diraja Malaysia dan Persatuan Pegawai-pegawai Kanan Polis Bersara Malaysia (Johor) mengambil tempat di hadapan Jawatankuasa]

Tuan Pengerusi: Selamat pagi kepada semua tuan-tuan dan puan-puan yang hadir bagi sesi pendengaran awam ini iaitu berhubung dengan penimbangan Rang Undang-undang Suruhanjaya Bebas Aduan Salah Laku Polis (IPCMC) 2019.

Just untuk latar belakang. Ini adalah sesi ketiga yang kami adakan di luar Kuala Lumpur. Pertamanya di Kuching, keduanya di Pulau Pinang, sekarang di sini dan kami juga akan mengadakan lagi satu sesi di Kota Kinabalu pada hari Ahad. Jadi, tujuan kami mengadakan sesi ini adalah untuk mendapat *feedback* daripada semua tuan-tuan dan puan-puan.

Hari ini saya hadir bersama Setiausaha Dewan Rakyat, Datuk Roosme binti Hamzah dan juga Ahli-ahli Jawatankuasa yang hadir bagi tujuan mengadakan- *we will have a session with you all later*. Kami juga mempunyai bersama kami ahli-ahli *ex-officio* yang telah pun hadir bersama kami untuk semua sesi kami setakat sekarang. Mereka juga akan turut menyertai sesi ini sekiranya diperlukan mungkin ada sesi soal dan jawab nanti.

Di dalam rang undang-undang ini, *just* untuk bagi tahu, ada dua bahagian. Rang undang-undang asal dan juga cadangan pindaan-pindaan yang telah pun dikemukakan di Dewan Rakyat. So, kedua-dua bahagian ini, keseluruhan rang undang-undang atau *entire bill* adalah boleh dibentangkan dan *feedback* boleh diberi untuk semua. *Not only part of it, but the entire bill including the 25 amendments*. Ada 25 amendments. Juga, *just* untuk memaklumkan

kepada semua, kesemua prosiding ini akan direkodkan ke dalam *Hansard* Parlimen. So, *everything* apa yang dinyatakan akan direkodkan.

Sekiranya tuan-tuan dan puan-puan ingin membuat penghujahan, sila tekan *mic and introduce yourself*, perkenalkan diri untuk rekod dan *speak into the mic* kerana *we need it for the record*.

Okay, I think tanpa melengahkan masa, hari ini bersama kami pada sesi sekarang, kami mempunyai empat badan ataupun persatuan dari pihak polis. Pertamanya, Persatuan Pegawai-pegawai Kanan Polis (Bahagian A). Kedua, *is* Persatuan Pegawai-pegawai Kanan Polis (Bahagian B). Ketiga *is* Persatuan Pegawai Rendah Polis Diraja Malaysia dan keempat, Pengerusi Persatuan Pegawai-pegawai Kanan Polis Bersara Malaysia (RESPA) bagi negeri Johor. So, saya akan memanggil pertamanya, SAC Yusof bin Ahmad yang mewakili persatuan pertama tadi iaitu Persatuan Pegawai-pegawai Kanan Polis (Bahagian A). Silakan.

9.39 pagi.

SAC Yusof bin Ahmad [Ketua Jabatan Siasatan Jenayah Johor, Persatuan Pegawai-pegawai Kanan Polis (Bahagian A)]: Selamat pagi, salam sejahtera. Yang Berhormat Tuan Pengerusi, Datuk-Datuk, tuan-tuan dan puan-puan.

Saya SAC Yusof bin Ahmad, Ketua Jabatan Siasatan Jenayah Johor yang mengetuai kumpulan A. Di sini, untuk pandangan dan makluman Yang Berhormat Tuan Pengerusi, kita polis di Johor Bahru khususnya, memang menyokong penuh di atas saranan Ketua Polis Negara iaitu menyokong pelaksanaan implementasi IPCMC ini dengan bersyarat. Makna kata, bila dengan bersyarat itu, banyak yang kita akan tengok. Jadi, persoalannya, hasil daripada penelitian terhadap *bill* ini, ia memberi gambaran bahawa ia terlalu *general*, umum. Satu, bahawa setiap undang-undang yang digubal itu untuk memastikan ia memberi perlindungan, manfaat kepada rakyat jelata, selain daripada adil dan saksama.

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Dalam aspek *bill* ini, *stakeholders* adalah PDRM dan juga rakyat. Jadi, tujuan saya membangkitkan persoalan ini adalah kerana setiap undang-undang bertulis mestilah memberi keadilan kepada semua pihak. Dalam isu implementasi IPCMC ini, saya berpendapat ada peruntukan seksyen yang tidak adil kepada pasukan Polis Diraja Malaysia yang merupakan *stakeholder*. Oleh sebab itu, dimintalah satu kajian yang lebih menyeluruh perlu dibuat dengan mengambil kira semua faktor-faktor yang melibatkan PDRM dan kesannya kepada masyarakat untuk jangka masa akan datang, jangka masa yang panjang. Tuan Pengerusi, itu soalan sayalah, Tuan Pengerusi. Terima kasih.

Tuan Pengerusi: Terima kasih SAC. Ada sesiapa yang lain yang ingin menambah kepada hujahan-hujahan tersebut dari kumpulan pertama, sebelum saya menjemput

kumpulan kedua? Tidak ada? Jadi, saya... *[Disampuk]* Itu saya bercadang, *I think we will leave that to the end.* Kami akan mendengar semua. Jadi, selepas itu kami akan mengadakan sesi soal jawablah ya untuk mengelakkan pengulangan soalan.

Jadi, saya menjemput wakil dari kumpulan kedua iaitu Persatuan Pegawai-pegawai Kanan Polis Bahagian B, Inspektor Harminder Singh a/l Pritam Singh. Silakan.

9.43 pagi

Insp. Harminder Singh a/l Pritam Singh [Pengerusi Kontinjen Negeri Sembilan, Persatuan Pegawai-pegawai Kanan Polis (Bahagian B)]: Selamat pagi Tuan Pengerusi, Yang Berhormat Datuk, Dato', tuan-tuan...

ACP M. Kumar a/l S. Muthuvelu [Timbalan Ketua Jabatan Siasatan Jenayah (Siasatan dan Perundangan) Johor, Persatuan Pegawai-pegawai Kanan Polis (Bahagian A)]: *Excuse me, Yang Berhormat Mr. Chairman. We have got few questions with regard to the rest of us. That means, after Tuan Yusof, we have SAC...*

Tuan Pengerusi: *That is what I propose just now. If...*

Datuk Roosme binti Hamzah [Setiausaha]: Pembentang satu, *is it?*

ACP M. Kumar a/l S. Muthuvelu: *Yes. We have got... [Disampuk]* Pembentang satu. *We are all this group-* pembentang satu.

Tuan Pengerusi: *This is group one.*

ACP M. Kumar a/l S. Muthuvelu: *Yes.*

Tuan Pengerusi: *First group.*

ACP M. Kumar a/l S. Muthuvelu: *Yes. First group comprises of eight persons.*

Tuan Pengerusi: *Then, I think what we do is we finish with the first group. Whatever submission that you might want to make questions and so on, you can raise them now. And then, we will reserve the session for answering of it after we hear everyone. Because, some questions, if we were to engage to them now, might be repeated later. So, we might as well do it at one go at the end.*

So, that is why I said, if there any others representative from the first group, before I call the second group. So please feel free to raise your submission now or questions which will record now. So, if you are from the first group- it is still the first group, I take it. Still the first group. Then, I think you can carry on. We finish with the first group first. Identify yourself. Once we finish with the first group, we move on to the second group.

ACP M. Kumar a/l S. Muthuvelu: *Just to add to it. We got eight of us from first group.*

Datuk Roosme binti Hamzah: *Can you introduce yourself?*

9.45 pagi.

SAC Razimi bin Ahmad [Ketua Jabatan Pencegahan Jenayah dan Keselamatan Komuniti Johor, Persatuan Pegawai-pegawai Kanan Polis (Bahagian A)]: *Bismillahi Rahmani Rahim. Assalamualaikum warahmatullaahi wabarakaatuh dan selamat pagi, Yang Berhormat.*

Saya SAC Razimi bin Ahmad, Ketua Jabatan Pencegahan Jenayah dan Keselamatan Komuniti Ibu Pejabat Polis Kontinjen Johor. Setelah melihat draf Rang Undang-undang Suruhanjaya Bebas Aduan Salah Laku Polis 2019 ini, mendapati bahawa ia masih belum cukup matang iaitu *premature* kerana, satunya, tidak ada atau tidak nampak wujudnya mekanisme ataupun draf peraturan-peraturan pelaksanaannya yang mana sepatutnya ia dibuat untuk dibacakan selari atau dibacakan sekali dengan draf rang undang-undang ini. Ia menjadikan macam tidak ada ketelusan atau tidak *transparent* apabila undang-undang ini diluluskan nanti. Itu sahaja. Terima kasih.

Tuan Pengerusi: Terima kasih, dan ya, ada penghujah lain dari kumpulan pertama?

9.46 pagi

ACP M. Kumar a/l S. Muthuvelu: *Good morning, Yang Berhormat Mr. Chairman, distinguish Member of Parliament Select Committee, I'm ACP M. Kumar a/l S. Muthuvelu, Deputy of OCCI Johor Contingent. Yang Berhormat, Mr. Chairman from my humble observation, I was attracted to the preamble of this act.*

Okay, with the permission Yang Berhormat, I would like to quote the preamble of the act, the last two lines, "investigation of misconduct, proceedings to deal with misconduct, etc., and for related matters".

Yang Berhormat, if I may, I just like to outline to all the audience here, what is "preamble"? "Preamble" according to the law is an introductory part of statute or preliminary statement and the purpose is to describe the nature, the purpose and objective of the act. Further, it has also the interpretation of the documentation itself. So, these two words, the word "etcetera" and "related matters", carry a wide range of issues. At such it is with ambiguity and gives rise to more question than answer Yang Berhormat.

An example, I would like to quote Yang Berhormat if I may, the act in general deals with the misconduct, the order of the day. But referring to section 34 of the bill, the offences part, I quote, "A person who hinders or attempts to hinder any person from giving evidence before the Commission or by threats, deters or attempts to deter any person...". A threat is well defined under Penal Code, Yang Berhormat.

So, in this case, the police will be faced with an option or we have to choose whether is it to be investigated under Penal Code or this section? The law is procedural in nature or

substantive in nature Yang Berhormat? Further Yang Berhormat, I would like also attracts Yang Berhormat attention to section 47, responsibility to refer cases of grievous hurt or death in custody, Yang Berhormat. Here, Chapter 32 of CPC, Part 8...

Tuan Pengerusi: *Sorry, what section?*

ACP M. Kumar a/l S. Muthuvelu: *Section 47 of the bill Yang Berhormat, responsibility to refer cases of grievous hurt or death in custody. Here, it is a repeated- here we have got a CPC which is define what need to be done is cases of death in custody. So, would this IPCMC supersede the provision of CPC by virtue of chapter 32, part 8. My area of concerns with regards to these issues Yang Berhormat and that all for now. Thank you very much Yang Berhormat.*

Tuan Pengerusi: *Thank you. Any other submission from the first group? Silakan.*

9.49 pagi

ACP Zaharuddin bin Md. Rasip [Ketua Polis Daerah Muar, Persatuan Pegawai-pegawai Kanan Polis (Bahagian A)]: *Assalamualaikum warahmatullaahi wabarakaatuh dan salam sejahtera. Yang Berhormat Tuan Pengerusi, Yang Berhormat Datuk-Datuk, tuan-tuan dan puan-puan yang hadir pada pagi ini.*

Saya ACP Zaharuddin bin Md. Rasip, Ketua Polis Daerah Muar merangkap Pengerusi PPKPA Johor.

Soalan pertama saya yang saya hendak timbulkan, pertama ialah berkaitan dengan seksyen ataupun fasal 24 draf undang-undang ini. Kalau kita lihat, fasal 24(1), apa-apa aduan yang dibuat hendaklah secara bertulis. Di sini apa yang saya dan kita akan jangkakan tanpa tapisan yang ketat, akan mencurahkan aduan ditujukan kepada IPCMC apabila diluluskan nanti. Ini termasuklah juga pada pihak polis yang tidak akan bekerja, moral akan *down automatic, because* telah diuar-uarkan, *any complaint* dibuka. Saya ada dengar juga sehingga peringkat telefon, *WhatsApp* akan diterima.

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Saya ingin mencadangkan di sini- adalah wajar untuk mengurangkan beban IPCMC dan juga menaikkan imej polis yang di masa akan datang, perlulah aduan ini diambil secara bersumpah. Ini kerana kita tahu pengadu-pengadu adalah juga mereka yang terlibat dalam kes yang disiasat oleh pihak polis. Mereka juga adalah suspek. Cuma timbul tidak puas hati dan menimbulkan aduan atau apa-apalah kepada IPCMC. Itu yang pertama daripada sayalah.

Kita kena fikir masalah IPCMC hendak menyiasat nanti dengan mencurahkan-mencurahnya aduan, mampukah IPCMC membuat kerja mereka dan juga polis penting di Malaysia ini. Kalau polis dah *down* moral dia, siapa lagi akan mengawal Malaysia. Itu yang pasti.

Kedua, fasal 24(2). Serta-merta merujuk salah laku kepada Jawatankuasa Aduan IPCMC. Jika ada pengaduan selepas IPCMC ini dilancarkan atau diluluskan, pengadu hendak terus *direct* kepada JIPS atau Jabatan Integriti dan Pematuhan Standard polis. Mengapa JIPS tidak boleh menyiasat? Yakni yang akan datanglah dan perlu merujuk kepada IPCMC dahulu.

Persoalannya, adakah IPCMC mengambil sepenuhnya kuasa JIPS polis atau hanya satu badan *complementary* sahaja?

Soalan ketiga saya, merujuk pada fasal 25 dan juga merujuk pada fasal 22(f) iaitu perlakuan apa-apa kesalahan jenayah oleh anggota polis. Dalam fasal 25(b), dinyatakan, "*jika aduan melibatkan apa-apa kesalahan jenayah di bawah apa-apa undang-undang bertulis, aduan hendaklah rujuk kepada pihak berkuasa yang berkenaan*". Okey. Siapakah dia pihak berkuasa yang berkenaan? IPCMC ditubuhkan antara lain kerana orang awam tidak percaya polis. Kalau merujuk kepada pihak yang berkenaan, siapakah pihak itu yang dibekalkan dengan kuasa-kuasa polis untuk menyiasat kes-kes jenayah?

Adakah IPCMC ada satu tim yang dibekalkan kuasa-kuasa polis untuk menyiasat atau balik pada pihak polis akan wujud- kalau sampai pihak awam, dia masih lagi polis yang siasat. Sebab antara isu-isu yang timbul fasal IPCMC adalah mereka tidak percaya polis yang menyiasat. So, siapakah sebenarnya yang akan menyiasat selepas itu kes-kes jenayah?

Dengan izin Yang Berhormat, kenapa tidak keluarkan perlakuan jenayah ini pada IPCMC? Cadangan saya, dengan izinlah [*Ketawa*] Kalau tak nak ini, kita ambil salah laku sahaja. Kita keluarkan perlakuan jenayah dan ada satu badan lain yang akan lapor. Kalau serah pada IPCMC, masyarakat akan kata "*Eh, masih lagi polis yang menyiasat*".

Seperti contoh, mati dalam lokap. Memang koroner yang menyiasat atau majistret. Akan tetapi *later part* tetap kepada polis yang membuka HDR.

Seterusnya Yang Berhormat, daripada rakan-rakan saya yang telah menjelaskan sebelum ini, saya rasa eloklah kita perhalusi semula susunan ayat. Contoh yang- termasuk yang saya katakan tadi supaya orang awam faham, apa sebenarnya IPCMC dan juga contohnya macam pihak berkuasa berkenaan, kenapalah kita tidak nyatakan polis juga. Kenapa hendak melindungi? Kalau SPRM dinyatakan jelas, kenapa polis tidak dinyatakan jelas dalam IPCMC? Itu sahaja. Sekian, terima kasih.

Tuan Pengerusi: Terima kasih. Ada sesiapa lain dari Kumpulan A?

9.56 pagi

ACP Salim bin Youb [Ketua Cawangan Khas Melaka, Persatuan Pegawai-pegawai Kanan Polis (Bahagian A)]: *Bismillahi Rahmani Rahim. Assalamualaikum* dan selamat sejahtera Yang Berhormat Tuan Pengerusi, Datuk, Dato' dan tuan-tuan.

Saya ACP Salim bin Youb (KCK Melaka) ingin menyentuh tentang seksyen 32(3) yang mana dalam prosiding ini untuk menangani salah laku. Di mana menyatakan lembaga tatatertib hendaklah menyelesaikan prosiding untuk menangani salah laku ini dengan cara sebagaimana yang suruhanjaya berpendapat paling sesuai bagi menyelesaikan yang adil dan cepat. *Last word*, 'adil' dan 'cepat'. Tidak melambangkan satu spesifik yang mana ia terlampau *general* dan sepatutnya undang-undang ini digubal mempunyai masa yang tepat untuk memaklumkan dan akhirnya membuat satu rangka yang dalam masa yang telah ditentukan. Kalau kita rujuk balik kepada siasatan yang melibatkan JIPS dalam PDRM, tempoh masa telah pun ditetapkan, dalam masa enam bulan fail ataupun tindakan tatatertib perlu diselesaikan.

Jadi, dalam peruntukan ini telah menunjukkan satu perkara yang sangat *general* dan tidak fokus terhadap masa yang sepatutnya. Di sini kalau kita kaitkan lebih jauh sedikit, ia juga serupa yang seperti yang dikatakan oleh tuan-tuan kumpulan saya yang pertama ini mengatakan *morality* dan juga imej akan menurun dan sebagainya.

Kita lihat bahawa sekiranya seorang pegawai atau anggota itu telah pun disabit atau hendak disabitkan dengan kesalahan, kemudian dia tidak diberi satu tempoh masa dalam kajian untuk diambil tindakan menjalankan siasatan.

Jadi kalau dalam tempoh masa tersebut, pertama sekali kalau melibatkan mereka yang mungkin ada peluang menghadiri kenaikan pangkat dan sebagainya untuk diberikan sebenarnya dia *performance* bagus dan hendak diberikan *acting* dan sebagainya, tetapi oleh kerana tidak ada program ini, jadi terpaksa nama dia orang ini diketepikan.

Akhirnya, dia tidak ada *ending* pada yang terlibat dan akhirnya mereka mungkin akan menurun imej dan juga- bukan kata pada pasukan, kepada diri dia, keluarga dan sebagainya. Kalau kita ambil jauh sedikit, kalau ada yang hendak berpencen atau bersara ada lebih kurang dalam setahun ataupun tidak sampai setahun ataupun dua tahun. Tiba-tiba tidak ada satu *specific time* itu, akhirnya dia tidak tahu sampai dia pencenlah.

Jadi, *benefit* untuk pencen itu pun dia tidak tahu dan akhirnya, kalau dia dah terlibat dengan servis 38 tahun, 39 tahun dan 40 tahun, apa yang dia dapat. Jadi, dia rasa macam *ending* daripada perkhidmatan tidak menunjukkan satu yang orang *respect* atas dia punya servis yang macam itu lama. Jadi, *why not* undang-undang ini ada spesifik untuk selesaikan siasatan itu dengan satu masa yang telah ditetapkan. Terima kasih.

9.58 pagi

ACP Mohd. Nor Yhazid bin Idris [Ketua Jabatan Siasatan Jenayah Melaka, Persatuan Pegawai-pegawai Kanan Polis (Bahagian A)]: Salam sejahtera dan selamat

pagi Yang Berhormat Tuan Pengerusi, Datuk Seri, Dato' Sri dan Datuk, Dato', tuan-tuan dan puan-puan.

Saya ACP Mohd. Nor Yhazid bin Idris, Ketua Jabatan Siasatan Jenayah, Melaka. Bagi saya Yang Berhormat, setelah melihat pada draf undang-undang ini saya ingin menarik perhatian Yang Berhormat tentang satu bahagian skop aduan salah laku, di mana saya ingin membangkitkan berkaitan fasal 22, undang-undang Suruhanjaya Bebas Aduan Salah Laku Polis 2019 iaitu skop salah laku. Di bawah fasal 22(1) di mana suruhanjaya boleh menerima aduan atau mengurus aduan terhadap mana-mana anggota pasukan polis yang dirujuk kepadanya mengenai salah laku.

Di dalam fasal ini, terdapat dua sub fasal iaitu berkaitan sub fasal (1) dan (2). Di mana sub fasal (1)(a), (b), (c), (d) dan (f). Saya ingin menjurus kepada fasal (1) ini. Walau di bawah sub fasal seksyen (1)(a), (b) dan (f) adalah menjurus kepada kesalahan salah laku yang jelas dan nyata. Di mana bahagian (a) apa-apa tindakan diambil atau tidak diambil yang berlawanan dengan mana-mana undang-undang bertulis. Ia jelas dan nyata.

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Sub fasal (b), "*Ketidakpatuhan kepada kaedah-kaedah dan tatacara operasi standard polis*". SOP jelas dan nyata. Sub fasal (f), "*Pelakuan apa-apa kesalahan jenayah oleh anggota pasukan polis*". Di sini kita lihat sub fasal (a), (b) dan (f) ini adalah jelas dan nyata.

Di mana bagi sub fasal (1)(c), (d) dan (e), ia sepatutnya tidak dimasukkan kerana tafsiran ini adalah terlalu umum dan tidak jelas dan nyata. Tafsiran ini adalah tidak jelas di dalam sub fasal (1)(c), (d) dan (e) yang membawa maksud perkataan seperti "*tidak munasabah*", "*tidak wajar*" dan "*tidak berkaitan*" di dalam draf ini. Adalah terlalu umum tafsiran ini dan memberi ketidakadilan kepada pihak polis. Undang-undang sepatutnya perlu jelas dan nyata untuk ditafsirkan. Ini adalah untuk keadilan kepada semua pihak. Oleh itu, saya mencadangkan kepada pihak Yang Berhormat dan ahli panel untuk dikeluarkan sub fasal (1)(c), (d) dan (e) ini. Sekian.

10.02 pagi

ACP Dr. Zafari bin Zulkifli [Ketua Cawangan Khas Negeri Sembilan, Persatuan Pegawai-pegawai Kanan Polis (Bahagian A)]: *Assalamualaikum* dan selamat pagi Tuan Pengerusi, Datuk-Datuk, tuan-tuan dan puan-puan.

Saya ACP Dr. Zafari bin Zulkifli, Ketua Cawangan Khas Negeri Sembilan. Dengan izin, saya ingin menarik perhatian kepada seksyen 6(2) yang berbunyi, "*Tiada seorang pun boleh dilantik sebagai anggota Suruhanjaya jika dia ialah atau pernah menjadi seorang anggota pasukan polis atau dia ialah seorang anggota perkhidmatan awam*".

Berhubung dengan perkara ini, saya berkehendakkan supaya dimasukkan pegawai polis atau bekas polis dan pegawai perkhidmatan awam sebagai salah seorang daripada Rang Undang-undang Suruhanjaya Aduan Bebas dan Salah Laku Polis 2019. Sebagai contoh, Majlis Penasihat Buruh Kebangsaan terdiri daripada pekerja, majikan, kementerian dan orang awam. Majlis Perundingan Gaji Negara terdiri daripada pekerja, majikan dan orang awam. Begitu juga dengan Majlis Disiplin Peguam-peguam terdiri daripada peguam dan orang awam.

Dalam konteks ini, apabila Suruhanjaya ini tidak dianggotai oleh pegawai polis atau bekas pegawai polis, bagaimana pembelaan terhadap polis? Bagi pandangan saya, hanya polis sahaja tahu tentang tatacara kerja yang dipertanggungjawabkan kepada pegawai polis. Sekian, terima kasih.

10.04 pagi.

ACP Mohd Said bin Ibrahim [Ketua Polis Daerah Seremban, Persatuan Pegawai-pegawai Kanan Polis (Bahagian A)]: *Assalamualaikum warahmatullaahi wabarakaatuh.* Salam sejahtera kepada Tuan Pengerusi, semua Ahli Jawatankuasa Pilihan Khas Menimbang Rang Undang-undang Suruhanjaya Bebas Aduan Salah Laku Polis 2019.

Saya ACP Mohd Said bin Ibrahim, Ketua Polis Daerah Seremban, Negeri Sembilan. Dalam sesi pendengaran ini, saya terpanggil untuk menyentuh tentang fasal 29 berhubung dengan penubuhan Pasukan Petugas bagi maksud siasatan salah laku pasukan polis dan juga benda ini ada hubung kait dengan fasal 47 iaitu mengenakan kewajipan ke atas pasukan polis untuk merujuk kepada Suruhanjaya apa-apa kejadian atau insiden yang menyebabkan cedera parah atau kematian seseorang yang pada masa itu berada dalam tahanan atau jagaan pasukan polis.

Di sini saya ingin melihat tentang rang undang-undang ini, adakah ia berhubung dengan salah laku polis ataupun ia berhubung dengan perlakuan jenayah yang dilakukan oleh polis? *Because*, apabila berlakunya kematian di dalam lokap, di dalam sel polis dan cedera parah, ia adalah satu jenayah. CPC telah pun menggariskan undang-undang bahawa beberapa peraturan perlulah dibuat. Koroner akan dipanggil, *Medical Officer* akan dipanggil. Dan yang terbaru, SUHAKAM akan dipanggil.

Jadi, di mana relevannya tentang Suruhanjaya ini untuk hadir dan melihat salah laku yang dilakukan oleh polis, manakala kejadian yang berlaku- kematian, *of course*, bagi saya adalah satu kejadian jenayah. Saya rasa tidak berapa relevan dan saya mohon mencadangkan supaya dikaji semula. Apa yang saya lihat, ia tidak sesuai dimasukkan. Antara salah laku dan jenayah adalah dua perkara yang berbeza. Sekian, terima kasih Tuan Pengerusi.

Tuan Pengerusi: Terima kasih kepada semua penghujah dari Bahagian A. Ada penghujah lain? Tidak ada, kan? Itu semua sudah *complete*.

Jadi, saya sekarang menjemput *speaker* yang pertama daripada Bahagian B iaitu INSP Harminder Singh a/l Pritam Singh. Silakan.

10.06 pagi

INSP Harminder Singh a/l Pritam Singh: Selamat pagi Tuan Pengerusi, Datuk-Datuk, tuan-tuan.

Saya INSP Harminder Singh a/l Pritam Singh, Pengerusi PPKPB dari kontinjen Negeri Sembilan. Di sini saya merujuk pada fasal 22(2) Rang Undang-undang Suruhanjaya Bebas Aduan Salah Laku Polis 2019 di mana di sini saya rasa di bawah fasal 22(2) di mana kuasa-kuasa Ketua Polis Negara akan diambil.

So, kalau dirujuk pada seksyen 96 di mana dirujuk di bawah Akta Polis 1967, seksyen 96 adalah Peraturan-peraturan Polis dan seksyen 97 adalah Perintah Tetap. Dan daripada wujudnya PDRM sehingga hari ini, ini adalah kuasa-kuasa polis dalam usaha menjaga ataupun mengurus PDRM.

Jadi, jika seksyen-seksyen atau kuasa-kuasa Ketua Polis Negara diambil, di manakah kita akan rujuk? Pada seksyen mana atau di bawah akta mana yang kita akan rujuk di mana-ataupun pengambilan oleh IPCMC, di manakah- atau di sini, untuk bahan rujukan bagi pihak PDRM yang sedang bertugas. So, di sini saya cadangkan bahawa fasal 22(2) dikeluarkan daripada fasal ini. Sekian, terima kasih.

Tuan Pengerusi: Terima kasih. *I think* ada satu penghujah INSP Zaidi bin Mohd Nor dari kumpulan B. Silakan.

10.08 pagi

INSP Zaidi bin Mohd Nor [Pengerusi Kontinjen Johor, Persatuan Pegawai-pegawai Kanan Polis (Bahagian B)]: Selamat pagi Yang Berhormat Tuan Pengerusi, Datuk-Datuk dan tuan-tuan.

Saya INSP Zaidi bin Mohd Nor, wakil persatuan PPKPB Johor. Soalan saya berkenaan dengan tujuan penubuhan akta ini iaitu IPCMC ditubuhkan dan ada beberapa peruntukan mengenai fungsi dan kuasanya iaitu termasuklah dengan penerimaan aduan salah laku, siasatan terhadap salah laku, prosiding menangani salah laku dan sebagainya.

Di sini bermakna akta ini ataupun IPCMC ditubuhkan menerima aduan, menyiasat, prosiding dan sebagainya. Berbeza dengan EAIC ataupun SIAP yang mana menerima aduan, menyiasat aduan dan seterusnya menyerahkan kepada Suruhanjaya Pasukan Polis (SPP) untuk prosiding ataupun hukuman.

Soalan saya, adakah IPCMC ini ditubuhkan mempunyai pengasingan kuasa ataupun *separation of powers*? Ada ataupun tidak digubal undang-undang ini berkenaan perkara tersebut? Terima kasih Tuan Pengerusi.

Tuan Pengerusi: Baik, terima kasih. Saya percaya hanya dua penghujah dari Kumpulan B.

Jadi, sekarang saya menjemput *speaker* dari kumpulan yang ketiga iaitu dari Persatuan Pegawai Polis Pangkat Rendah- Sub-INSP Mohd Isa bin Haji Simbok.

10.09 pagi.

SI Mohd Isa bin Haji Simbok [Timbalan Presiden, Persatuan Pegawai Rendah Polis Diraja Malaysia]: Terima kasih Yang Berhormat. *Assalamualaikum* dan salam sejahtera Yang Berhormat Tuan Pengerusi, Datuk-Datuk, tuan-tuan dan puan-puan yang hadir pada pagi ini.

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Alhamdulillah, kita dapat berjumpa dalam sesi yang penting bagi PDRM dan kerajaan pada hari ini. Saya ada beberapa perkara yang saya rasa saya patut bawa dalam perjumpaan kali ini dan *alhamdulillah*, ini juga perjumpaan kali kedua, di mana kali pertama perjumpaan di Kuala Lumpur pada tiga minggu lepas.

Saya ingin menarik perhatian Yang Berhormat Tuan Pengerusi kepada klausa 5 bagi Rang Undang-undang IPCMC ini... [*Merujuk kepada paparan slaid*] Di Klausa 5 ini, kita pergi kepada 5(2)(a) iaitu kuasa suruhanjaya antaranya ialah menasihati kerajaan mengenai menambah baik kesejahteraan dan kebajikan anggota Polis Diraja Malaysia.

Saya berpandangan bahawa, dalam menambah baik segala keperluan dan kebajikan ataupun kesejahteraan PDRM ini, ia sewajarnya adalah wajib dijalankan terlebih dahulu kerana pada pendapat saya ini adalah punca kepada masalah integriti ini.

Saya berterima kasih kepada rombongan SIAP yang telah membuat pemeriksaan ke tempat-tempat kediaman- itu hanya sebahagian daripada kesengsaraan PDRM yang kami lalui untuk beberapa masa sebelum ini dan hari ini, dan *in syaa Allah* akan datang.

Saya mewakili Persatuan Pegawai Rendah Polis Negeri Johor, sebagai Timbalan Presiden Pegawai Rendah Polis Diraja Malaysia, di mana kami adalah kelompok yang besar dengan jumlah seramai 100,100 orang ahli di Malaysia, dan di Johor sendiri- 7,943 ahli.

Saya terpanggil ke arah ini untuk memberitahu kepada Ahli-ahli Yang Berhormat untuk tengok semula rang undang-undang ini diharmonikan mengikut keadaan jika ia wajar diadakan. Dahulukan kesejahteraan dan kebajikan ini- kami akan mempersembahkan kerana Yang Berhormat-Yang Berhormat berada pada hari ini di sini adalah disebabkan antaranya,

kami penyebab kehadiran Yang Berhormat-Yang Berhormat di situ, kami mewujudkan keadaan aman dan sejahtera selama ini.

Kalau pergi kepada skop salah laku, saya rasa ada beribu-ribu pegawai dan anggota polis yang membuat tugas-tugas yang tidak mungkin dapat dilakukan oleh semua orang- ini tidak dilihat oleh komuniti atau Ahli Yang Berhormat- mohon maaf saya memberitahu perkara itu.

Perkara kedua, saya hendak sebut ialah berkenaan dengan klausa 10. Kita pergi kepada klausa 10(7)- suruhanjaya boleh mengundang mana-mana orang atau mana-mana wakil daripada pasukan polis untuk menghadiri mesyuarat. Mesyuarat ini ditentukan dalam klausa 10 ini, ia perlu diadakan sekurang-kurangnya dua kali sebulan tetapi apabila pergi kepada 10(7) boleh mengundang wakil daripada pasukan polis. Maka saya mohon supaya wakil daripada pasukan polis ini adalah kuorum tetap di dalam mesyuarat ini. Meskipun dia tidak boleh mengundi, saya mohon ia berada dekat sana kerana apabila dia diundang, kalau dia diundang, apabila dia diundang sekurang-kurangnya mesyuarat-mesyuarat yang sebelum ini telah disentuh oleh pandangan dan juga pendapat berdasarkan kepakaran memahami institusi PDRM itu sendiri daripada awal hingga akhir.

Akhir sekali, saya suka membawa kepada klausa 58 rang undang-undang ini. Di klausa 58 rang undang-undang ini, segala aduan, penyiasatan, dapatan dan pendengaran berhubung dengan agensi penguatkuasaan selain Polis Diraja Malaysia sebagaimana yang dinyatakan dalam Jadual Akta yang dimansuhkan- akta yang dimansuhkan adalah EAIC dulu-SIAP, apabila secara automatik terubur, maka undang-undang ini dikuatkuasakan. Agensi-agensi penguat kuasa lain, keseluruhan dulu 21 di bawah EAIC, tolak polis satu, dikenakan IPCMC, tinggal lagi 20- 20 ini kembali kepada PBT masing-masing, kepada pihak berkuasa tatatertib masing-masing.

Soalan saya dalam ini yang meragukan saya adalah, adakah EAIC itu berjaya atau gagal? Seheinggakan agensi yang 20 ini yang sepatutnya berada di bawah EAIC ini terubur dan kembali semula kepada agensi penguat kuasa masing-masing. Ini meragukan- pada saya.

Kalau sekiranya EAIC ini satu institusi yang berjaya disebabkan 20 agensi tadi ini dapat dikembalikan semula kepada agensi PBT masing-masing, mengapa tidak perkukuhkan ataupun tidak harmonikan EAIC itu sendiri? Ada perbezaan antara merombak atau merubah atau memperbaiki perkara yang sedia ada dengan perkara yang baru. Ini akan pergi kepada persepsi dan lebih kepada *negative thinking* kepada semua orang. Terima kasih daripada Persatuan Pegawai Rendah Polis Diraja Malaysia, Yang Berhormat.

Tuan Pengerusi: Baik, terima kasih. *I think- is there anything else from the third group?*

Datuk Roosme binti Hamzah: *That one is the last group.*

Tuan Pengerusi: *That's the last group. That's the number four.*

Datuk Roosme binti Hamzah: *RESPA is for Retired Senior Police Officers' Association.*

Tuan Pengerusi: *RESPA right? So, I will invite the speaker from RESPA. You can introduce yourself before starting.*

10.18 pagi

Datuk A. Sabapathy [Pengerusi, Persatuan Pegawai-pegawai Kanan Polis Bersara Malaysia (Johor)]: Yang Berhormat Tuan Pengerusi, Datuk-Datuk, tuan-tuan yang saya hormati.

Nama saya Datuk A. Sabapathy, bekas polis dan saya telah berkhidmat di dalam pasukan polis selama 35 tahun, dan juga dengan Kerajaan Negeri Johor selama 22 tahun.

Untuk makluman tuan-tuan dan puan-puan, inilah *first time* dalam 33 tahun, satu ahli jawatankuasa dikehendaki tubuh untuk mengambil beberapa tindakan di atas anggota polis yang terlibat di dalam *various complaints* dan sebagainya.

Untuk makluman tuan-tuan dan puan-puan, *I do agree with our present police officers, we have the powers, the police force have the powers under various ordinance. The powers of investigation under CPC, Penal Code, Police Act, police regulations. Why must another body being introduced to take action against the present police officers who are involved in any criminal actions?*

I do not object to the body being founded. What I am objecting is, you must draw a line between these two discipline body and criminal offence.

Now, criminal offence, the police has widely vast powers of investigation to prosecute such person, including police officers who commit any major crime. Now, with regards to discipline offences, I think the IGP, the CPO of various states, they are competent, they are efficient enough to take proper disciplinary actions against police officers who commit criminal offences. Why must everything be referred to a certain body?

Now, if the public is not happy about it, they can bring the matter up to the Minister of Home Affairs or a body which is being ditubuhkan pada masa sekarang, kesalahan-kesalahan yang of importance such as prisoners are being killed in the lock-up, prisoners are being assaulted. If ada kompelin, this body can take action, but what I am trying to say is, is not that you cannot- the IGP is not saying- the police officers are not saying, "No, you cannot have this body". You can have this body, but you must draw a line. If you not draw a line, the moral of the men, the moral and image of the police force will go down.

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We never had this body but I'm not objecting the body. You by all means had this body. Akan tetapi, you must draw a line- the power given to them and the power of the police force.

So, therefore I humbly request that the committee will seriously study the power between this body and the police force. If the police force cannot take necessary action against police personnel who commit disciplinary action or you want certain minor criminal offenses when they refer the matter to the DPP to decide- we have Public Prosecutor in the police investigate and submit the paper to them. They are- they have the power.

Therefore, I sincerely hope Sir that we must help- the police force must have certain power with regards to its own personnel and if people are not happy, they can bring up to this body once it is form. Thank you very much Sir.

Please remember Sir, the police force, my blood and soul are in the police force because I've served 34 years in the police force, two years state, and 22 years in the state of Johor, so I know how as an ex-policeman feel if my officers cannot look after me. My officers cannot take the action against me. Somebody else comes here and call me here, call me there, call the OCPD. I think the morale of the police force is very important. Thank you very much.

Tuan Pengerusi: *Thank you very much. I think that is the end of the speakers. Lists of speakers for this session, for this group.*

So, I think we can start with our session now, sesi soal jawab. I think I will start and then of course later other members of the Committee will also follow suit.

Thank you for your views and suggestions. I think one common view which I think has been shared not only within this group but by all the other groups of police officers that we have interviewed is that- they support their IPCMC Bill with conditions. If that is what I understand correctly- dengan syarat. Of course, there are many complaints- well I wouldn't say complain but condition. One of which I think is that the bill is a bit too general and that might lead to abuse- perhaps, and things like that. The other concern is with regards to the separation of the powers in the bill, compare with other laws and legislations like the Penal Code, CPC and so on.

So, my- I just would like to know, I mean from my understanding of what I just heard from you this morning- is there- this IPCMC Bill have come about the background of it, is actually not a new thing. Is has been proposed since 2005. Although it has not gone any further since but we have EAIC after that. It's still on going. You have today the commission which is empowered to investigate misconduct. So, that commission will be taken over by the IPCMC when it comes in under the Constitution.

So, what are your views when the current system is overtaken by a completely new system? Maybe is because you might be unfamiliar with the new and perhaps that might be a bit worrisome but is it not good thing to overcome misconduct in the force? I think misconduct there is in the force. I think we cannot deny that. So, the previous mechanism that have been put in place to tackle such misconduct has been found to be maybe an adequate.

So, do you feel that the IPCMC will give bite and allow- make it a bit more strengthen it with the inclusion of a third party who will now come in and act as an independent body to oversee the force? Do you think it would- do you not think it will be effective the IPCMC? Any-ada?

ACP Mohd Said bin Ibrahim: *Assalamualaikum warahmatullaahi wabarakaatuh.* Selamat pagi Yang Berhormat.

Sebenarnya kita pada dasar memang amat bersetuju dengan penubuhan IPCMC ini. Cuma, kita meminta beberapa perkara yang dirasakan tidak sesuai. Salah laku polis di mana-mana, bukan sahaja di Malaysia, di mana-mana berlaku dalam dunia. Itu adalah perkara yang tidak dapat dielakkan Yang Berhormat. Ada beberapa perkara yang kami rasakan: pertama, tidak berapa adil kepada pihak polis sebagai penguat kuasa undang-undang; kedua, pihak polis ini dianggap sebagai pesalah. Kita dianggap sebagai penjenayah dan dengan badan yang memantau badan yang sebenar-benarnya melihat secara dekat apa yang berlaku.

Jadi, saya ulang balik kita tidak membantah. Kita tidak menolak. Cuma, beberapa perkara yang perlu diperhalusi Yang Berhormat, untuk sama-sama mendapat menang-menang. Itu yang kita nampak. Sekian, terima kasih Yang Berhormat.

Tuan Pengerusi: *Nampaknya ada lebih daripada beberapa perkara kan? Ada banyak perkara juga yang telah pun timbul. I mean this is the facts. So ini adalah hakikatnya. Ini yang telah pun kami dapat feedbacks kami seperti itu. That is the- tetapi apa yang penting is, bagaimanakah sekiranya kita lihat kepada contohnya apa yang telah ditimbulkan tadi oleh, I think it was ACP Kumar from the first group, right? I think you are worried about the overlap of the current system that we have with the new IPCMC when it come in. But I think that body might be unfounded because the IPCMC is solely to deal misconduct of the police and disciplinary problems that arise in the force.*

Of course, when it comes to major offenses such as murder and so on that will be investigated separately. MACC will be referred to the MACC corruption cases. So, the IPCMC is purely for the purposes- hanya bagi tujuan untuk menyiasat disiplin dan conduct. You see...

ACP M. Kumar a/l S. Muthuvelu: *If I may.*

Tuan Pengerusi: *Please.*

ACP M. Kumar a/l S. Muthuvelu: *If I may Yang Berhormat. If we are referring to specific clause here, provision of section 34 of the bill. It is a file talk here that a threat should be investigated by virtue of section 34. Are we looking at two set of rules here?*

Tuan Pengerusi: *Well I think- so if we look at the threat for example, if you are referring to a threat. Sometimes, I think there are lots of complaints for example when confessions are taken. You know, when confessions are taken sometimes, they are taken by way of threat, inducement and so on. It is in that sort of a context. You know that a threat can be investigated as misconduct under the IPCMC. That is something that occur very often you know.*

ACP M. Kumar a/l S. Muthuvelu: *Ya. But it is not spell thought as far as the provision.*

Tuan Pengerusi: *Okay. So, the concern will be the definition is not clear enough?*

ACP M. Kumar a/l S. Muthuvelu: *It is not clear.*

So, another question or another worrying things here is, who is going to investigate if such things happen? Members of commission received a call- he is in the house. He received a call to say that he was threatened. He reports, "I was threated". So, how are we going to deal with such thing? Are we going to let the police investigate or the commission are going to set up separate body to investigate? It is just open.

■1030

Tuan Pengerusi: *No. There is an investigation process or procedure under the bill. I think it comes...*

ACP M. Kumar a/l S. Muthuvelu: *But the thing is- it was not spell out here, Yang Berhormat. It just, "A person who hinders or attempts to hinder any person from giving evidence before the Commission or by threats, deters..." bla, bla, bla.*

Tuan Pengerusi: *No. The investigation powers are under Part V. So, there are procedure set out there as to how to go about investigation process.*

ACP M. Kumar a/l S. Muthuvelu: *So, it become a criminal offence.*

Tuan Pengerusi: *No, no, no. Not at this stage. At this juncture, you know- of course, it will later transpire to have resulted in death or grievous bodily harm, something more serious, then yes. But if it something solely to do with misconduct, then it will be dealt with under the bill- this act.*

ACP M. Kumar a/l S. Muthuvelu: *Misconduct, a threat- I give a scenario, Yang Berhormat. Somebody call Member of Commission, lodge a report, "I received a call threatening me". How are we going to view such scenario?*

Tuan Pengerusi: *How do we view? What do you mean?*

ACP M. Kumar a/l S. Muthuvelu: *You see, Member of Commission by looking at provision of section 34 here, a Member of Commission received a threat, "A person who hinders or attempts to hinder any person from giving evidence before the Commission or by*

threats, deters or attempts to deter any person...” A person comes and report- I suppose to attend a hearing, I received a call threatening me not to attend. So, the threat applies to section 506 of Penal Code or section 34 of IPCMC Bill? So, if it is going to applied under IPCMC Bill, a threat is an element of crime...

Tuan Pengerusi: *So, that is why it is an offence.*

ACP M. Kumar a/I S. Muthuvelu: *Yes. So, in which area we should looking into this? IPCMC or section 506 of Penal Code?*

Tuan Pengerusi: *So, that is why- that is the complaint earlier-lah. There is an overlap, isn't? Between the current law and the IPCMC.*

ACP M. Kumar a/I S. Muthuvelu: *There is a lot of ambiguity. It is not defined. So, it will raise more questions than answers.*

Tuan Pengerusi: *Okay.*

ACP M. Kumar a/I S. Muthuvelu: *And I would like also to stress that as Yang Berhormat pointed out very much earlier, this is Rang Undang-undang Suruhanjaya Bebas Aduan Salah Laku, do not infringe to criminal aspect of things. And if this being allowed Yang Berhormat, it is no meaning to the preamble.*

Tuan Pengerusi: *Which was earlier you have read out.*

ACP M. Kumar a/I S. Muthuvelu: *Yes. It is the last wording, "...to deal with misconduct, etc., and for related matters."*

Tuan Pengerusi: *But, isn't threat a misconduct?*

ACP M. Kumar a/I S. Muthuvelu: *I don't, Yang Berhormat. Is threat a misconduct or criminal matter?*

Tuan Pengerusi: *No. I mean, of course it depends, isn't? I see your point but isn't threat the misconduct in itself when come- would it not come within the preamble?*

ACP M. Kumar a/I S. Muthuvelu: *Yang Berhormat, we have got statistic to show that- I mean, threat per say, is a criminal matter.*

Tuan Pengerusi: *Okay. Yang Berhormat Kampar, you want to say something?*

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Dr. Su Keong Siong [Kampar]: *Just trying to rationalized it with section 25(b). If threat is a criminal offence, then it to be referred to the pihak berkuasa berkeajaan who will be under the Penal Code. So, the police should be investigating. I think that should be in relation to section 25...*

ACP M. Kumar a/I S. Muthuvelu: *Section 34 will be redundant.*

Dr. Su Keong Siong: *No. I mean if there is an offence under section 34, commission would refer to the police under the Penal Code...*

ACP M. Kumar a/l S. Muthuvelu: *Under Penal Code?*

Dr. Su Keong Siong: *...Because it is a criminal offence.*

ACP M. Kumar a/l S. Muthuvelu: *Okay. Then, why is it this offence here? "...be liable to a fine not exceeding ten thousand Ringgit..."*

Dr. Su Keong Siong: *The fact it's an offence. Like you said in the definition under the act, the threat is an offence. So, it will refer under section 25 to the relevant authority to investigate. Because IPCMC only investigate misconduct.*

ACP M. Kumar a/l S. Muthuvelu: *So, the punishment here, are we going to look at Penal Code punishment or are we going to give...*

Dr. Su Keong Siong: *Be specific here.*

ACP M. Kumar a/l Muthuvelu: *Section 34. Yang Berhormat, I am sure you understand what I am trying to...*

Tuan Pengerusi: *Yes, yes, yes. I think...*

ACP M. Kumar a/l S. Muthuvelu: *You got two set of laws and you say that if we go here, we will be referred to Penal Code but the punishment come back to (a). So, we have got a community at large in Malaysia which apply to two set of rules and laws.*

10.34 pagi

Dato' Sri Azalina Othman Said [Pengerang]: *Sorry, Mr. Chairman. Can I ask you a question? Are you saying that...*

Tuan Pengerusi: *Ask me? [Ketawa]*

Dato' Sri Azalina Othman Said: *No. I am asking ACP Kumar.*

Are you saying that it would be more effective for the IPCMC Act whereby clauses in reference to specific offences such as criminal offences be taken out and be imply under the CPC without highlighting it as one of the clauses in this bill?

ACP M. Kumar a/l S. Muthuvelu: *Yes. What I was saying is...*

Dato' Sri Azalina Othman Said: *...Because then going back to your main argument to the preamble, if it's a Misconduct Commission, then it should only refer to all misconduct. Anything that goes into the line of threat or any criminal act within under the other laws. For you, that will be more comfortable for PDRM in that sense. So, it will become clearer on...*

ACP M. Kumar a/l S. Muthuvelu: *And the definition of misconduct must be defined. The preamble must be clear. Because, preamble...*

Dato' Sri Azalina Othman Said: *Ya, ya. I understand the preamble. It is also part of law.*

ACP M. Kumar a/l S. Muthuvelu: *It reflect of the law itself; you know.*

Dato' Sri Azalina Othman Said: *So, you don't want to confuse the PDRM personnel by saying that the IPCMC Act goes above and beyond misconduct?...*

ACP M. Kumar a/I S. Muthuvelu: *Yes.*

Dato' Sri Azalina Othman Said: *It only look into misconduct. So, if it does exist, so it much more clearer that it only on misconduct.*

ACP M. Kumar a/I S. Muthuvelu: *Exactly.*

Dato' Sri Azalina Othman Said: *Then, my next question to you would be on clause 6 on the Members of the Commission. Are you, as representing the senior officers, comfortable the fact that the IGP is not part of the commission? Or do you think it will be better such as the existence of the SPP whereby the Minister, the KSU...*

ACP M. Kumar a/I S. Muthuvelu: *I think it very clearly explained by my members saying that the IGP should be in.*

Tuan Pengerusi: *Should be what?*

ACP M. Kumar a/I S. Muthuvelu: *Should be in part of the commission.*

ACP Zaharuddin bin Md. Rasip: *One of 10 of the members.*

Dato' Sri Azalina Othman Said: *Because then indirectly you are giving messages to the personnel that it is IPCMC looking into misconduct of PDRM personnel by virtue of the existence of the IGP without an outside personality of 12 members who may come from various background...*

ACP M. Kumar a/I S. Muthuvelu: *Yes.*

Dato' Sri Azalina Othman Said: *That would be very unfair for police, right?*

ACP M. Kumar a/I S. Muthuvelu: *Yes, police.*

Dato' Sri Azalina Othman Said: *Because to question on misconduct for members of uniform, it would be best understood by those in such service or been with such service. Betul tidak? That would be the implication, right?*

ACP M. Kumar a/I S. Muthuvelu: *Yes. The thing is principally, we are with Tan Sri KPN and of course the CPO of Johor. We accept IPCMC generally but with subject to amendment and- you know, to look into the whole thing again. It should not be bulldozed through. That is our area of concern, Yang Berhormat. We are not against it. We are with Tan Sri KPN.*

Tuan Pengerusi: *Right. Okay.*

ACP M. Kumar a/I S. Muthuvelu: *When there is so much of uncertainty, that would put us in very difficult position.*

Tuan Pengerusi: *You had raised the question on definition of misconduct and it is not properly defined. But the scope...*

ACP M. Kumar a/I S. Muthuvelu: *The word 'etc.'...*

Tuan Pengerusi: *No. While that is in preamble- I think the preamble is no doubt is can be part of law, but it isn't if there is more definitive section. The preamble would not be prevailed upon. The section will prevail. So, if section 22 which identify the scope of misconduct, it's that not adequate? So, for whatever it worth, there is section or part in the bill which define or at least set out the scope of misconduct. Can that to your mind...?*

ACP M. Kumar a/I S. Muthuvelu: *It should be fine tune to.*

Tuan Pengerusi: *How can it be fine tune?*

ACP M. Kumar a/I S. Muthuvelu: *Okay, an example. "Any act or inaction..."- I refer to section 22(1)(d), Yang Berhormat.*

Tuan Pengerusi: *'D' for Denmark?*

ACP M. Kumar a/I S. Muthuvelu: *Denmark, ya.*

Tuan Pengerusi: *Denmark, okay.*

ACP M. Kumar a/I S. Muthuvelu: *Sorry, (c) first before (d). We looks at (c), "Any act or inaction which is unreasonable, unjust, oppressive or improperly discriminatory". "Inaction which is unreasonable", (c). 'Unreasonable', Yang Berhormat. What is unreasonable? To me, my level, to say this is unreasonable may differ from another person.*

■1040

Tuan Pengerusi: *The fact, I will take your point but how else do you expect it to be done?*

ACP M. Kumar a/I S. Muthuvelu: *That is why...*

Tuan Pengerusi: *How do you define unreasonable?*

ACP M. Kumar a/I S. Muthuvelu: *...The reasons why we are saying, the PDRM is...*

Tuan Pengerusi: *Would that not be a subjective exercise?*

ACP M. Kumar a/I S. Muthuvelu: *No, that's why we are saying, we have to relook, we have to sits again, relook at the causes here, the probation here.*

Tuan Pengerusi: *Okay, and you mentioned just now the threat one, which section was that again?*

ACP M. Kumar a/I S. Muthuvelu: *Section 34.*

Tuan Pengerusi: *Section 34. Are there any other similar section like that, that you have come across in the bill which you know raise the same concerns?*

ACP M. Kumar a/I S. Muthuvelu: *Section 35, contempt Tuan Pengerusi.*

Tuan Pengerusi: *Okay, section 34, 35.*

ACP M. Kumar a/I S. Muthuvelu: *Section 35. Okay. If I may, we should also have a look at clause 47.*

Tuan Pengerusi: *No, what I mean is a...*

ACP M. Kumar a/I S. Muthuvelu: *The threat part?*

Tuan Pengerusi: *I think your complaint or concern...?*

ACP M. Kumar a/l S. Muthuvelu: *Our concern Tuan Pengerusi.*

Tuan Pengerusi: *...About section 34 was that it prescribes an offence, right? Punishable by a certain ten thousand Ringgit of fine, or imprisonment even, and also contempt again prescribes an offence.*

ACP M. Kumar a/l S. Muthuvelu: *Ya.*

Tuan Pengerusi: *These might be inconsistent with the Penal Code, which may prescribe the similar offence, right?*

ACP M. Kumar a/l S. Muthuvelu: *Correct.*

Tuan Pengerusi: *So, there would be a conflict. That's what your concern is, right? So, my question is, are there any other- apart from sections 34 and 35, although, there's no-contempt is not an offence under the Penal Code.*

ACP M. Kumar a/l S. Muthuvelu: *Ya, it is not.*

Tuan Pengerusi: *But I think, there are other modes of contempt, but never mind. That aside- are there any other similar sections which pose similar problems like in sections 34 and 35?*

ACP M. Kumar a/l S. Muthuvelu: *As far...*

Tuan Pengerusi: *Which prescribes an offence, which might be inconsistent with other laws.*

ACP M. Kumar a/l S. Muthuvelu: *As far as bill is concerned Tuan Pengerusi, I've yet to come across Yang Berhormat.*

Tuan Pengerusi: *Okay, because I think you have a point, I see your point. So that is the reason why I've asked you, maybe you know we can look at it a bit more in greater detail if there is any other section which pose the same problem.*

ACP M. Kumar a/l S. Muthuvelu: *Ya, Tuan Pengerusi. Your indulgence is much appreciated in this area.*

Tuan Pengerusi: *Okay, anything else from the members?*

Dato' Sri Azalina Othman Said: *Can I, sorry for... [Bercakap tanpa menggunakan pembesar suara] The question that was raised in Parliament for the debate was- was it possible for outside body to do all these because of, this is basically powers within the SPP-kan?*

ACP M. Kumar a/l S. Muthuvelu: *Yes.*

Dato' Sri Azalina Othman Said: *So, that was also been debated in Parliament on this 23. This is because the commission to have this power, I think they have to reverse and look at other existing laws too. Can you enhance the argument for me further? Thank you.*

ACP M. Kumar a/l S. Muthuvelu: *Correct. I mean, here it is spelled out that this disciplinary board that we have requested our police officers to be in the board, that is number one.*

Number two, there's no remedy on our part, it is not spelled out. The act, I mean the disciplinary board may impose any or more of the following punishment including dismissal, right?

Tuan Pengerusi: *This is a- sorry, I just interject here. I'll let you continue. This is just for my understanding.*

This is the punishment under the General Order, aren't they, right? So, this is a general standard punishment which exist currently at the moment in relation to misconduct of police. Am I right?

ACP M. Kumar a/l S. Muthuvelu: *Yes.*

Tuan Pengerusi: *So, that would be- the SPP I think can impose this punishment up to even dismissal, right?*

ACP M. Kumar a/l S. Muthuvelu: *Correct.*

Tuan Pengerusi: *So, they are adopted or borrowed from the GOs, isn't it? The General Orders. So, when the IPCMC comes into force, the SPP would be taken over, right? So, they merely take over this punishment, isn't it?*

ACP M. Kumar a/l S. Muthuvelu: *That is the reason we are saying that we must have our personnel's inside, number one.*

Number two, when the bill comes out Yang Berhormat, our area of concern is, of course, it is the same adoption of what is in the distance. When the bill comes in, there is no specification on the remedy- officer's dismissal. Next, is it a judicial review? Has he got venue for the judicial review?... Not been spelled out.

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

ACP M. Kumar a/l S. Muthuvelu: *Ya. The possibility is- the doors are shut.*

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

Tuan Pengerusi: *Okay, anything else?*

Dr. Su Keong Siong: *Chairman, I just like to clarify with INSP Harminder.*

Just now you were saying- mengatakan bahawa seksyen 22(2) patut dikeluarkan, adakah itu betul?

INSP Harminder Singh a/l Pritam Singh: *Yes, Yang Berhormat.*

Dr. Su Keong Siong: *Okey, bagi pengetahuan untuk, fahaman saya 22(2) ini mengecualikan peraturan polis dan perintah tetap sebagai skop salah laku. Kalau kami keluarkan ia akan meluaskan skop salah laku dalam seksyen 22 kan? Adakah itu maksud anda?*

INSP Harminder Singh a/I Pritam Singh: Minta maaf, maksud saya di sini supaya di bawah seksyen 22, benda ini tidak wujud. *So, we don't put them into the fasal.*

Dr. Su Keong Siong: Jadi, seksyen 22(2) tidak memasukkan peraturan...

INSP Harminder Singh a/I Pritam Singh: *We shouldn't bring*, kita tidak perlu bawa akta 95...

Dr. Su Keong Siong: Jadi, 22(2) dikekalkan, bukan dikeluarkanlah?

INSP Harminder Singh a/I Pritam Singh: Dikeluarkan.

Seorang Ahli: Dikekalkan.

INSP Harminder Singh a/I Pritam Singh: Dikekalkan, *sorry.*

[Ahli-ahli berbincang sesama sendiri]

Dr. Su Keong Siong: Kalau dikeluarkan skop salah laku akan menjadi lebih luas, tidak patut.

INSP Harminder Singh a/I Pritam Singh: *Okay, sorry, so*, dikekalkan.

Tuan Pengerusi: *I think other concerns that I noted which are also common in nature, the vagueness of certain terms in the bill. Various sections we referred to and the concern was that they are vague. I have noted one of two sections here. Is there a list that you can give us, so that- because entire purpose of this is so that we can actually go through them one-by-one, and to see how we can improve on it- if it is indeed vague.*

So, I've noted section 22- I think ACP Mohd. Nor Yhazid bin Idris from JSJ Melaka raised that just now, that is one.

The preamble of course, that was also another one...

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SAC Dato' Mohd Azman bin Ahmad Sapri [Ketua Urus Setia Ketua Polis Negara (Perundangan), Polis Diraja Malaysia]: *Chairman, with your permission. I am Azman, ex-officio PDRM, here on your right.*

Tuan Pengerusi: *Sorry, please carry on.*

SAC Dato' Mohd Azman bin Ahmad Sapri: *Tuan Pengerusi, with your permission. However our concern, we gather from all the public inquiry, the Bukit Aman will submit the whole- so, it will assist you.*

Tuan Pengerusi: *I think, that will be very useful because with- we all then will be able to itemize it one-by-one.*

SAC Dato' Mohd Azman bin Ahmad Sapri: *We submit all- then, submit to the committee.*

Tuan Pengerusi: *Okay, I think, is there any other question from the members, or the ex-officio members?*

Datuk A. Sabapathy: Tuan Pengerusi.

Tuan Pengerusi: Yes, please carry on.

Datuk A. Sabapathy: Tuan Pengerusi, sorry. I think we must draw a line between disciplinary offences and major criminal offences. Main-main, curi ayam, that the end of the day, we are not going to refer the complaint then. What I am trying to say is there must be a line between discipline action because the IGP or the senior police officers, it is instituted, they have the power to dismiss the police officers for misconduct or misbehavior.

So, they have a board- we have a board in the police force, Disciplinary Board. They sit there, go about all the complaints. Then, you have another body IPCMC. Now, whom do they act? Who acts on these complaints?

So, there must be a line between these offences and the other offences. Are you all going to take over the whole discipline body from the police force, or you are going to give them the power? By right, they should act because we have a police commission, I mean the Disciplinary Board.

■1050

Tuan Pengerusi: But, can the police discipline itself?

Datuk A. Sabapathy: Why not? We have the IGP. We have the seniors. That means, a member of the public cannot challenge the integrity of the police officers. Then, you have an IGP. We have the disciplinary board.

Then, in other words, the police force they are dead ducks. They cannot do anything. They have a body by itself. A disciplinary board- I remember we have Pengarah Tatatertib. When we see the officers coming at that time, we will be wondering what offences we have committed, takutlah, itulah, inilah itu. So, they have- we must give them the power. If not, what for we have an IGP. What for you have police officers or an OCPD, if cannot take disciplinary actions against or, "Engkau gunakan bahasa tidak senonoh". "Engkau pukul sama dia". So, they should be given the powers to run their own police force and the Disciplinary Board. So, we must give them that respect.

Tuan Pengerusi: The problem I think is that, I mean let's look at daily problems. Not the major- of course, there are cases of very serious cases that in lokap, but that doesn't happen every day. But, what can- what does frequently happen, issues such as failure to investigate, inducement of confessions in the investigations of cases. This kind of things happened frequently.

So, this kind of things often are not highlighted or are not addressed. So, would it not be useful or better in fact, to have an independent party look into those frequent problems, so as to increase the efficiency of the force? In fact, it might be better for the force in the long term.

Datuk A. Sabapathy: *No, Yang Berhormat. I am not saying that they should not intervene into this. What I'm trying to say, you mean all similar cases- I can make allegations against the police force. There must be evidence.*

Tuan Pengerusi: *No, anybody can- no, that evidence of course, provided. Any complain must be- in order for it to be successfully proven, must have evidence like in any case. So, assuming there is evidence, then would it not be better if you have an independent body to address those issues? So, as to make those incident become less frequent which will benefit the force in the long term, isn't it?*

Datuk A. Sabapathy: *Yes Sir, I do agree but, there must be a line, what type of offences? Then you go to the court, you are- defending, inducement threat and promised by police officers while in the course of investigations. They bring out the court, even the lawyers bring out the court and say, my client was induced, threatened and all these. That is why he made the confession. So, there are pros and cons.*

Therefore, we must also give the police force here rights to investigate and at the same time, if the members of the public, or relatives complains that this body must take into, then the body must send their investigation team to investigate further onto this. That is what I'm trying to say. So, everything is referred, minor things, 101 complains will come to you all. Eventually, what will happen? That you will have a lot of people to be in the body to investigate.

The other thing is, I also sincerely hope and pray, this main body, we must have existing senior police officers on the board or a retired police officer. Because, they are the ones who will know how the police force is being run, how the police force senior officers take action against their men and when they have this common layer, they are represented in that body. They can also, not to say question you all, but suggest, give ideas, so can have some say in it. If not, I think is not justifiable to me. Thank you, Sir.

Dato' Sri Azalina Othman Said: *Regarding the retired officers, whereby I think this bill- there is also clauses that look into act that occurred during past offences. I think that is basically. I think which clause is it? Am I right, dalam isu pencen kan?*

Dalam IPCMC ini, kelakuan-kelakuan, tindakan sebelum retirement boleh dikorek. Betul atau tidak? So, I think that was also one of the points for objection or wasn't it? On your side but, I think none of you raised it up. Ada tidak? Because, I think the last revision, was it raised?

Tuan Pengerusi: *Ada. Ada.*

Dato' Sri Azalina Othman Said: *It was raised? Can you elaborate further on that, the unfairness? Maknanya, IGP-IGP, yang kes-kes 30 tahun atau 40 tahun itu pun, ia tidak ada limitation period kan? I think that is, can you? Awak yang bawa tadi kan? Can someone explain that? Kes lama kan, ia boleh buka kan?*

ACP Salim bin Youb: Saya ACP Salim yang bawa tadi. Sebenarnya, berkait tentang fasal 32(3) itu. Apabila tidak ada tempoh masa dan kita *include*-kan sekali, sekiranya orang itu hendak hampir pencen ataupun persaraan ini. Jadi, tidak ada keputusan dan juga masih lagi *ending* ia. Akhirnya, servis dia kalau kata 30 tahun atau 40 tahun dan sebagainya, akan *affect* lah. Jadi, itulah yang kita cakap tadi tiba masa, *at least* habiskan keputusan dan juga *ending* itu ada lah. Itu yang kita kaitkan sebenarnya- fasal 32(3) tadi.

Dato' Sri Azalina Othman Said: Kes yang macam itu, macam mana? *Can you do a comparison on that?* Sekarang punya kes disiplin macam mana? *Is there a cut-off point?*

ACP Salim bin Youb: Dalam tatatertib telah pun bagi enam bulan. Dalam tatatertib ia ada bagi enam bulan. Edah ia lah. Siasatan dan keputusan. Jadi... *[Disampuk]*

Tuan Pengerusi: Enam bulan ini maksud macam mana?

ACP Salim bin Youb: Untuk siasat dan juga...

Tuan Pengerusi: Untuk siasatlah?

ACP Salim bin Youb: Ya.

Tuan Pengerusi: Akan tetapi bukan enam bulan dari- ada *time limit*?

Dato' Sri Azalina Othman Said: Kalau macam...

ACP Salim bin Youb: Ia ada *time*. Bila siasatan itu dibuat dan diberi enam bulan, kita akan *solve* dengan keputusan.

Tuan Pengerusi: *No*. Enam bulan untuk selesaikan siasatan?

ACP Salim bin Youb: Ya.

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Dato' Sri Dr. Haji Wan Junaidi bin Tuanku Jaafar [Santubong]: Terima kasih. *My stand has always been different. That is why I just keep quiet.*

The police sebenarnya bersetuju tetapi bersyarat. Saya tidak bersetuju. Tiada syarat. Tidak setuju terus. Saya hendak ia dibuat secara macam apa yang dibuat di Amerika, di England dan sebagainya.

Macam di Hong Kong, ia tidak ada kena mengena. *When it comes to enforcement or the discipline, it must be passed back to the police. So that, we don't need to worry about the constitutionality of the act.* Sekarang kita masih belum lagi *clear the first hurdle*, IGP punya *first hurdle* iaitu *constitutionality of the act must first be settled*. Jadi, kita belum *clear* ini dahulu. Kita tidak tahu. *Constitutional* apa pun tidak ini. Di bawah proviso *Article 140*. Jadi, itulah sebabnya saya diam sahaja.

Saya dalam polis 13 tahun, saya tahu. Contoh, macam tuan tadi sebut. Dia menyelidik, lepas itu ada orang kompelin, kata masa menyelidik itu dia kena *intimidate* dan sebagainya. Jadi, ada orang kompelin pula dengan *commission* dan *commission* itu hendak menyelidik.

Jadi, dia ada salah seorang pegawai kah, orang penolong- pegawai *investigate* itu kah. Sama ada Konstabel ataupun walaupun kes ini *very serious*, contohlah- *intimidate, it falls under section 34*.

Jadi, kata orang ini kalau dia *intimidate* polis ini untuk pergi ke *commission, then it falls under that section. So, what will happen to the case? Is he continue to investigate the case or not? What is going to happen the whole thing. Is it going to be pass to somebody else? Because, he is being complained. The Investigation Officer yang kena complain*. Jadi, itu satu persoalan, banyak persoalan-persoalan berbangkit di sini.

Oleh sebab tadi pada saya, ia punya *punishment doesn't concern me*, kalau ia *separate* itu tadi. Kalau ia tidak ada- ia macam di Hong Kong, contohnya. Dia boleh *investigate* dan buat sekali. Lepas itu, dia lapor balik pada polis, pada IGP as a *discipline authority within the police force, then IGP will look into it. Then soalnya, he is strictly complaining on the issue of discipline, intimidation on discipline is lower in rating daripada intimidation kes jenayah di bawah CPC*.

■1100

Oleh sebab itulah ia punya *punishment*, rasional saya, *is lower than* yang dijumpa dalam CPC, sebab dia *strictly on discipline* sahaja. Akan tetapi dengan syarat, badan ini, IPCMC ini *monitoring body* macam yang dibuat di Hong Kong, di England. Macam itu.

Jadi, sebab itu pendirian saya masih tetap dengan pendirian saya, saya takkan ubah. *Until somebody can convince me that is different, constitutionality* itu sudah di-*settled*. Jadi, sekarang kita ada *opinion*. Sana kata *opinion* ini, yang itu- *final arbitration to these opinions* di mahkamah. Jadi, itu pandangan saya, masih itu.

Jadi, apa yang dibuat di sini ialah kita hendak *refine*, perbaiki rang undang-undang ini. Masih *setting on the same platform* iaitu IGP punya *role indiscipline is gone, finished*, dipindah dalam proviso artikel 140 kepada IPCMC. IGP tak ada kuasa lagi dah. OCPD semua tak ada dah. Kalau *you* nak arah pegawai-pegawai polis buat itu, IPCMC dah ambil. Tak payahlah. *You* tidur *on duty* pun tak payah lapor dengan IPCMC.

Tadi dalam polis- berapa banyak kesalahan- 66 kesalahan? Dalam dia punya disiplin itu. *All* dipindah. Jadi, kalau ini, adakah ini sudah di-*define*? Yang mana satu dipindah itu? *Administrative discipline* dan *complaint discipline* ada *relationship* dengan *criminal or activities of the police*. Saya tak tahu itu. Tak ada *defined* dalam undang-undang.

Jadi itu sebab *my view is still different. I stand by my view, until the constitutionality of the law is settled, then I go to the section*. Akan tetapi betullah- *if we look into all these*, kita punya badan sini *is not a final* kepada undang-undang ini. *You come with your idea*- macam Tuan Pengerusi, *he is asking for clarification, then later on Jawatankuasa* ini akan berbincang sesama sendiri *to see what can we adopted and what cannot we adopted based on the*

present. Jadi bila rekod dah ada itu dan tadi wakil daripada polis dalam Jawatankuasa ini pun dah bagi tahu, everything that you have submitted, only roughly, the details will come from him later on, so we will look into it. Thank you very much.

Tuan Pengerusi: *So, I think that will be all from us. Maka, tamatlah sesi bersama tiga kumpulan ini. I would like to take this opportunity to thank you. Saya ingin merakamkan penghargaan kami dan mengucapkan terima kasih kepada semua yang telah pun berhujah. Kami akan mengambil kira semua poin yang telah pun ditimbulkan tadi untuk dimasukkan ke dalam laporan kami. Thank you very much.*

[Saksi-saksi daripada Persatuan Pegawai-pegawai Kanan Polis Bahagian A, Persatuan Pegawai-pegawai Kanan Polis Bahagian B, Persatuan Pegawai Rendah Polis Diraja Malaysia dan Persatuan Pegawai-pegawai Kanan Polis Bersara Malaysia Johor keluar meninggalkan bilik mesyuarat]

■1120

[Saksi-saksi daripada Tetuan Azam Aziz Shahrudin & Co dan Persatuan Kepolisian Taman Nesa mengambil tempat di depan Jawatankuasa]

Tuan Pengerusi: Okey, selamat pagi kepada kedua kumpulan pembentang yang akan memberi kami penghujahan mereka. Pertama kali pembentang dari *group* yang pertama yang terdiri daripada Dato' Shahrudin bin Datuk Haji Ali, dan juga Encik Muhammad Noor Azfar bin Noor Azmi, kedua-dua peguam, selamat pagi.

Group yang kedua adalah diwakili oleh Encik Murugan a/l A. Kaliappan, Puan Kogilavani a/p Supermaniam dan Puan Janagi Letchumanan. Semua dari KRT Taman Nesa. *Is it? Ini apa, NGO kah?*

Seorang Ahli: *...Actually, kami Persatuan Kepolisian Taman Nesa.*

Tuan Pengerusi: *I see. So, it's a policing community.*

So, I think we will start with the first group then we will move on to the second group. After that, we will have our question and answer. So that we will finish off without repetition.

So, without further ado, can I invite Dato' Shahrudin to start off with your submission.

11.22 pagi

Dato' Shahrudin bin Datuk Haji Ali [Peguambela dan Peguamcara, Tetuan Azam Aziz Shahrudin & Co]: *...Thank you Yang Berhormat...*

Datuk Roosme binti Hamzah: Tekan *mic*.

Tuan Pengerusi: *Yes, of course, please identify yourself because all this will be recorded in the Hansard. So before you speak, please identify your name, your institution and so on.*

Dato' Shaharudin bin Datuk Haji Ali: *Thank you, Yang Berhormat Mr. Chairman and the Honorable Members of the Select Committee.*

Thank you for having me here this morning. This is my second time actually. I've appeared here before the Parliamentary Select Committee. The last time I appeared was in 1983 when I was studying law in England. I came back to address Parliament on the issue of Dangerous Drugs (Special Preventive Measures) Act in 1983. So, this is not the first-time Parliamentary Select Committee go around the country and get views of the people. I have prepared a written submission and I hope perhaps it can be displayed on the projector.

My name is Shaharudin bin Ali, I am practicing lawyer in Kuala Lumpur. On my right is Encik Muhammad Noor Azfar, who is actually a lawyer also in my law firm.

Get to the point, there are two parts to my submission. The first part, deal with some detail about the provision as they appear in the bill. I will go through, hopefully very quickly, those are sections in part A. I also have part B, that I will touch later on.

I'll go straight to the point Mr. Chairman, if I may. The first thing is section 24, if you care to look at into section 24 of the bill. My suggestion is that the bill at complaints need not to made solely to the Complaints Committee. It is very strange and funny to make complaints to the Complaints Committee which is just a bahagian or unit or cell inside the commission. You make complaints to the commission, not to the department inside the commission. And that Complaints Committee is established under section 23.

Why I say that it has to be made to the commission because the commission have the right to sue and be sued. The Complaints Committee is a non-entity. They can't sue and can't be sued. So, in order to assist members of the public, it is sufficient for them to address their complaints to the commission. It is the entirely up to the commission to pass on the complaint to the right people.

The function of the commission under section 4(b) is among others is to deal with misconduct of any member of PDRM and also the function of the commission is to put in place mechanism for the: one- detection; two- investigation; and three- the prosecution of misconduct of any police officer.

Under section 4(e), to exercise disciplinary control over all police officers in Malaysia. Now, I want to ask the committee to look at- because I am not going to argumentative, I am going to just present my view and it is up to the committee to considerate. I'm asking the difference between function of the commission under section 4 and powers of the commission under section 5.

I come now to section 5. Section 5(2)(b), this word, “to abolish misconduct”. First of all, in English there is no such thing as abolishing misconduct. I would imagine the intention of Parliament is to minimize the incident of misconduct, not to abolish misconduct. You can’t abolish misconduct. You abolish or minimize the incident or act of misconduct. So, maybe the committee can look into that.

I now turn to section 5(2)(d), visitation to lock-ups and detention centres in the country. I see that the power of the new IPCMC is only to make a recommendation. I would suggest it includes powers to enforce certain standards to impose even standard on the prison authority. I think you need to look at the Prisons Regulations 2000, and you need to look at the Prison Act 1995. A copy of my submission I will- would be delivered to each and every one of you... [Disampuk] Good people. Thank you.

[Paparan merujuk kepada handout yang diedarkan kepada setiap Ahli]

And then may I ask also the Committee to look at the detention centres under the Emergency (Public Order and Prevention of Crime) Ordinance, 1969; to also look at the detention centres under the Emergency (Public Order and Prevention of Crime) Rules, 1970; detention centres under the DDA or Dangerous Drugs (Special Preventive Measures) Act 1985; to look at the Director General of Prison Standing Orders, these are orders made by the Ketua Pengarah prison under section 12 of the Prison Act.

I also ask perhaps the Committee to look to use the UN Standard Minimum Rules for the Treatment of Prisoners. These are rules prescribing the general standard in connection with treatment of prisoners and management of prison. So, I also commend the Committee to study the minimum standard guidelines for Australian prisons. In the new form- it is called the Standard Guidelines for Corrections in Australia (Revised) 2012, because all these affect the condition of a part and parcel of your visitation powers.

I want to add also the word, “death in custody”. They are not defined in the bill. The death in custody is not define in the bill. I am happy to say that the 2012 Standard Guidelines for Corrections in Australia have described or define what death in custody means. Maybe you can take a look at that as well.

I say that section 22 of the bill- if you can look at the section 22 of the bill. This is the crux of the submission also, particularly paragraph (c) and (d) of section 22. My submission is that this 2(c) and (d) of section 22 are extremely vague and they are free for all provision for police to be subjected to all crime of frivolous and vexatious allegation.

Now, under section 25 of the bill, whereof the complaint involves misconduct mentioned in section 22, the complaint shall be referred to quote any officer of the commission. This one I don’t understand- saya tidak faham. I said it again section 25, if you can look section

25, where the complaint involves misconduct mentioned in section 22, the complaint shall be referred to any officer of the commission for investigation.

■1130

I don't understand why it can be referred to any officer of the Commission for investigation when there is a law that says, you refer your complaint only to the Complaints Committee. So, when you send all complaints to the Complaints Committee and suddenly any officer of the Commission can do the investigation, this raises eyebrows. So, we need to revisit that provision.

Section 24 talks about complaints made to the Committee. Why suddenly any officer of the Commission can investigate? Why not officers from the "Complaints Committee"? Under Section 25(d) or 'delta'- at the very bottom part of section 25(d)- bawah sekali if I may. That one... [Merujuk kepada paparan slaid] "The Complaints Committee shall recommend to the Commission to reject the complaint".

My argument is this, now internal departments giving advice to each other should not appear in the bill at all. You know, I mean Majlis Kerajaan Tempatan, you have something like 20 departments for you to go in order to build a house or to build a building and then they will say, "I can't do this" because Bahagian A has not given- then, you go to Bahagian A dia kata, "I am waiting for Bahagian C" and then Bahagian D is waiting that department to give report. They can fight all they like. It is none of the business of Malaysian public to deal with so many different heroes in the IPCMC. It is enough if you say that the Complaints Committee- well I will leave it. I will not be argumentative. I will leave it to the Committee to look into it.

I move on. The investigation powers of the IPCMC is set out in section 26. Section 26 basically talks about- if what I think is right, it is basically like section 112 of the CPC. But my comment is this- section 26 is quite elaborate giving the power to the IPCMC to investigate, however it does not give the right to any police officer under investigation to remain silent. Now, if members of the public had the right not to say anything in the recording session surely that right must be extended to police officers.

Number two, the right not to say anything that may lead or excuse a police officer to a criminal charge that is not mentioned also in section 26(2). But it is mentioned in some other procedural law like CPC.

Third, the right to counsel apparently is missing. So, pegawai polis also would be entitled to the assistance of counsel or practitioners of law of their choice.

I want to invite the Committee to look at the fact that failure to cooperate by a police officer is an offense under the act. Now, number one you can't shut up, you can't keep quiet. Number two, if you fail to cooperate, it is an offense punishable by ten thousand Ringgit fine or two years jail or both.

I now come to Section 28(1). I'm sorry, am I going too fast?...

Tuan Pengerusi: *No. No...*

Dato' Shaharudin bin Datuk Haji Ali: *Okay, sorry. All right.*

Under Section 28(1), "An officer of the Commission will submit his findings to the Complaints Committee". Again, you will see here the conundrum, an officer of the Commission. The words, "officer of the Commission" is used. Now, he will make his findings to the Complaints Committee- first of all, you will find many references to the word findings, findings, findings. But the word findings are not defined.

Secondly, the bill does not state who the Investigation Officer is from. From which department this Investigation Officer is from. The bill talks about any officer of the Commission is an Investigation Officer, which can be quite ludicrous when you come to think of it. Now, is this Investigation Officer from the Commission? Is he from the Complaints Committee or can he also be a member of the DB which is the Disciplinary Board set up also under the bill?

Now, again I want to reiterate. Section 24 says all complaints must go to the Complaints Committee and not to the Commission generally or to the Disciplinary Board (DB) committee. Gentlemen, if you look at the word, "relevant authority", maknanya if the IPCMC receives a complaint and tengok, "Oh this is about a criminal conduct," immediately, it will have to refer to the relevant authority. If it is about rasuah, dia refer to the relevant authority.

It is my respectful view that "relevant authority" can easily be defined for those instances that is the police or SPRM. For example, if you look at section 25(b), it says if the complaint involves criminal offense than the complaint shall be referred to the relevant authority- I have no idea what that "relevant authority" means.

Section 25(c), if the complaint involves misconduct and this is going to be very serious. If the complaint involves misconduct under section 22 then it shall be referred to any- this is very important, to any officer of the Commission. I don't think that is the intention of the bill. You can't- when the complaint discloses a misconduct then it shall be referred to any officer of the Commission. That will be under section 25(c)- betul tidak?

For the purpose... [Merujuk kepada paparan slaid] Is it on section 28? Or I made a mistake here... [Merujuk kepada paparan slaid]? To any officer- ya. It is there Mr. Chairman. To any officer of the Commission for investigation.

I now come to the findings of- so the word, "any officer" in that section 25(c), I think the committee can brainstorm and find a better solution for that. Findings of the investigation under section 28(b) that says where the findings disclose or disclosed any criminal offence it shall be referred- oh dear, I'm repeating. As I said, findings are not defined, relevant authority is not defined perhaps the Committee can look into that.

Section 28(c) where the findings disclosed any misconduct shall be referred to the Commission for the purpose of commencing proceedings to deal with a misconduct under Part VI. My submission with this regard is this- I must read section 28(c) in slow motion. Where the findings disclosed any misconduct then it has to- that findings must be referred to the Commission for the purpose of commencing proceedings to deal with misconduct under Part VI.

Under Part VI are- Tuan Pengerusi, you know there is no separate body to investigate and to try misconduct and to frame charges and so on and so forth. There is rencam role of this IPCMC, they are the judge, juri, prosecutor and also punisher. All four in one package. I suspect if this bill is passed without some revision on this, it may be susceptible to potential challenge in the court.

Tuan Pengerusi will realize dalam Bar Council, we have taken out the disciplinary function of the Bar Council. Now the Disciplinary Board is totally independent and separate from the Bar Council. Kalau kita pergi ke Bar Council and hendak complaint about lawyer, we made a mistake. Because the Disciplinary Board is no longer dekat Bar Council. It is about 200 metres in front of the Bar Council. There is a new building there. So, the same thing should apply to this bill, Tuan Pengerusi.

Okay, now I move on to the Task Force. The Task Force is quite simple. It will consist members of the Commission plus dengan consultants. I may be wrong. This is what I think the bill says. Section 29 if you want to look at it... [Merujuk kepada paparan slaid] Section 29 says, the Task Force means officers of the Commission campur dengan the consultants.

■1140

Who are the consultants? Former police officers dan retired police officers. Appointed under section 17 of the bill. The Task Force has all the powers of the CPC. That's clear. My argument is this. If you look at section 22 of the act or the bill, for the first time ever, section 22 introduces various types of misconduct. If you look at (c) and (d), my contention, this is the vaguest provision in the world, not in Malaysia. Because, you are not creating a new criminal offence, you are creating a new misconduct under (c) and (d).

My submission is that (c) and (d) is too open ended, loose and vague. What is the meaning of 'action' or 'inaction' which is unreasonable? What is the meaning of 'inaction that is unjust'? What is the meaning of 'inaction that is oppressive' or 'improperly discriminatory'? We would have a lot of court cases. I am not worried about that.

The (d), "Any act or inaction which is committed on improper motives, on irrelevant grounds or irrelevant consideration".

My argument is that, there is vagueness principle creeping into the act, Mr. Chairman. I think the Committee should refine (c) and (d) but the problem is this. The Constitution

provides the police force to regulate its officers under the umbrella of disciplinary control. The powers to appoint police officers lies with the Police Commission. He who has the powers to appoint, has the powers to dismiss. In this case, the IPCMC has no powers to appoint, but has the powers to dismiss.

I am just raising my concerns that there is potential that this, again, may run afoul of the Constitution and section 47 of the Interpretation Act that provides for it. It would also go foul of the Supreme Court of India case that I have given to all of you gentlemen... [Merujuk kepada handout yang diedarkan] I think that would be at page 5, first paragraph of my submission. If you look at page 5 of my submission, the Supreme Court case of Pradyat Kumar vs The Hon. Chief Justice 1955, about the powers to dismiss lies in the hands that appoints. This is the case where my argument was canvassed in that case. I would leave it to the Committee to look into that.

Now, section 31 says that the Commission shall have disciplinary authority over any misconduct by PDRM officers. My questions ada tiga. One, is the powers of disciplinary authority over police officers annexed? Is the powers given to IPCMC to the exclusion of Police Force Commission? Is it a power that IPCMC has to the exclusion of PFC?

Kedua, is the power of IPCMC also to the exclusion of the IGP's power to oversee issues of misconduct either under the IGPSO or the police regulations made by the Yang di-Pertuan Agong or the IGP?

Thirdly, is it to the exclusion of the powers of the Public Service Department as contained in the Constitution? Mr. Chairman and gentlemen, Article 140 of course, talks about disciplinary control. But then, the bill talks about disciplinary authority- I am not sure. I can tell you, I don't have enough time to look at the significance of the word "disciplinary control" in Article 140 and the word "disciplinary authority" as used in Part VI of the bill.

If you look at section 31(2) of the bill, it says that the Commission may exercise 'disciplinary jurisdiction'. Just now we heard about 'disciplinary authority'.

Section 31(2) suddenly talks about 'disciplinary jurisdiction'. So, I put a note on my paper here, 'disciplinary authority' versus 'disciplinary jurisdiction' confuses me. So, maybe that is something that the Committee can look into. I am not going to submit, because I don't want to be argumentative. I am just pointing this out.

Then finally- not finally. On this point, it is my submission under Article 132 of the Federal Constitution- can we see Article 132 of the Federal Constitution? Maafkan saya. Article 135(1). If I may read, "No member of any of the services mentioned..." termasuklah polis "...shall be dismissed or reduced in rank by IPCMC, subordinate to that, which subordinate to Police Force Commission who has the powers to appoint a member of that service of equal rank". I am just substituting the word, so that we all can understand.

It is my submission, IPCMC is a body subordinate to the Police Force Commission. Therefore, it has no power to dismiss or reduce in rank of any police officers they are investigating.

I move on under section 31(3) of the bill. This is pertaining to the Disciplinary Board. I mentioned earlier just now, the Disciplinary Board are- section 31(3), Disciplinary Board is born there. Section 31(3), "The Commission shall establish a Disciplinary Board which shall have the jurisdiction, and consist..." "which shall have the jurisdiction" is not mention. It just tergantung there. That "shall have jurisdiction", what jurisdiction? We don't know. I don't know. All right.

Then secondly, what happen if I mahu cabar keputusan Disciplinary Board? We do that all the time, Mr. Chairman. We challenge the decision of tribunals all the time. But, I can't sue the Disciplinary Board, because the Disciplinary Board cannot sue and be sued. I can sue the Commission, but the Commission says this, "Under the bill, I am not the one responsible for this. It's the Complaints Committee and the Disciplinary Board. I have nothing to do with it." So again, we need to look at this situation.

Section 32, I don't have section 32(1), but I think let me read. "The Disciplinary Board may, upon considering the findings under section 28..." I stop there. My question is, under section 28, the findings of the Investigating Officers is submitted to the Complaints Committee and never to the Disciplinary Board. I say that again. Under section 28, the findings are submitted to the Complaints Committee and not to the Disciplinary Board. So, section 32 may need to be revisited.

Okay, section 32(1), this is also I think a very dangerous provision. Ia kata, "Disciplinary Board may also conduct proceedings of any misconduct cases." Okay? Of any misconduct cases, I use my own word, on its own volition. Again, this is very dangerous, because complains did not come from the public, complains did not come from the IGP, complains did not come from Ministers or departments. Ini Disciplinary Board suddenly- I want to use the word, so that we all can understand- 'memandai' to take over an investigation and say, "Hey, why don't we investigate this? Why don't we open a file and let's investigate this?" This is the most dangerous, because you will be the judge, jury, prosecutor and most importantly, you are the complainant. The Commission becomes a complainant. This has never happened in my view to any- that is the wrong word. I can't see the same situation present in other law or in other acts of Parliament.

Okay, I move now to section 32(2). My submission is short. I want to say that regulations are still not disclosed. But I can assure you, if you look at section 50 of the bill, it gives the Perdana Menteri the powers to make regulations. That regulations are going to be as critical as the bill itself, but it did not before this Committee.

■1150

My suggestion to the Committee is a separate specialist must be form, so that the regulation would not run afoul of the law, either of the bill, of the act or any other law. I maintain- so, as at today, the regulation is missing, I can't comment on them.

Okay, section 35, can you look at section 35, this is a most unusual, tidak pernah berlaku dalam sejarah mana-mana negara dalam dunia, an investigation agency like IPCMC have the power to punish for contempt, it is absolutely- I can't compute it. How can an investigation body have the power to punish for contempt? Only mahkamah has the power to punish for contempt- can the police punish you for contempt? Can SPRM punish you for contempt? Tidak boleh. So, this contempt must be taken out, under section 35 which is very typical provision. The return consent of the Peguam Negara must be obtain before any case is taken up by IPCMC.

My only recommendation is this: I think I'm very positive, Yang Berhormat Mr. Chairman we all go to court in criminal cases, I would recommend that actual production of the return consent must be done not just- the appearance of DPP equal to consent. We don't want this to happen in the IPCMC act Mr. Chairman. So, I believe, I don't know why I put a clause here section 53 should be deleted.

May I take a look at section 53... [Merujuk kepada paparan slaid] Well, I suppose- now that I realize that you are taking over from the other agency, I suppose you can maintain that. Mr. Chairman, I think I've taken quite a bit of time. I am not going to the Part B, this is Part A. Can somebody show my submission? At the very top... [Merujuk kepada paparan slaid] You can see, itu Bahagian A- can you see Part A. Can you look at Bahagian B, please? I think, I am not going to touch except, can I spare maybe five minutes. Just fundamental aspect of it. I can read from here also.

Now, turn to power to appoint up, perenggan 4, please. Now, the word disciplinary control is use under Article 140 and then when you talk about the proviso to Article 140, you are really talking about an agency that should likewise have this disciplinary control. However, it is my submission that in the case of IPCMC, you do not have only disciplinary control, you have disciplinary enforcement. Because you have disciplinary enforcement- it is my submission that the bill at first glance maybe unconstitutional.

Second point, section 22 created six misconducts. I dare not say there are new, there are brand new misconduct but I can tell you Mr. Chairman that section 22(c) and (d) are brand new misconduct. I said it again, section 22(c) and (d) are brand new species of misconduct.

Under the Schedule 9, Perlembagaan no one, not even Parliament has the power to introduce new misconduct. You have the power to create offences but you do not have power to create new misconduct. Misconduct defines by PSD punya jurisdiction, misconduct defines

by Police Force Commission, misconduct defines by the IGPSO punya- these are all remains unaffected. But I have mentioned (c) and (d) are brand new one. I've never heard about it. So, therefore, I want the Committee to revisit that because I have my worries on that.

I move out to- I give on 135. So, I am not going to touch paragraph 6 and 7. Number 10, please. I mentioned that, section 47 of the Interpretation Act says the power to appoint includes power to dismiss and, in my argument, only the police force commission has the valid power to remove or suspend a PDRM officer. Therefore, IPCMC cannot do the same.

Again, I want to refer to section 135, the proviso to section 135 and I must put a caveat to this because I have not read 135 thoroughly as I should because this is somewhat last minute for me.

Section 135, ada tidak?... [Merujuk kepada paparan slaid] Just above the subsection Article 2 and okay, "And provided further that this clause shall not apply to a case where a member of any of the services mentioned...", termasuk polis, "...in this clause is dismissed or reduced in rank pursuant of a power delegated to it by a Commission...", commission means police commission.

It is my submission for you to buang kerja, terminate police officer- that power must be delegated by the police force commission. But again Mr. Chairman I beg for forgiveness, I have not look at this thoroughly. I may you know, I may what shall I say, have not been very thorough accurate in my reading of that proviso. I think that is all that I have to say to this Committee.

I want thank to this Committee, please reassured, I am also member of Bar. I welcome Parliament to take this very positive step introduce a new bill to regulate the discipline of police force. I think behind these clear words, lies of very strong policy that public must have the confident in the police force. In order to do that, public requires the assistance of the different act to provide the policing of the police. Thank you, Mr. Chairman.

Tuan Pengerusi: Thank you, for submission. We will come back shortly. We finish with the rest first. The next speaker is Encik Muhammad Noor Azfar bin Noor Azmi, do have anything to add? Oh, you don't.

Then, I move on to the second group, can I call Encik Murugan. Sorry start with, Kogilavani, is it? Maybe you can start first.

11.58 pagi

Puan Kogilavani a/p Supermaniam [Pengerusi, Persatuan Kepolisian Komuniti Taman Nesa]: Terima kasih, Yang Berhormat Tuan Pengerusi, saya mengucapkan salam kepada Datuk-Datuk, Datin-Datin dan semua dif-dif jemputan dan saudara dan saudari sekalian, selamat pagi.

Terlebih dahulu saya ingin mengucapkan terima kasih kepada Yang Berhormat Tuan Pengerusi kerana memberi peluang dan ruang kepada saya untuk memberi pandangan daripada masyarakat akar umbi seperti saya, terima kasih sekali lagi.

Pertama kali, salah laku polis ini boleh berlaku di mana-mana sahaja dan akan terus berlaku. Salah laku polis juga boleh dicegah atau dikurangkan tetapi sukar untuk dihapuskan. Semua kesalahan yang dilakukan boleh dicegah, contohnya, saya beri contohnya, laporan yang diterima daripada masyarakat kepada pihak polis, adanya SOP tetapi berapa banyak masyarakat yang tahu adanya SOP seperti ini?

So, the community has been to educate them, we need to educate the community first. Apa adanya hak-hak asasi mereka untuk di bawa? Saranan saya juga, *educate*-lah masyarakat ini untuk mengetahui hak asasi mereka sendiri. Seperti kematian di dalam lokap. Mengapa kita tidak mencegahnya sebelum ia berlaku? Kita hanya menguarkan selepas kejadian itu berlaku. Untuk mencegahnya pemasangan CCTV *with good version and* harus berfungsi di lokap-lokap boleh membantu mereka mencegah perkara sebegini berlaku.

■1200

Aduan terhadap polis. Jika terdapat 100 aduan dibuat dalam sehari, di dalam seluruh Malaysia, apa akan terjadi kepada suruhanjaya untuk menyiasat perkara begini? Berapa orang akan dibawa untuk membincangkan masalah dan menyelesaikan masalah sebegini? Jikalau berlakunya hilang kuasa kepada IGP atau OCPD, saya berasa anggota-anggota bahagian mereka juga tidak akan mematuhi arahan daripada pegawai tertinggi mereka. Semua tangan pegawai polis akan terikat kerana adanya kuasa-kuasa sebegini. Untuk mereka mempelajari atau memandang terhadap fasal-fasal ini pun mengambil masa. Mungkin ini boleh, mungkin itu tidak boleh. Untuk mencegah jenayah, menyukarkan pihak pegawai-pegawai polis ini untuk bertugas dan melaksanakan tugas mereka seharian.

Di dalam jawatankuasa tatatertib- PDRM juga ada jawatankuasa tatatertib tersendiri. Hal-hal macam salah guna kuasa mungkin boleh diselesaikan di kalangan mereka dengan cepat. Takkan semua isu hendak dibawa kepada suruhanjaya. IGP atau OCPD mempunyai kuasa untuk melantik atau melucutkan jawatan pegawai yang salah guna kuasa daripada dibawa kepada suruhanjaya untuk membincangkan isu begini.

Perkara yang boleh diselesaikan haruslah diselesaikan dalam bidang kuasa polis tersendiri. *Involvement* badan-badan yang lain atau agensi-agensi yang lain akan merumitkan lagi atau menyukarkan lagi pihak polis untuk bertindak. Jangan pula komuniti mengambil peluang dan ruang daripada semua rang undang-undang yang kita wujudkan sendiri. Saya takut ada yang menyalahgunakan ruang-ruang yang ada. Saya telah menyediakan satu montaj sebenarnya tetapi saya tidak tahu kenapa tidak dimainkan.

[Tayangan video]

Ini adalah persatuan saya, yang kami wujudkan. Terima kasih kerana menyaksikan montaj ini. Ini adalah aktiviti yang saya lakukan dalam persatuan saya. Maksud saya hendak bawa di sini, kita tidak harus menimbulkan kejurangan daripada masyarakat dan polis. Sebab saya dari akar umbi, saya tahu apa masalah. Semua yang akta-akta dibentangkan di sini ada yang boleh diambil, sesetengah itu harus diperhalusi lagi dan diperbaiki. Jikalau untuk membuat satu keputusan pun kalau kita hendak tunggu suruhanjaya, memang sukar untuk pihak pegawai PDRM untuk membuat keputusan. So, tatatertib mereka, integriti mereka akan *enquiry* di sana. Akan tertanya-tanya.

Saya mahu juga tahu semua perwujudan suruhanjaya ini, bagaimana pula integriti mereka? Bagaimana untuk menilai? Maaf saya bercakap. Bagaimanakah- katakan sekarang pihak PDRM buat salah kita rujuk kepada satu badan dan bagaimana integriti badan itu pula. Kalau itu tidak dilaksanakan dengan betul, adakah diwujudkan lagi satu badan? Maksud saya- maaf. So, apa yang saya cakap bagi saya dan bagi pihak komuniti saya, kita hidup sejahtera di Malaysia ini memang jikalau tiada PDRM memang sukar. Akan tetapi memang ada buruk dan baiknya.

■1210

Kita ambil yang baik, buang yang keruh. Bagi saya, kita harus meneliti dan memperhalusi semua fasal-fasal yang diwujudkan untuk PDRM memberi kerjasama dan masyarakat Malaysia hidup sejahtera. Sekian, terima kasih

Tuan Pengerusi: Terima kasih Puan Kogilavani. *Are you speaking as well? No? Okay, I think that concludes our session with both.*

I just have a few questions to Dato' Shahrudin. Your submission as I go through, of course is quite extensive and we will study in greater details. But your view on the constitutionality of the bill, I think, is important because obviously everything will, you know, comes from the constitutionality of it. That is actually one of the issues that has been raised in our sessions.

So, there have been two school of thoughts. One is that it is unconstitutional and one it is. So, we are still going through that particular part. I think our Yang Berhormat Santubong also has some views on that, which I am sure he can raise shortly.

You raised Article 135. Can we get Article 135? Now, I don't know. From my understanding of your argument about Article 135(1), are you saying that this will be- "No member of any of the services mentioned in paragraphs (b) to (h) of Clause (1) of Article 132..." So, that will include the force. Is that right? "Shall be dismissed or reduced in rank by an authority subordinate to that which, at the time of the dismissal or reduction, has power to appoint a member." So, the IPCMC is an authority subordinate to that? So, if you are right, does it render the entire bill unconstitutional, or is it just the sentences?

Dato' Shaharudin bin Datuk Haji Ali: *I've said I have not looked at it in detail. I am just raising my concern, you know, about Article 135. Maybe the Committee can look further into it. I will go only as far as that. To look at Article 135 and also Article 135 proviso just above the number (2). "And provided further". I say that it has to have the permission or pursuance of a power delegated to it by Police Force Commission (PFC) to which this part applies. Again, I am just raising it, Mr. Chairman.*

Tuan Pengerusi: *Have you looked at Article 140?*

Dato' Shaharudin bin Datuk Haji Ali: *I've looked at Article 140. My point about Article 140 is the phrase "disciplinary control." The proviso below, if Parlimen mahu create a third agency to deal with it, that dealing only limited to disciplinary control. I think, yes?*

Tuan Pengerusi: *Would that supersede the Police Force Commission? In the event the IPCMC comes in, would it come within the proviso under Article 140?*

Dato' Shaharudin bin Datuk Haji Ali: *My contention, Mr. Chairman, is that the IPCMC Bill attempts to do something more than just disciplinary control. It has disciplinary enforcement that includes the power of dismissal. That is my argument. So, because you include disciplinary enforcement and not merely disciplinary control, unless it is the contention of the Executive, that disciplinary control necessarily includes the power to punish and dismiss. Unless that is the position taken by the Executive, of course.*

Tuan Pengerusi: *What is your position?*

Dato' Shaharudin bin Datuk Haji Ali: *My position is that the word used in Article 140(1) is "disciplinary control". So, the proviso talks about if you want to create a different agency, that different agency will also have the disciplinary control. So, in other words, the popular argument is that there is nothing wrong. What you have, you have. It is taken over now by the new agency. But I am still caught by the fact or I feel caught by what 47- because, the IPCMC tidak ada kuasa melantik dan oleh itu tiada kuasa menamatkan perkhidmatan seorang pegawai polis.*

Tuan Pengerusi: *Of the Interpretation Act?*

Dato' Shaharudin bin Datuk Haji Ali: *Section 47 of the Interpretation Act.*

Satu lagi, Mr. Chairman, is quite important. I am sure, Mr. Chairman, you know the case of Alma Nudo. It is decided by the Federal Court recently. Now, the Federal Court has overruled dua kes. One is the kalimah Allah, case has been overruled. Ramai di sini yang tidak tahu.

Nombor dua, the Federal Court also overruled the case of LGBT, the Juzaili case. I don't know. I call it the "LGBT case." These two cases have been overruled by the Federal Court. So, the Federal Court kata now, if you come to court and you wish to challenge an act as being outside the power of Parliament, all you need to do is look at Schedule Nine. This is

Alma Nudo punya ratio decidendi. You look only at Schedule Nine of the Constitution. If it mentioned, Parliament has power. If it doesn't mention, Parliament has no power. My soalan to you is this. Is the new section 22(c) and (d) mentioned in Schedule Nine? My answer is I can't find them. Because I can't find them, that (c) and (d) is liable to be challenged. Itu sahaja.

Tuan Pengerusi: *It is because we will be raising this issue of constitutionality with other panelists as well who will be coming in next week. So, it is useful to bring up your idea as well, so that we can thrash it out. I think it is one of the most important issues, constitutionality. Like I said, your submission is quite extensive.*

Dato' Shaharudin bin Datuk Haji Ali: *Thank you, Sir.*

Tuan Pengerusi: *We will go through in proper context and all that. You have any question?*

Dato' Sri Azalina Othman Said: *Dato', thank you so much. We had a whole lecture on IPCMC. Anyway, I just wanted to ask you some questions which are not in your presentation.*

What is your general view, if I make a suggestion that IPCMC only look at complaints but all the disciplinary actions and control are given back to SPP? Because, there are allegations have been made that police do not investigate their own. So, do you think it is a good idea to compromise by separating that?

Dato' Shaharudin bin Datuk Haji Ali: *I agree to that as an alternative solution. Mr. Chairman, I have mentioned about the critical importance of morale in the police force. Kita tidak mahu- I will be very direct to this Committee, we don't want a situation where police mula merajuk. When polis mula merajuk- I don't want to use the word 'boikot'. But if I were to be a citizen, I don't want the police officer to balik rumah pukul 6 petang tepat. Dia kata, "I follow the law. At 6 o'clock I check out." "Why?" "I am angry with this IPCMC Bill." Then, you know, it will come in so many different forms.*

Jadi, ada- we understand the need to protect members of the public, there would be misconduct. If cases are not being investigated, we need some mechanism. But I think when you said that or some members said that the police have no objection, majority of them welcome, I can't allow this very generalized statement. We need some proof that actually some survey has been made.

■1220

But of course, at the end of the day, the Executive called to solve, that is paramount. I think this is the duty of the Executive to look at what the voters want, not what the police want [Ketawa] But I am concern, but alternative route ialah the IPCMC bila ia dapat complaint, they can direct the SPC, maybe to look into it, to investigate just like Yang Berhormat Tuan Pengerusi.

Dato' Sri Azalina Othman Said: *Can I propose to you a second question. If you go back to the rang undang-undang, can see the function of the commission. I've raised many times about- because it has stated clearly, police personnel or retirees cannot be part of the members of the commission.*

So, then I put it to you, is it possible if you look at the function of the commission, when it comes to for example clause 5(2)(c), pengauditan, pemantauan, logistik, operasi, standard polis, (d) lokap. This is all responsibilities of Kementerian Dalam Negeri, Ministry of Home Affairs, because this in reference to budget, evaluation and how can IPCMC- a commission that looks into discipline, looks into physical, monetary? Can I have response on this?

Dato' Shaharudin bin Datuk Haji Ali: *My response on this, it is something that is I think valid for the committee to study further, because we don't want what essentially is a disciplinary piece of bill to suddenly cover areas that Yang Berhormat just mentioned, it sounds little off-tangent, but again I think it is entirely up to Committee to look into that. In my view, I entirely agree with Yang Berhormat that a little bit is beginning to look like bit of a 'rojak' here. So, if you want to focus on disciplinary issues, just focus on that.*

Dato' Sri Azalina Othman Said: *My final point is that, do you think it would be really difficult, uncomfortable or considered irrelevant if the IGP that gives command and control, in reference to the IPCMC, the disciplinary powers is taken away from SPP, from IGP, Minister of Home Affairs, Secretary General of Minister of Home Affairs; would that not mean that the whole management for PDRM would be totally like a toothless tiger? Because powers of command and control is not put in a box, it is taken out, whereby the disciplinary is taken out and the other matter is allowed? Would it not challenge the SPP?*

Dato' Shaharudin bin Datuk Haji Ali: *I personally don't see how the bill, as is stands, takes away the command and control of the police. I think the police can function, but let me say this, if this bill becomes law, you will put every single pegawai polis on their toes, some would say it is very good, some would say that bila tengok the 22(c) and (d), I will be very scared. If I were to be the police officer, I look into 22(c) and (d), It would buck my head and it might affect the performance of my job, Mr. Chairman.*

Tuan Pengerusi: *So, would your recommendations or be the complete removal of (c) and (d) or improving on it?*

Dato' Shaharudin bin Datuk Haji Ali: *Minta maaf, (c) dan (d)?*

Tuan Pengerusi: *Section 22(c) and (d).*

Dato' Shaharudin bin Datuk Haji Ali: *No, no.*

Tuan Pengerusi: *Sorry, was it 22?*

Dato' Shaharudin bin Datuk Haji Ali: *Okay, first of all let me comment, none of us here, I don't know about the Members of the Committee. I am not looking at IGPSO. So, if it*

could work, I don't know what's- because I don't know, the IGPSO may contain provision pertaining to disciplinary, benda-benda macam you have to be honest. When the discharge of duty, you cannot have a conflict of interest dan I don't know, because I'm just teka. If that is the case, I think you can take away (c) and (d); and try to see and I fully support the declassification of the IGPSO. Sekarang ini rahsia and I think of course, Parliament definitely has the powers to make the IGPSO tidak rahsia. So, that you can study the implications.

I think to put (c) and (d), unless you define Mr. Chairman, the word 'unreasonable', 'unjust', 'oppressive', 'improperly'- 'discriminatory', we have a lot of guidelines...

Tuan Pengerusi: *But, isn't 'unjust' and 'oppressive' self-explanatory to a certain extent?*

Dato' Shaharudin bin Datuk Haji Ali: *At first brush, yes. But you know, it is the greed... [Ketawa] ...Cause the problem. So, I give an example. How do I say this? I have gone through this for more than 30 years, I've been at the Bar for over 30 years. I mean, things like (c) and (d) that would cause a problem in the courts.*

Dr. Su Keong Siong: *Dato', I just like to ask your view. Actually one of the issues of concern raised by the police force is the section 6(2) of the IPCMC. Where the members of the police force or former members of the police force should not be in the commission. Can I seek of you view on this? Is it a valid concern since that we are going to set up an independent police commission. What is your view on this?*

Dato' Shaharudin bin Datuk Haji Ali: *I think for me, I tend to agree with it, but there are lot of comments in the social media world that says, "What's wrong with putting the IGP?" IGP is just like the head of army or the head of SPRM. He is of a different standing, therefore there is nothing wrong.*

Again, he himself should not be excluded from any form of investigations. I think if he is a Member of the Commission in one way or the other, it might just impact that palsy. To me, I agree with that, but again the concern is elsewhere. But you can't say because the IGP may look at a particular case from his stand point, but I know the IPCMC looks from the stand point of the rule of law and from the stand point of the law. That's different. You may say for some reason, you have this practice and that practice, therefore we tolerate this, because that has happened for the last 69 years since Communist insurgency. You can say, "Hey, Communist is no longer here. This is our new ruling. This is our new style." So, maybe what the IGP's think is irrelevant.

One of the ways to move forward is to have a fresh approach altogether. I give an example. When in the world can we have senarai saksi-saksi given by the IO or the PO in a case? Is it a misconduct to deliberately withhold senarai saksi-saksi from me as a counsel in a case? Why senarai saksi-saksi dalam mahkamah ini, mahkamah A ada praktis ini,

mahkamah B ada praktis lain, mahkamah C ada praktis lain. Kes Dato' Sri Najib, lain pula. Jadi, *we have all these. So, maybe we can look into that aspect also.*

That in the prosecution of offences, ada juga inaction by the police that may result in injustice to my client, for example. You will never get this unless you ask. Secondly, contohnya, on the first day, not first very day, it is the duty of the Prosecutive Officer to give a copy of a Charge Sheet. Then, the Magistrate would ask, "You ada lawyer? Tak ada lawyer? Bila lawyer mahu datang? Nanti lawyer datang baru kita kasi you Charge Sheet". No. You must give the Charge Sheet on the first day. So that, dia boleh balik jumpa lawyer and, "Hello boss, this is the Charge Sheet". It is not happening, Mr. Chairman. This has been too long.

Again, I have been trying without success to get into the Committee that revised the CPC, as well as the Committee that revised the Rules of Court. But so far, I have not reached that level.

Again, we want to reach and I think the bill is interesting, because we want to reach to the level of negara maju. We can't get to the level of negara maju, unless we have some form of the mechanism like this. Tinggal during the initial stages, expect challenges. This is my point. Because, the police will have a point. They have their own concerns; they have their own worries. So, the first few rounds, expect challenges. Deal with it, fight it out. Only then, the law will develop. So, kalau kita terpaksa berjalan, kalau kita terpaksa merangkak dahulu, so be it, kita merangkak. Tak apa. Asalkan there is some positive changes. That is my view.

Tuan Pengerusi: *Anything else? I think I don't have any more questions. Thank you very much.*

Dato' Shaharudin bin Datuk Haji Ali: *Thank you, Sir.*

Tuan Pengerusi: *It's a very useful insight. We will take all your views into account and include them in as and when we can into our report, which is due on 18th. We only have one more week to go. Thank you again for coming.*

[Mesyuarat ditangguhkan pada pukul 12.30 tengah hari]