

*The DAP Perak lead a delegation and presented a memorandum on issues for consideration by the select committee. The delegation was led by Perak Legal Bureau Chairman Nga Hock Cheh, YB Ngeh Ko Ham, Chairman DAP Perak and members. Chaiyabala, M.Kula Segaran and Lalitha.*

Memo to the Select Committee on the proposed amendments to the CPC and Penal Code at the Ipoh sitting at the Dewan Undangan Negeri Perak chaired by the Minister in the Prime Minister's Department, Datuk Mohd. Radzi.

### **EDUCATION AND IMPLEMENTATION.**

The proposed amendments are ideal in intention but will they be effective in preventive or curative effect on the ills that they are intended to address? What we have seen are laws being enacted but seem impotent in resolving the problem. Will the mere increase in sentences and a broadened definition solve the problem that plagues our society. It would appear that the heart of the problem lies with the human heart which requires both spiritual and educational measures to address the problem at its roots.

The primary focus of our attention should be to inculcate good moral values to our citizens through the diverse religious groups in the country and to educate the public on the laws relating to these offences.

Most people are not aware of the type of sentences imposed on the wrongdoers. Most criminals are seen to be from a non-educational background. Thus they are not aware and would not be able to understand the seriousness of the problem.

The move that needs to be implemented in order to reduce these crimes is to actually take the problem at its roots. What we are looking at now are just merely forms and not real actions taken into account the measures that have to be implemented to curb the actual problem.

What are the chances that these crimes are going to reduce by we imposing stricter sentences. Are there any evidence shown that the crime rates have been reduced? In fact there are statistics showing only an increase.

One example of the amendment is the part where one is aware that a sexual offence is committed to report to the police officer or to the nearest police station (Fasal 4 Rang Undang-Undang kanun Tatacara Jenayah (Pindaan) 2004). The question thus arises, what if the crime was committed within a family or if the person who knew about the crime is threatened? Generally people are afraid to come and voice out. For example a mother to protect her son would disclose the fact that her son has committed a sexual offence. The victim on the other hand would be too ashamed to tell anyone about what she has gone through. All

this boils down to the social aspect of it. Therefore because of fear and love most people would not disclose the crimes that they have come to know about.

There is lack of education on the seriousness of committing such crimes. Lay men would not understand neither would they realize that there are such laws existing.

Therefore what needs to be done is to educate the public about the seriousness of committing crimes. This education system should concentrate on the younger groups relating to issues on healthy sexual education. With this we are not only curbing the problem but also creating an environment which would be safe and proper in the future.

Another factor where we should look into is also on family counseling. With the rise of marital stress there is breakdown in the relationships and thus leading to incest and other sexual offences. Thus in order to curb the said problem we should have proper family counseling to help curb violence and other related problems.

Thus prevention is very much in favour rather than just implementing laws which most of the time does not come to the minds of the wrongdoers.

### **REMAND ORDERS**

Section 117 Criminal Procedure Code(CPC) —all the proposed amendments is related to section 117 one way or the other. The court has power to grant an order to detain a person for police investigations for a maximum period of 14 days. Although the courts have been reminded not to grant long periods to detain a person in custody this reminder is often overlooked.

Very often there is a little difference between seizable and non seizable offences when remand orders are made. In both this cases remand order are easily obtainable. Invariably magistrates are granting orders for a stretch of seven days while what was recommended by SUHAKAM is only 3 days.

In Ipoh we see more often than not magistrates giving remand orders either for seizable or non seizable exceeding 3 days. We suggest that there should be amendments to Section 117 and to implement recommendations made by Suhakam in that, remand period should only be for 3 days but could be extended on special grounds.

Invariably presently remand order are obtained on very easy and non important grounds. This is abuse under sec 117 of the CPC.

We have come across cases when detainees have been continuously kept under remand for months at end. What the police do is on the expiry of remand at one district they take the detainee to another Police district before a new magistrate and obtain a fresh order for 14 days. This modus operandi should be put to a stop.

We also urge the select committee to visit rural areas to get the necessary feedback.

*(Prepared by: M.Kula Segaran DAP National Vice-Chairman and MP for Ipoh Barat on 2<sup>nd</sup> November 2004)*