

mKLIRAN

MONTHLY

ISA DETAINEES: FREE THEM OR CHARGE THEM. THE ISA IS UNJUST.

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:3)!
Have we really applied lhc principles
enshrined in the Rukuneguru?
o Belief in God
' o Loyalty to King and country
0 Upholding the Constitution
0 Rule of Law
0 Good behaviour and morality
How far ha we gone in achieving the
l aspirations of thc Rukuncgum?
o Achieving agrmlw'unm ()full hcr
peoples
I Maintaining :I (/v/nru'mliv mu' ((1 lift
0 Crealing'a lml xm'iun in which the
wealth of the nation shall be equitably
shared
Ensuring a Iiln'ru/ (l/I/H'ULIUI to her rich
and diverse cultural traditions
Building a pruyrvssiru SU(I'UIII' oriented In
modern science and technology

in Germany, the Nazis came first for the
' Communists, and I didn 't speak up because I was
not a Communist.

Then they came for the Jews, and I didn t
speak up because I was not a Jew.

Then they came for the trade unionists, and I
didn t speak up because I was not a trade unionist.

Then they came for the Catholics, and I was
a Protestant and so I didn 't speak up.

Then they came for me, and by that time there
was no one left to speak for anyone. "

- Pastor Martin Niemöller

(Victim of the Nazis)

That was the message to all Malaysians

at Aliran's forum on the Rukunegara:

Charter of the Nation. That it is not

enough just to be concerned and

unhappy over the crisis our nation is

going through, over the way in which the basic
institutions and fundamental values of our society

are being destroyed. We must be prepared to act,

to display our commitment _ as never before _

in a peaceful, democratic and constitutional

manner. Sign petitions, send postcards, make our

feelings known before it is too late.

Malaysians are going through a very rare moment

in the history of a people and it matters now

whether we are prepared to be counted. People

flock to see the illusionist David Copperfield by

the busloads, but other more important things are

disappearing before our very eyes - democracy is

disappearing, independence of the judges is

disappearing. We must break the chains that enslave

us to our materialistic pursuits, for as the Filipino

nationalist Jose Rizal said: there can be no tyrants

if there are no slaves?

For these reasons, Aliran launched the Citizens,

Struggle to Defend the Merdeka Constitution and

Rukunegara at the end of the forum attended by

,200 people. The Citizens Struggle will be carried

out through various forms of activities guided by

the spirit of the Constitution and the Rukunegara.

We can make it to be a true citizens' campaign

(not in the rehearsed and mechanical style of

Semarak!), that can last for as long as freedom and

democracy is threatened in this country. We hope

that other public interest societies, professional

organizations, cultural associations, religious bodies,

political parties from both the Government and

Opposition, and even individuals will join in the

struggle as their own contribution in defending the

Merdeka Constitution and Rukunegara as one

common endeavour. For a start, we have launched

a signature campaign, which we hope you will

help persuade other Malaysians to put their names

on. If thousands of Malaysians can say they want

to defend the Constitution (the original one, not the

one that has been changed 28 times) and the

Rukunegara, then it is a very good beginning to

keep the flame of freedom alive

FRUSTRATIONS

The enthusiastic response of the multi-racial

crowd at the forum was more an outpouring of

pent-up frustrations over the authoritarianism

enveloping this dear land of ours which many

feel helpless against, than anything else. As the first

speaker, Aliran Exco member and lawyer Gan

Teik Chee said: We are meeting at a time of

extreme Constitutional crisis, the most serious

since May 1969 . . . everybody's hopes and fears

are focussed on how we will emerge from this

crisis? It was time therefore to look at the Rukunegara, so as to re-establish our common bearings and re-affirm our faith in the peoples spirit.

The present Government has not paid much attention to the Rukunegara in the last eight years or so, Aliran President Dr Chandra Muzaffar said that night. The Government became more concerned with looking East, Malaysia Incorporated, industrialisation, Islamisation, and talking (talking only, that is) about "cekap, bersih and amanahii.

Yet, the Rukunegara has certain very positive aspects 7 principles and values which transcend specific ethnic communities, and which can provide a common heritage to our multi-ethnic, multi-religious society. It has a strong spiritual base despite certain shortcomings. For instance, it has been said that the Rukunegara does not have a holistic philosophy behind it, which is why it is referred to as a charter, not an ideology. It lacks the larger vision of the human being, the purpose of life and existence, which must be part of any philosophy. Neither does it emphasise certain values crucial to human existence like love, compassion, truth. On a more practical perspective, certain Muslims feels a little uneasy with the first principle - they argue that Belief in God does not specify which type of God, while non-Muslims feel that, given the Malaysian situation, that it is actually an attempt to impose an Islamic God upon Malaysian society.

The enthusiastic response of the multi-racial crowd at the forum was more an outpouring of pent-up frustrations over the authoritarianism enveloping this dear land of ours

Nevertheless, the Rukunegara is a document of potential especially at a time like this. Its ideals should be refined further and brought closer to the eternal spiritual values which embody the love of human existence. But more than developing the Rukunegara, the question to ask at this point is whether it is being practised at its present form at all, let alone, developing it into the future. The other speaker and notable journalist Adibah Amin said: "It is one thing to say something but another to practise it."

BELIEF IN GOD

Outwardly, we have become more religious since the Rukunegara was proclaimed. There are more mosques, suraus, churches, temples all over. Attendance at these places have gone up. There is greater religiosity, but have we grown spiritually, as individuals, as a people, as a society? As a saying of the Prophet Mohamed goes: "There will come a time when the mosques are full but men's hearts will be empty." And this is one such time. We have not progressed as far as compassion is concerned. Our commitment to equality, justice, freedom, crucial spiritual values — is not developed. Instead, we have seen a growth of materialism, greed, avarice, lust for political power and wealth. These have become the real gods of Malaysian society!

LOYALTY TO KING AND COUNTRY

The feeling of being Malaysian has developed somewhat, becoming most noticeable when we are involved in sporting competitions. But it does not amount to loyalty to King and country in the real sense. Instead, we have seen a cultivation of a notion of loyalty to a particular leadership, through setia songs, semarak rallies. We see pledges of loyalty' to a particular person on a scale as has never happened before.

UPHOLDING THE CONSTITUTION

We have a Constitution. Amended many times, but still we have a Constitution. But our Constitution has lost its supremacy. The Executive has become supreme, so powerful that it can do what it wants with the Constitution, changing it at its whims and fancies. The Executive has grown so powerful that Parliament has been reduced to a rubber stamp and the Judiciary emasculated. The most blatant destruction of the Constitution took place last March. The amendment of Article 121 changed the very character of our Constitution, depriving the Judiciary of its independent authority. The concept of separation of powers is no longer valid. So how can we still claim that the Constitution is supreme, that we have upheld the principles of the Rukunegara?

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Outwardly we have become more religious . . . but have we developed a commitment to equality, justice, freedom?

RULE OF LAW

The rule of law is perhaps the most undermined and subverted of the principles of the Rukunegara. We have a situation where legal changes are being made to the very character of our society through Parliament. Our leaders see this as adhering to the rule of law, when they are merely practising what should be called rule by law. Rule of law and rule by law are totally different concepts. Rule by law is doing things legally but without the characteristics of rule of law.

Rule of law is a very precious concept, the product of a long struggle in human history. It encompasses independence of the Judiciary, and fundamental liberties that cannot be trampled upon - like freedom of speech, assembly, association. It means adhering to certain values like equality, freedom, justice. If the mere act of going through the motions of Parliament is considered rule of law, then Hitler also upheld the rule of law. Germany under Hitler had a Parliament and nearly every act that posed was legal, including those that led to the extermination of six million Jews. Rule of law is one of the most cherished principles in civilised society. Hundreds and thousands of men and women, whose names were never remembered in history books paid the price in order to develop the concept.

It is a pity that many people in our country fail to understand this difference, including people in very high places. Ignorance at that level is unforgivable and very dangerous. For them perhaps rule by law is actually written rule by law!

GOOD BEHAVIOUR AND MORALITY

One scandal after another in the past few years have made a mockery of the fifth and final principle of the Rukunegara. Those who are supposed to lead by example now sit in jails for criminal breach of trust, malpractice. The titled and the once-powerful are our latest jail inmates. Somebody said that a certain political party in the Barisan Nasional has enough members to start a branch in our jails. And others say that our national coalition is made up of bank robbers, co-operative society robbers and highway robbers.

Morality must be upheld especially for those in public life. In the debate over this particular principle of the Rukunegara, it was proposed to include the clause that Malaysian society express its abhorrence for corruption. In the end it was removed because some people did not like the word 'corruption', replacing it with 'good behaviour and morality', which we can't even live up to.

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AT THE ALIRAN FORUM ON THE
RUKUNEGARA -- Top to bottom: A PRAYER
FOR JUSTICE, RECOMMITMENT TO
DEFENDING THE CONSTITUTION AND THE
RUKUNEGARA. Left: TAKING A STAND IN
THE CAUSE OF FREEDOM

ASPIRATIONS OF THE RUKUNEGARA

In spite of greater communication, in a formal sense, through the national language, we have not achieved greater unity, the first aspiration of the Rukunegara. There is actually less interaction between the communities. Though Malaysians have a common perception of what they see as abuse of power and a leadership which has failed to manifest certain moral traits, we are not able to come together because of communal divisiveness. People of all communities are unhappy, but are not able to unite on a common platform. That is how we have polarised over the last 10 to 15 years. For the people in power, the democratic way of life means holding elections every few years. What is the point of having elections if you don't provide the electorate with choices, ideas, alternatives? Elections in a democracy means a choice of ideas, allowing others a say, providing avenues for others to tell people what their programme is, what they hope to achieve. That is why the concept of dissent is fundamental to democracy. Dissent must be seen as legitimate, respected, linked to the whole question of genuine elections. Dissent is also important because it is linked to the cornerstone of democratic Government - the notion of democratic accountability. That is the right to differ, to challenge, to ask and query, to find out how those in power are running the country, spending our money, using the power we have entrusted in them. Accountability is crucial as a definition of an open society. But we have a situation today, where people dare not dissent, dare not demand accountability. A pervasive climate of fear, heightened by the events of October last year. Since Oct 27, people have been reminded of what ISA is all about. People are afraid because they know that even if one is not a communist, or subversive, or the sort that advocates violence; even if one is not a chauvinist or religious fanatic; even if one has no part in ethnic tensions, one can still be arrested under ISA. So long as there is the ISA, OSA and other Acts like the Printing Presses and Publications Act, Police Act, Universities and University Colleges Act and various trade union laws, it is difficult to see ourselves as a democracy. How can we claim to be democratic, especially after what has happened to the Judiciary? This article is based largely upon a tape-recording of Dr. Chandra Muzaffar's talk at the forum. His talk and Saudara Gan Teik Cheek's speech are now available on cassette tape. The 90-minute cassette is entitled Who is Destroying the Rukunegara? and is priced at \$ 7.00. This does not include postal registration which is an extra \$1.50. This cassette is available from Aliran, P. O. Box 1049, 10830 Pulau Pinang.

It is argued that we have democracy because there is majority rule, and the minority has to follow what the majority wants. That is a misconception. How was majority rule obtained? How is it maintained? By allowing others to challenge within a democratic arena or by crushing dissent? Majority rule is one of the minor facets of democracy, not the most important one. Dissent and accountability are far more important: It is meaningless to talk of majority rule as defining democracy when individual freedom is not provided for. The majority of citizens in any of the East European countries would say they

support the regime in power, but that does not make them a democracy. The question of individual freedom separates them from genuine democracy.

MAJORITY CAN BE WRONG

Individual freedom is not a western value as a leader across the Causeway told some American editors a few months ago. Mahatma Gandhi said: "If the individual ceases to count, what is left society? NO society can possibly be built on the denial of individual freedom." Majority rule has no meaning if one fails to consider ethics and morals, which must take precedent. The majority can be totally wrong. For instance, the majority at one point in history believed that slavery was right. A majority in Parliament recently denied the right of detainees to be heard, a human right transcending the rights of both majority and minority. It is a terrible thing. It means one can lock up a person and throw away the key. One can torture and abuse him and he has no recourse to a court of law. That was done by majority rule.

We have moved towards a just society, the third aspiration of the Rukunegara, in at least continued on p90 9

Perjuangan Rakyat Untuk Mempertahankan
Perlembagaan Merdeka dan Rukunegara

Negara kita kini mengalami krisis. Institusi-institusi asas yang menentukan rupa bentuk masyarakat kita sedang dicabar. Nilai-nilai unggul yang merangkumi cita-cita rakyat kita sudah mula dimusnahkan.

Adalah penting pada saat-saat begini, rakyat negara kita mengulangi kesetiaan mereka kepada

prinsip-prinsip dan cita-cita unggul tertentu. Sebahagian daripada prinsip-prinsip dan cita-cita

unggul ini termaktub dalam Perlembagaan Merdeka 1957 dan Rukunegara 1970.

Oleh itu, marilah kita berikrar untuk mempertahankan Perlembagaan Merdeka dan Rukunegara.

Mempertahankan Perlembagaan Merdeka dan Rukunegara bermakna:

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DEAR READEKS

1. Menentang pemerintahan autoritarian dan penyalahgunaan kuasa.

2. Menentang kongkongan terhadap badan kehakiman. ENCLOSED IS A SIGNATMKE

3. Menentang media massa yang berat sebelah. FORM WHLC-H WE HOPE YOU

- WILL HELP US IN FEKSMADINCI

4. Menentang penahanan tanpa perbicaraan mahkamah. OTHEK MALAYSIAN) TO SIGN,

5. Menentang rasuah dan kekuncuan (cronyism). TO COMMIT THEMSELVEJ

6. Menentang salahurusan dan skandal-skandal kewangan. TD DEFENDING THE

7. Menentang sikap tamak haloba terhadap kebendaan. ME KDEME%OANKSA-rni7%ggrg

8. Menentang kemiskinan dan jarak perbezaan ekonomi yang luas. 153%?ch IT bx KETMKN IT

9. Menentang perkauman dan sikap melampau (extremism). TO ;

10. Menentang penguasaan dan penekanan asing ALHZAN

PODOX 104-9

LOBBO PENANG

IN SOLIDAIZITX

E DI TOK

The Citizens, Struggle To Defend

The Merdeka Constitution And The Rukunegara

Our nation is going through a crisis. Basic institutions which define the very character of

our society are under siege, Fundamental values which embody the aspirations of our people

are being destroyed.

It is important that at a time like this, the citizens of our country re-affirm their commitment-

ment to certain cherished principles and ideals. Some of these principles and ideals are enshrined

in the Merdeka Constitution of 1957 and the Rukunegara of 1970.

Let us therefore pledge to defend the Merdeka Constitution and the Rukunegara.

Defending the Merdeka Constitution and the Rukunegara means:

Saying NO to Authoritarian Rule and Abuse of Power.

Saying NO to a Shackled Judiciary.

Saying NO to a Biased Media.

Saying NO to Detention Without Trial.

Saying NO to Corruption and Cronyism.

Saying NO to Financial Mismanagement and Financial Scandals.

Saying NO to Materialistic Greed.

Saying NO to Poverty and Widening Economic Disparities.

Saying NO to Communalism and Extremism.

Saying NO to Foreign Dominance and Control.

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Sekiranya anda menyokong Perjuangan Rakyat untuk mempertahankan Perlembagaan Merdeka dan Rukunegara, sila tandatangani borang ini.

If you support the Citizens' Struggle to defend the Merdeka Constitution and the Rukunegara, please sign this form.

Nama/Name

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Kjrimkan kepada/Send TO:

Nombor K.P./LC. No. Tandatangan/Signature

one sense. Absolute poverty has been reduced from 49 per cent in 1970 to about 20 per cent today. But relative poverty has increased. There is greater concentration of wealth in the rural areas as a result of certain types of agricultural policies, while in the urban areas, there is a bias towards big businesses and corporations. If anything, it is the Governments privatisation policy that has created a situation where wealth is now in the hands of a small group.

In terms of liberal approach to our cultural traditions, there is a certain degree of liberalism as far as the cultures go. We are still able to practice our own religions, customs and traditions, though the State is a little confused about the right approach to national integration. That is why it has been unable to harness a very important ideal in the Rukunegara - of using our cultural diversity as a source of strength.

How far have we gone in forging a progressive ciety oriented to science and technology? While have produced engineers, scientists, technocrats, we have failed to create a scientific base in Malaysian society. We still lack a clearly articulated policy on science to this day.

QUESTION

Having analysed the Rukunegara, we should ask this: Why is it after 18 years, we have not been able to uphold most of the principles of this charter of our nation? Why have we been so negligent in regard to certain principles? Why do we seem to be moving away, not towards its ideals?

It is vested interests that have lured us from the noble and lofty ideals of the Rukunegara. Vested interests linked to political elites, economic elites, cultural elites, intellectual elites. Vested interests linked invariably to the question of power. Because of the ruling eliteis obsession with power - at all costs - it has not been able to uphold the Constitution.

The greatest threat to the Rukunegara, to aysian society today is authoritarianism. When authoritarianism becomes a major force in any society, there is a tendency for the authoritarian regime to expand their power continuously. They begin by controlling the unions, political parties, universities, media and the last bastion - the Judiciary. Control over the judges is the final battle of authoritarian leaders. After Marcos proclaimed martial law in the Philippines in 1972, he imprisoned his opponents, muzzled the media, destroyed the labour movement before removing the judges - he did not even bother to suspend them first.

NO SENSE OF SHAME

It may seem paradoxical, but by expanding power one also concentrates power. As one expands power, one grows more suspicious and distrustful of others outside the elite group, which grows smaller until only an individual is in control. Power becomes concentrated within this individual, who expects total allegiance and loyalty.

All sense of restraint, sense of shame is gone in a situation where power is concentrated. Things which one would never expect leaders to do are done. The re-arrest of MP Karpal Singh under the ISA was a lack of this quality, and who would have expected the Executive to suspend the Lord President and then five Supreme Court judges, leading our lawyers to ask the Attorney-General: itWhois next? Pi Our treatment of the Judiciary is

quite unique. The only immediate example one can think of was Uganda under the despotic Idi Amin, whose Chief Justice disappeared never to be seen until this day, after making a decision which displeased the dictator. We are a little more civilised here. The LP is still around and he was suspended before making a decision while Idi Amin's Chief Justice disappeared after making one. The present leadership has begun to lose a sense of shame. It is very significant that two very different traditions have argued that the most important characteristic of leadership is a sense of shame. The great Chinese philosopher Confucius once said: "You can lose every other attribute of leadership, but the one attribute you must maintain is the sense of shame". And Syed Jamaluddin Al Afghani argued that haya - the Arabic word for shame - is the most important attribute of leadership.

The regime in power tries to camouflage all this. And one of the institutions it uses to conceal the truth is the media. Hence we have the new sanitised Star and limbo-rockers in the New Straits Times - people bending over and backwards to please their masters, letters to the editor from the editor. This is one of the consequences of a leadership that demands total loyalty.

SIN_ TRANSFER

At the same time, the leadership practises sin transfer (a mutant of the much-mouthed technology transfer?) Accusing others of disinformation when it is the one guilty of distorting the truth. Accusing others of smearing the name of the country when it has been responsible for one scandal after another, from BMF in 1982 right up to the UEM scandal. Accusing others of not speaking the plain truth while suspending judges and writing absurd letters to a 10-year-old boy in Britain and another to 105 Australian MPs - letters which have become very laughable commodity abroad.

That is what is happening to this dear nation of ours. It is a crisis that cuts across ethnic boundaries. Malaysians must get their priority right. To stand up and be counted in defence of the truth. In the words of Jose Rizal: to tell the truth about one's country, however bitter it may be, is the greatest act of patriotism? And that is what we will do. 0

Letters

We welcome letters from made". Letters can be written in English or Bahasa Malaysia. The latter may be edited to improve space and clarity. The views expressed are not necessarily those of the Aliun Mommy. Pseudonyms are accepted but all letters should include the writer's name and address. Letters should preferably be written in the English language, if handwritten, they should be legible. Letters should be addressed to the Editor, Aliun Monthly, P.O. Box 1049, Panama. Malaysia.

NUBELS PICKET AND
NATIONAL UNITY

There is still hope! Much more
I today than ever before, for
Malaysians to be truly united,
no matter what the colour of his
skin or religion. Believe it!
of people of various races and
religions picket together, what do
you see? To be more specific, what
came into your mind when you saw
so many bank employees picketing
for higher wages since the 4th of
July 1988? No doubt the manage-
ments of the different banks and
When you see a very large government Bank Negara did not think much of
Nubels Picket: Their employers were scheming among themselves how to
't do.

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the protest and were scheming
among themselves on how to hit
back. And no doubt most honking
and hooting drivers only saw a
bunch of people having fun during
their lunch breaks.

But I saw Malaysians standing
up for one another, fighting side
by side with one another, support-
ing and encouraging each other.

I saw cooperation and unity
between the different races; what
did you see?

Unity among our people cannot
and must never be forced. The
government's call to the people
to be united will be futile until
and unless it is prepared to take
some risks and make some
sacrifices'.

So let the children of different
races and religions live, study and
play together. Let the people of
different races and beliefs work
together in both the private and
public sectors. Let the political
parties seek to fight for every
Malaysian without ethnic in-
clinations.

Then and only then, will unity,
compassion and trust exist and
bloom in this great nation of ours.

The "Rukun Tetangga" and
"Semangat Kejiranan" programmes
are good starting points. But now,
after almost 31 years of indepen-
dence, we have to go further . . .
to distances where we have never
really dared tread before.

To the bank workers: Don't
stop at where you are now. Go
further for a better tomorrow.

THE WATCHMAN
Kuala Lumpur

LETS GO BACK TO
THE RUKUNEGARA
Malaysians, the Government
headed by UMNO (BARU) has
introduced two new concepts 7
SETIA and SEMARAK. SETIA 15
a song which tells the people to
be loyal to the KING and PRIME
MINISTER as evident in TV
I n order to forge UNITY amongst

programmes. Never yet since
' ependence has loyalty to the
IME MINISTER been empha-
sized. As for loyalty to the KING,
this has never been in doubt
because it is already enshrined in
the Constitution, National Anthem
and the RUKUNEGARA. So it is
pointless to pin-point the KING
in SETIA as well. Since the intro-
duction of SETIA, the national
anthem has taken a back seat.
As for SEMARAK, it is meaning-
less. Loyal Malaysians during the
time of three ex-PRIME MINIS-
TERS did not have SEMARAKS.
The SEMARAK campaigns are
costly and cause much incon-
venience to the people. It is obvious
that both SETIA and SEMARAK
are meant to settle the differences
between teams A and B within
QNO. There are many ways of
tling such disputes without
resorting to court actions.
I suggest that all of us, the
Government, political parties and
the rakyat alike go back to the
RUKUNEGARA which has been
well received by all as the charter
of the nation. I also suggest that
the Minister of Information
who is a singer and composer
composes a song dedicated to
the RUKUNEGARA which will
be the best lttonicll for the ills
in the country.
iiGOD BLESS MALAYSIAII
ISMAIL HASHIM
Penang
.tah

The SEMARAK and SE'HA campaigns are a costly waste of rakyatls time and money.
TV3,S

IlDISINFORMATIONll

V3ls production uDisinforma-
T tion: The Malaysian Ex-
perience" was aired on

Saturday the 18th of June 1988.

I am sure many caring Malaysians
must have watched it. Here, I
would like to comment on it.

In the mentioned programme,
TV3 took upon itself to reprimand
some foreign journalists who have
always tried to lteachl Malaysian
leaders how to run our country.

I presume most people who read
Aliran Monthly would also be
readers of Asiaweek, Far Eastern
Economic Review, Asian Wall
Street Journal or some other
foreign newspaper or magazine.

I am sure you too would have
noticed from time to time how
the writers of these magazines
and newspapers have been critical
towards our government. (Nothing
wrong with that; as they say,
ttEverybodyls a criticl'l). However,
sometimes these people do get
carried away and begin to write

fairy tales to tickle the ears
(in this case, the eyes) of their
readers. AICng the line, they
also try to force down our throats
some of their idealistic values.
Now this kind of writing must
be discouraged. What they are
demanding for is a utopian
Malaysia. We cannot and must
never let our lives be run by these
journalists. So I agree with TV3
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on this point.

However, to my chagrin, that
was about the only point that I
found I could agree with TV3.
Instead of giving its viewers
a true and fair view on the recent
happenings, TV3 chose to use
that half hour programme to
further spread government propa-
ganda, as if we had not had enough
of it daily through the local papers.
TV3 claimed that it was the
Prime Ministers swift and decisive
action in October/November last
year that helped avoid another
racial clash. I agree. But what
was the real main reason behind
the sudden l stability, after the mass
detention under the ISA? It was
IFEARI more than anything else
that cooled down the situation.
Most Malaysians are too easily
paralysed by fear, especially at
being arrested. Everyone was
shocked and fearful when the
police began arresting so many
innocent and unknown people.
It was not Mahathir's divine
intervention that saved the day.
It was the unjustified fear that he
and his followers inflicted upon
the Malaysian public that quietened
everyone down. Stability and
peace, could have been restored
by any Tom, Dick and Harry
if they had used the ISA to simply
detain any 100 odd persons.
Further, if Mahathir's reason
for the mass detentions was to
punish those trying to cause
trouble through racial issues", then

Why didn't he order the detention of some of Barisan Nasional leaders who had been shouting racial slogans at party meetings and rallies?

Who was TV3 trying to kid? It should have known only loyal, informed and thinking Malaysians would have been interested in watching such a show. "Disinformation" not only mocked the intelligence of the Malaysian public. It also made a mockery of journalism in Malaysia.

The question of the North South Highway issue was dealt with in a too simplistic manner. If everything was so fair about the tender being awarded to UEM, why have there been so many unanswered questions?

And why do our media people dare to crusade against injustices committed only in foreign countries like Israel and South Africa but not in Malaysia? Is it because there is no injustice here or perhaps our journalists (if we can still call them that) are all stone blind or afraid of the consequences if they expose the oppressive, abusive and bias nature of some government leaders?

TV3 accused those foreign journalists of not giving view points from both sides. But has TV3 done the same in their reports?

I don't see opposition members being interviewed on our TV.

Even the interviews with the Thnku, Lee Lam Thye, Param Cumaraswamy and Chandra

Muzaffar were grossly edited to deceive us.

In fact, the Tunku confirmed this the following Monday. (Star 20 June).

At the end of the show, Dr Mahathir was asked about the situation in the country and he answered: uFine!H Of course it is fine for him! He has without his flesh. "Might is not Right. Right is Right?"

I am not affiliated with any political party, society or union.

I am also not a member of Aliran.

I am not anti-TV3 or anti-Mahathir.

This Mahathir character and his government have done much and are still doing a lot for our nation; things that we can be proud of, that deserve our applause. However, appraisals, praises and fair criticisms must exist together. Being "Yes-Men" means being spineless and brainless.

TV3 would do well to redeem itself by showing the full lengths of the SBS programme and the complete interviews with our Bapa

Malaysia, Lee Lam Thye, Param
Cumaraswamy and Chandra
Muzaffar. Like a debate, how can
the audience and judges hear the
opposing views (TV3's rebuttal)
before listening to the proposing
party?

Personally I am very, very
sceptical if TV3 will ever do these
things just like I have a gut feeling
that it was not TV3's own decision
to produce *Disinformation* in the
first place. We all know who
controls the flow of information,
don't we?

THE WATCHMAN

Kuala Lumpur

HAKIKAT KEMANUSIAAN

DAN KEBEBASAN

aya adalah pembaca setia
Smajalah tuan, dan saya berasa
salah terhadap keadaan alam
sekarang. Kerana sebagai seorang
penghuni alam, adalah tanggung-
jawab saya untuk melakukan se-

12

3

1 .

J

suatu agar ia dapat meluruskan
keadaan. Oleh itu berilah saya
kesempatan untuk meluahkan pera-
saan saya. Sebagai seorang anggot
tentera peranan saya adalah terhad
kepada menerima arahan sahaja;
Sememangnya dunia saya sungguh
menyeronokkan. Tapi kebelakangan
ini, saya mula berjinak dengan
keadaan di luar dunia saya. Hukum
alam mulai diganggu oleh anasir-
anasir, semua orang mahu menjadi
nabi, semua orang berbicara seperti
sami tetapi tidak seorang bersikap
seperti paderi.

Saya mula menyedari hakikat
kemanusiaan dan kebebasan. Apa
yang paling saya benci ialah
kongkongan terhadap perjalanan
akal fikiran. Mereka lebih suka
mengawal fikiran kita dan mahu
kita menurut kehendak k2
seperti robot, tanpa mem-
buruk baik rancangan itu. Bayang-
kan tuan, kita sebagai seorang
manusia tidak dibenarkan berfikir
dan tidak dibenarkan mengeluarkan
pendapat. Apakah akan terjadi
kepada masyarakat dunia? Nampak
gayanya saya terpaksa mencari
sebuah planet yang lain pula.
Saya sungguh mengagumi
kesedaran pihak Aliran untuk
memerangi kekusutan ini. Ke-
beranian pihak tuan sangat saya
sanjungi. Tahu sahaja kami sebagai
tentera tidak dibenarkan menyertai
mana-mana gerakan. Kesetiaan kami
adalah untuk raja dan hegara.
Namun jiwa saya selalu berontak.
Biarlah saya menjadi pemerhati
tidak rasmi gerakan tuan. Saya

akan mulakan perjuangan um
sumbangan pertama saya - ah
sajak yang berbunyi:
AKU DAN MEREKA
aku binatang jalang
yang meratap kebenaran
dia mengaung, dan
melemparkan seketul zulang
menyumh aku diam
aku menentang
suara itu melantung kembali.
aku bertindak
menjeratkan diri sendiri
namun seluruh dum'a bisu kaku
kebebasan makin dikurungi
keadilan hilang ertz;
kejujuran kealam fan tasi
hak lama hilangkan din'

irama moral hilang sifnfon
mengalir madu
kertas didepan ku
akan merakamkan lagu,
bersalah ku
kalah aku.

UNTUK MALAYSIA KITA

Butterworth

J B BY-ELECTION - TURN

IT INTO A REFERENDUM

to see Mahathir fooling Malay-
sians and getting away with
all his selfish actions because of
, ttuzzled mediall.

The latest battle Mahathir is
waging against the Judiciary will
also go his way because there is
no effective way it can be stopped
by the Malaysian people.

However, a rare opportunity to
mobilise people's opinion is just
around the corner. The IR By-
Election due in August could
be the right forum to get the
people to judge on the various
actions taken by Mahathir lately.
For such exercise to be meaning-
ful, there is a need to consolidate
and concentrate the activities of all
public interest groups and political
parties and translate the energy
into votes against Mahathir's
actions. For that to happen, self
interest of individuals and political
like many Malaysians, I am sick
things should be set aside.

I believe Aliran is the right
credible organization available in
this country to call on all political
parties intending to contest the
JB By-Election to come together
and agree on one candidate to
oppose Mahathir's cronies.

"In this context, it may be best
if a non-political but respectable
person is selected to run as an
independent. All public interest
groups, opposition political parties
and individuals including Datuk
Shahhir should back him against
Mahathir's Yes-men.

If such an arrangement can be
made before nomination day, we
will be able to turn the By-Election
JB BY-ELECTION: An alternative would be to turn it into a referendum
to gauge the people's opinions on the PM's policies.

into a referendum on Mahathir's
unacceptable policies and actions.

It may be a difficult decision
for Datuk Shahrir to make
Political parties must be able
to back a person from another
party. Although as the conscience
of the nation can make Datuk
Shahrir and the political parties
set aside their differences in
the interest of the nation and unite
behind a single independent
candidate to show Mahathir that
he cannot fool all the people all
the time.

I hope Aliran and Dr Chandra Muzaffar will do their best to enable the voters of Johor Baru to speak for the entire nation in rejecting the tyranny of Mahathir's regime.

Kindly act on behalf of the many loyal Malaysians who would like to see the end of the saga of insanity.

KANNAN KUPPUSAMAY

Johor Baru

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FIGHT AGAINST EVERY

INJUSTICE

salute the defenders of

HUMANITY and JUSTICE. As

a citizen of this country I am

proud to find in the midst of a

much abused nation a people that

braved every barrier to voice and

stand up for individual rights and

freedom.

Today we find ourselves de-

prived of every right in a country

that practises so-called democracy.

Despite difficulties, democracy will

still prevail if this nation is led by

leaders who have the country's

interest at heart and who 'practise

what they preach.

In the so many recent cases,

none needed to be taught how to

differentiate between black and

white. It is heartening to note

however, that as sure as the sun

rises in the east and sets in the

west there will always be people

that will stand against every

INJUSTICE. If we don't make it
right in this generation. our next
generation will have a bleak future.

AKOYESO

J ohor

JUDICIARY COULD

NEVER RUN THE

COUNTRY

refer to the letter headed

I Elected Leaders Must Be

Allowed to Run Country

(Saturday Forum - NST 9 July).

As a citizen of this country,
albeit a naturalized one, I feel as
concerned as my fellow citizens
do, including, no doubt, Ordinary
Citizen - whoever he may be -
regarding recent developments
concerning the Judiciary, and in
particular the suspension of the
five Supreme Court judges. What
fascinates me is how Ordinary
Citizen reaches the conclusion that
the five Supreme Court judges
in question were attempting 'to
run the country'. If 'Ordinary
Citizen' refers to the Constitution,
he will discover that it is quite
impossible for them to do so.
He will also discover that the
function of the Judiciary and those
who serve on it is to administer
justice effectively and impartially,
and also to preserve the Judiciary
from interference by interested
parties outside. Judging by their
own words and actions this was
precisely what the five learned
judges of the Supreme Court
were trying to do prior to their
suspension.

D J M TATE

Kuala Lumpur

MAHATHIR HAS GONE

TOO FAR

s a member of the public,

I feel that I am duty-bound

to make a stand. Despite

what is printed in the local mass
media, I believe I speak for the
majority of Malaysians, regardless
of race; that the Mahathir
Administration has gone too far
by suspending 6 out of the 10
Supreme Court Judges (including
the Lord President).

The image of the country is
further tarnished by the setting
up of a tribunal to try the Lord
President, consisting of members
who have personal interests in the
case at hand. I hope all Malaysians
will help defend the Judiciary even
if in a small way by making their
views known to the present
administration.

Lastly Dr Mahathir should
realise the saying that 'You can
fool some of the people all the
time, and all the people some of
the time, but you can never

fool all the people all the time".

CHAN HAN WI

Kuala Lumpur

PROTECTOR-JUDGE-

J URY-PROSECUTOR

y letter in Aliran Monthly

(Vol. 8:3 1988) expressed the

hope that "As long as we

have judges of professional integrity

and courage who will do their work

and interpret the Malaysian Consti-

tution without fear or favour,

Malaysians can take some comfort

that the day of the prospect of a

Protector-Judge-Jury-Prosecutor

has not arrived? Alas, subsequent

events have proved that such a hope

has been too optimistic. The PJJP

has arrived.

Recent events have shown that

our Constitution provisions are not

sufficient to guarantee that our

judges could function without fear

or favour completely. This insuffi-

ciency is largely due to the fact

that our judicial system is based

essentially on the English model.

And there is an inherent potentially

fatal flaw, in so far as the inde-

pendence of the judiciary goes, in

that model. As Professor Dennis

Lloyd has pertinently asked, in his

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The Idea of Law (Penguins, 1964),

How then, it may be asked, can

independence be preserved if

appointments are in their very

inception made by politicians?"

it is interesting to also consider

the view of Professor 1 A Griffith

when he said, in his The Politics of

the Judiciary (Fontana, 1977):

The most remarkable fact about

the appointment of judges is that it

is wholly in the hands of poli-

ticians.

Judicial independence means

that judges are not dependent on

Governments in any ways which

might influence them in coming to

decisions in individual cases. For-

mally, this independence is pre-

served by their not being dismissi-

ble by the Government of the .

This does not affect their prw

tion, which, like their appointment;

is effectively in the hands of the

Lord Chancellor with, nowadays,

little 9: n0 Prime Ministerial

intervention.

But the Lord Chancellor is bad

enough for he is a senior politician

of the ruling party, appointed to

be there as some kind of Law

Minister.

Part IX of the Malaysian Consti-

tution contains this and other

serious flaws. While it served us

fairly well during gentlemanly and

ethical times, it has been used to

kill an independent judiciary during

these times of constitutional
turmoil and political darkness.
It may interest Malaysians to
know that the tragedy of our ' i'-
ciary has a precedent about h
century ago in Germany. After
1933, in Germany under Hitler and
his Nazis, a judge was rarely
allowed to deliberate and decide
on any dispute on its merits. He
was compelled to give his decision
according to the Nazi State's
interests and fancies. Unless the
claimant was a Nazi, he had no legal
rights. Some German judges would
not accept these absurd conditions,
and they were forced to resign.
Others were at once appointed in
their place. Some legal lights in
Nazi Germany even proudly pro-
claimed that "Hitler is the Law!".
Just like it was in Nazi Germany,
we in Malaysia today are more Of

less in Alice in Wonderland, where cunning old Fury said: nP11 be judge. l111 be jury. P11 try the whole cause and condemn you to death? Malaysians, for the sake of our bountiful and beautiful country and that of our present and future generations, must not surrender to those bent on subverting justice for their own selfish ends. History repeatedly tells us that one of the first signs of the arrival of totalitarianism is the death of the independence of the judiciary. The Malaysian Bar achieved its finest hour through its fierce opposition, although we must never forget that the struggle is not that of the lawyers alone.

F AN YEW TENG

Kuala Lumpur

CHARITY BEGINS AT

KAMUNTING!

Malaysian Prime Minister,

M Datuk Seri Dr Mahathir Mo-

hamad was reported to have

made a statement through Wisma

Putra urging the Pretoria regime to

release the African National Con-

gress (ANC) President and Black

leader, Nelson Mandela and other

political prisoners in South Africa,

as well as to negotiate with the

ANC for a democratically-elected

Government.

In his statement issued in con-

nection with Mr Mandelais 70th

birthday, the Prime Minister also

stated that the delay in releasing

the black leader would deepen

racial conflict in South Africa. He

also said that Malaysia preferred a

South Africa where people from all

racial groups enjoyed peace, justice,

freedom, equal political rights and

economic benefits.

Although Datuk Seri Dr Maha-

thir's concern over the totally

unjustified imprisonment of Nelson

Mandela is appreciated, such

concern will be meaningless if there

are political prisoners like Nelson

Mandela who are still languishing

in our political detention camps.

Take for example, the Parlia-

mentary Opposition Leader, Lim

Kit Siang (the Nelson Mandela of

Malaysia), four DAP MPs and

others who have been held under

the Internal Security Act.

They, like Nelson Mandela, are

all prisoners of conscience and

should have been freed.

What Datuk Seri Dr Mahathir

should do is to free all of them

immediately and unconditionally

before urging the Pretoria regime

to free Nelson Mandela and all

other political prisoners in South

Africa.

The Prime Minister should

realise that nCharity begins at home" and there is no better way for Datuk Seri Dr Mahathir to put into practice this maxim than for him to release all the ISA detainees, particularly the Leader of the Opposition, Lim Kit Siang and the detained DAP leaders.

Our Prime Minister often speaks of "Leadership by Example? So let him set an example by releasing immediately the ISA detainees in Malaysia before calling on the South African Government to release Mr Mandela and others. The DAP once again calls on Datuk Seri Dr Mahathir to respect not only the wishes of Malaysians but also the international community by granting an immediate release to all our political prisoners, in the same manner as he wants his voice to be heard by the Pretoria regime to release Mandela and others.

LEE LAM THYE

DAP Acting Secretary General

J UDICIARY UNDER

SEIGE

e are today in the midst of a constitutional crisis that may have the most far-reaching consequences and implications for the basic Character of our nations Constitution and political system.

On 18 March, millions of Malaysians witnessed in horror

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the shameful thrashing that the judiciary sustained at the hands of the Barisan dominated Parliament.

The Mahathir Regime with its brute majority passed a scandalous and obnoxious amendment to Article 121 of our nations Constitution' depriving the judiciary of its judicial power.

The executive, through laws made in Parliament, will then confer on the courts their new and limited power. Thus the judiciary will not be able to scrutinize executive action any more.

With the amendment, the principle of accountability was severely mauled and institutional restriction on arbitrary use of power removed. This is tantamount to destroying our nations power structure of checks and balances. The purpose of the doctrine of separation of powers, as enshrined in our nations Constitution, is to ensure effectively restrained governmental action and thereby to protect political liberty. The road to a reign of executive tyranny is now wide open. Any thinking and caring Malaysian who

cherishes justice and freedom
should not hesitate to condemn
the government for committing this
cardinal sin.

ONG EU SOON

Seberang Perai

COMP LIMEN TS

Monthly for more than a year.

I feel that Aliran Monthly is
very informative. It interpretes the
many Government policies and
their implications and shows how
these concern every citizen. I find
it very stimulating and it has
certainly opened the eyes of a
citizen who loves justice and
freedom. For these reasons, I have
invited a friend to be a reader.

I know he shares Aliranls ideals.

I have been a reader of Aliran

H H LOW

Kuala Lumpur

DICTATORSHIP IS HERE?

Why did Dr Mahathir
 Mohamad lock up the
 outspoken members of the
 Legislative Assembly - Parliament?
 Why is he now persecuting the
 judiciary? What will be next?
 These are questions on the lips
 of thinking Malaysians today. The
 answers are best provided by Dr
 Mahathir himself. He has in fact
 done so, as far back as 1986, in
 his book *The Challenge*.
 Since I'm sure what he is doing
 is bad for the future of the nation,
 I'm taking his advice which is
 as follows:

"It is very important to under-
 stand the role played by the
 silent majority, especially in a
 democracy. For them to say
 nothing when something good
 takes place is all right. But
 should the silent majority con-
 tinue to say nothing when
 something bad takes place, they
 would all bear the bad conse-
 quences. Unfortunately most
 people sometimes find it
 difficult to be sure whether
 something is bad or good.

In these circumstances, respon-
 sible people should be prepared
 to explain the real situation."
 He is bent on demolishing the
 existing system of Parliamentary
 Democracy which he views as "the
 most effective pressure inflicted by
 the West on the East" and in his
 mind this is the greatest obstacle
 to the realisation of his vision
 of what this Nation should be.
 To him, a democratic govern-
 ment is an all powerful Executive
 to which Parliament and the
 Judiciary are subservient. No
 wonder he refers to these two
 branches of government as
 'obstacles' and to general elections
 as 'a major threat' to the stability
 of a democratic Government. And
 of course any sensible person
 would want to remove all obstacles
 and threats in his path!

Isn't it also ironical that while
 asserting all Government leaders
 are also "ordinary human beings
 with natural weaknesses", Dr
 Mahathir should consider certain
 leaders in his administration in-
 fallible and therefore capable of
 wielding absolute power over other
 human beings, with the affected
 human beings having no right
 whatsoever of seeking redress any-
 where and anyhow?

A French political philosopher
 Montesquieu (1689-1755) observed
 that "the powers of government
 were of three kinds - legislative,
 executive and judicial. Tyranny

results when all three powers are accumulated in the same hands, for then a government seeking to act despotically can pass such laws as it chooses, administer them without regard to the rights of the individual, and judge corruptly any opposition to themll.

One of the last questions Dr Mahathir poses in The Challenges is: "Will a democratic Government prove too weak and be replaced by a dictatorship?"

Quo vadis democracy a la

Mahathir? Any answers?

RAVINDER SINGH

Sungai Patani

COMPLIMENT S AND SOME

SUGGESTIONS

wish to congratulate your

Aliran Monthly for the good

work you are doing in educating the Malaysian public on issues of vital significance for our future.

The latest issue of your maga-

zine has some very good articles

which enlightened me on the far-

reaching consequences of the new

printing press law. I enjoyed Dr

Chandrals very perceptive analysis

of the newspapers. My proposal

is that all freedom loving citizens

should use their massive people

powerl to pressure the newspapers

to be more responsible and

accountable. For a start, let us get

the message through to the New

Straits Times by boycotting

buying it or supporting it by

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advertising in it. Sooner or later,

if a big number of us act to boycott

it, the New Straits Times will

know that it cannot survive unless

it becomes more responsible in its

reporting. The journalists who

really believe in their calling to be

members of the Fourth Estate

should also make their stand clear

to their bosses.

There is only one negative

comment I like to make about

an article in your magazine.

That is the article by the unnamed

journalist - iIJoumaIists - A

Threatened Species" - although

well-written and very good in

communicating to us the impli-

cations of the Printing Press Act

for our future, it lacks credibility

when its writer refused to disclose

his identity. Is he a coward?

is he frightened of'? He talks am

Gandhi not being frightened to go

to jail, as a good example of a good

freedom-loving journalist. Why is

the author himself afraid? Perhaps

he should offer us a good reason

for not daring to identify himself.

I think you should also give

us some facts about each writer

at the end of each article. For example, who is Tong Veng Wye? His age, job etc. We are interested to know the type of persons who are standing up for the rights of fellow Malaysians.

One more cement before I close. That is since our newspapers are not giving us all we need to know, how about Aliran Monthly increasing its pages and coming out more frequently, say once a fortnight? We are really starved of news! Aliran Monthly should be our alternative paper. Do consider this proposal.

CHRISTOPHER LIM GUAN TAI

Kuala Lumpur

/ The Monthly normally used to be between 28 and 32 pages. Of late we have gone up to 36 pages. In fact, the last one was a bumper issue with 56 pages!

Your suggestion that we publish fortnightly is well taken. But we are bound by serious constraints at the moment to implement this.

- EDITOR/

JUDICIARY IN CRISIS

V , HT WAS

I V

OUR PUBLIC DUTY

Suspended Judges Defend Their Action
aw.

If we had refused to sit
on the urgent representation
made to us we would have
failed in our duty as judges . .

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e wish to state that this morning the five of us received letters of today's date from the Chief Secretary to the Government stating that we have been suspended from the exercise of our functions as Judges of the Supreme Court with effect from today.

Primarily it appears from the letter and the enclosures therewith including the representations made by Tan Sri Abdul Hamid bin Hj. Omar, Chief Justice of the High Court in Malaya and now Acting Lord President that this was because we sat on Saturday, 2nd July to hear an application as a matter of urgency made by Counsel for Tun Mohamed Salleh bin Abas, Lord President of the Supreme Court of Malaysia when his application to Justice Datuk Ajaib Singh for a stay was refused pending an adjournment of the proceedings in the High Court until Monday, 4th July. It is alleged in the representations made by Tan Sri Abdul Hamid that we were irresponsible and acted unbecomingly as Judges of the Supreme Court in sitting as the Supreme Court on Saturday, 2nd July at a session not convened by him as Acting Lord President.

We must make it immediately clear that we sat as we did with Tan Sri Wan Suleiman presiding as the Senior Judge of the Supreme Court in view of the fact that Tan Sri Abdul Hamid is the 1st respondent in the proceedings before the High Court and in the application made to us and this equally applies to Tan Sri Lee Hun Hoe, Chief Justice of the High Court in Borneo who is also a respondent being a member of the Tribunal. Under these circumstances they are disqualified from acting being interested parties. Tan Sri Abdul Hamid bin Hj. Omar as the Acting Lord President would normally have the right to convene a session of the Supreme Court under the provisions of section 39(1) of the Courts of Judicature Act, 1964. We therefore felt it imperative in the interests of justice to hear the application, as a matter of urgency but in this case as an interested party and one of the respondents he is wholly disqualified from so acting and in those circumstances the provisions of section 9(1) of the Courts of Judicature Act would apply which specifically provide that where the Lord President which of course includes an Acting Lord President is unable to exercise his powers or perform the duties

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of his office including his functions under the Constitution owing to illness or absence from Malaysia or any other cause, and, the instant matter comes under the latter provision which we have underscored, these powers shall be had and exercised and the duties shall be performed by the Judge of the Supreme Court having precedence next after him who is residing in Malaysia and able to act. That Judge was and is Tan Sri Wan Suleiman bin Pawanteh and he accordingly immediately on an urgent application made to him sought to convene a full court of seven Supreme Court Judges to hear the application as the Lord President, the Acting Lord President and Chief Justice of Borneo were disqualified under the provision of section 9(1) of the Act as being interested parties in the matter. Unfortunately Tan Sri Wan Suleiman was not able to get the co-operation of Tan Sri Hashim bin Yeop Abdullah Sani, a Supreme Court Judge, who refused to sit and as a result only the five of us could sit as under the provisions of the Act a Court must sit in odd numbers.

We would add that when we sought to sit in Court we were informed by the Chief Registrar of the Sum;

Court, Haidar bin Mohd. Noor, that instructions have been given by Tan Sri Abdul Hamid bin Hj. Omar. the Acting Lord President, that none of the court staff should be present in court and the court doors should not be opened and we should not have the use of the facilities of the court including the seal of the Supreme Court. In those circumstances it even became necessary for Tan Sri Wan Suleiman himself as the presiding Judge to sign the order which we made which in fact should have been the duty of the Chief Registrar of the Supreme Court.

Another allegation against us is that we heard the application before Justice Datuk Ajaib Singh had disposed of the matter. An urgent application was made for us to hear the application on the submission that the stay refused by Justice Datuk Ajaib Singh would have otherwise rendered nugatory any order made subsequently as all proceedings of the Tribunal would by then have ended. We therefore felt it imperative in the interests of justice to hear the application as a matter of urgency and on an undertaking by counsel for Tun Salleh to file a proper written application. and. after hearing submissions. we made an order as we did under the provisions of Order 02 rule 4 of the Rules of the High Court. 1980 which applies to the Supreme Court by virtue of the provisions of rule 4 of the Rules of the Supreme Court. 1980.

We think we owe a public duty to state the correct facts regarding the circumstances under which we sat on Saturday, 2nd July and had to act as we did, and this was primarily on the basis and in view of the fact that the Acting Lord President as the 1st respondent to the proceedings was wholly disqualified from having anything to do with the convening of the session of the Supreme Court that morning. If we had refused to sit on the urgent representation made to us we would have failed in our duty as Judges and in our oath to uphold the Constitution and administer justice. 0

CONFLICT OF INTEREST

Acting LP Acts Against Judges

It was unanimously resolved at the Emergency Meeting of the Sabah Law Association on the 7th day of July, 1988 that the following statement be issued and that the enclosed petition be sent to the relevant authorities:-

11SLA stands solidly behind the 5 suspended Supreme Court Judges and wishes to commend them for their swift and courageous action in the face of exceptional circumstances to forestall a threatened grave injustice being perpetrated against the Head of the Malaysian Judiciary. They have demonstrated to the world at large that the Malaysian Judiciary is truly and courageously independent and deserves the admiration and support of every right-thinking Malaysian. They should not have been suspended for exercising their inherent jurisdiction to forestall a threatened grave injustice.

It is most unbecoming of the acting LP as an interested party to make the representation that he did to the Yang Dipertuan Agong against the 5 Supreme Court Judges. It is crystal clear that as he is the 1st Respondent in the action before the Court and moreover stands to gain should the suspended Lord President be removed, that he is an interested party and should have left the conduct and adjudication of the action to the other members of the Judiciary. He seems to be labouring under the illusion that the statutory power to convene a sitting of the Supreme Court is exclusively his, even when he is an interested party, thus displaying his utter ignorance or disregard of the basic tenets of justice. If his stand is correct, he could easily deny justice to the suspended Lord President by delaying or refusing to convene a sitting of the Supreme Court which is surely a travesty of justice, if ever there is one. Should the Executive continue in its present course of action, the country will be heading for a dictatorship by the Executive where the Judiciary and the Legislature will be subservient to it. Every Malaysian who does not want this to happen should make their voice heard before the independence of the Judiciary is demolished beyond remedy.

We, the undersigned, being members of the Sabah Bar hereby wish to register our profound shock on the suspension of the five Supreme Court Judges namely Tan Sri Wan Suleiman Pawan Teh, Datuk George Seah, Tan Sri Azmi Kamaruddin, Tan Sri Eusoffe Abdoolcader and Tan Sri Wan Hamzah Salleh on 6th July 1988 and further says as follows:-

0 That the Supreme Court sitting on 2nd July 1988 by the aforesaid 5 Supreme Court Judges was in accordance with law and in keeping with their duty to uphold the Constitution and to administer justice.

0 That the allegations against them are vicious and entirely without basis.

0 That their suspension is an unwarranted attack on the independence of the Judiciary and a gross interference in the administration of Justice in Malaysia.

That, by the suspension of the 5 Supreme Court Judges, public and international confidence in the Independence of the Judiciary is further eroded and unless the suspension is revoked immediately, the Judiciary as an independent branch of Government will be irretrievably destroyed.

0 That by his recent actions, the Acting Lord President, Tan Sri Hamid Omar, has shown himself to be eminently unfit for judicial office and we strongly urge his resignation from the Bench.

0 That we urge all Judges of the High Courts of Malaya

and Borneo, not to resign and to remain united
in the face of this affront to their Judicial
Independence.

That we humbly petition His Royal Highness, Sultan
Azlan Almuhibuddin Shah, DYMM Sultan of Perak,
Deputy King of Malaysia and the Conference of
Rulers to intervene to resolve the crisis. 0
Tan Sri Hamid Omat has shown himself to be unfit
for judicial office.

Dated the 7th day of July 1988.

BLATANT
OBSTRUCTION
OF JUSTICE

Hamid Orders Doors
of Court Locked.
he Bar Council
with great cmtcerti utid
apprehenstoit the recent
suspension vi the Lutd
President and 5
Supreme Court Judges het'uuse it
is becoming increasingly cvulent
that the tenuxe oi Judges is being
placed in great jeopardy.
Traditionally Judges are not
removed from ttt'tiice except in
cases 01' the gravest misconduct
and it is significant that a Judge
can be removed tram office only
VICVVS

under the ptuvisions ot' Atticle
125(3)

The Bar ('ountril states that
in the entire history 0t the
Judiciary since independence the
pmvmuns mt Aitteie 125(3) htne
never heeit applied against the
Judiciary and expresses its
gravest concern that in the recent
weeks it has been used against
(0) 59mm Judges.

The Bat ("mined depletes the
stispetismtt ut liik' 5 Supieme
('outt Judges tutti views this as :t
blatant attempt it: deprive the
Lmd President Tun Szaileht ni' his
legal tights and icmetht's. lhc Btu
(01111101 HUILN that the t'titt'ctit
situation iii the Supieine ('uuit
is that their exist only I Judges
of thtit ('rmit whu ate :ihie tn ttet
as the othet 8 UN? disabled eithet
by rcusmt 0t

Parties to proceedings which t'ettdei
them unable to net.

it is the View ()1 the Bat (UUHCii
that the Tribunal

XUSPCIISIUI) (H LHC
iepm't (it the

should not be presented until
the position ut the 5 Supt'me
Court Judges is resolved.

The Bar CUUHC" deeply regrets
to note tmm Statements in the
Press that there was an alleged
conspiracy 0n the putt of the 5
Supreme Court Judges to empanel
the Supreme Court to heat the
application for stay while the
matter was pending in the High
Court.

It is univmsttiy accepted that
in matters nt extreme urgency
the Judges m :11) Appellate Court
shutild be available at VCI) shm't
notice It) thspuse uf applications
or appeals hunt a (Voun mote so
where there is uity likelihood of
travesty ut tttstice arismg from
unwuimnted delay. Such an action
as taken by the 5 -Supreme Court

Judges ts Iitctetme not unprecen-
detttdt lhc But (VUUHCii notes
that in a! decision in the High
(mitt Oi iziultmti it was stated
iimi 'UllbLilcllttIi oi the ('ourts
In hem mgcm applications are
not in be encumbered in any form
or itizmnet,

The Bat

Judges owe

(uuncil notes that

.l public duty and it'

they tetusc to sit un urgent applieur
lluII they would be failing in their
duty as Judges as set out in their
oath ut' oiticc m uphold the Constd
tution dmi ddtlllllsllejUSIICC.

the Bat (mmeil considers that

'iun 511 Hiltllikl. whilst presiding

UVCI the 'liiihunat lU enqui'e mm

the charges against Iiun Sziiieh

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SALLEH ABAS: seeking legal
rights and remedies

HAMID: obstructing justice

Abas and having been cited as

the 1st Respondent before Mr.

Justice Ajaib Singh was thereby

deprived of his authorityis

acting Laid President in i

matters brought before the

Supreme (Vourt relating to the

muttets then pending before the

'iiihititai utid the High (juurt.

lt wats ginssly iitipropcr conduct

itn' him tu have attempted to

depiive the 5 Judges of the

Supreme (hurt from hearing an

application in open Court by

oldering mute of the Court Staff

to tie ptesent in Court, by ordering

the doors of the Court not to be

npcnd and by denying them Of

the tacihties ol' the Covrt including

illL' soul at the Court. .

S. THEIVANTHIRAN

Vice-President

THE MALAYSIAN
BAR TAKES A STAND
WHEREAS:-

1. he Executive in the person of the Prime Minister, Y.A.B. Datuk Seri Dr. Mahathir Mohd. has in the past months attacked the judiciary and the judicial system of our country. The attacks have reached the level of suspending Y.A.A. Tun Mohd. Salleh Abas, the Lord President from his office and a Tribunal was appointed to hear representations to remove Y.A.A. Tun Mohd. Salleh Abas from the office of Lord President.
3. Y.A.A. Tan Sri Abdul Hamid Hj. Omar, the Chief Justice of Malaya and Acting Lord President (as a result of the suspension of Y.A.A. Tun Mohd Salleh Abas) was appointed a Member of the Tribunal and Chairman of the Tribunal.
4. Y.A.A. Tun Mohd. Salleh Abas has challenged the validity of the Tribunal and has brought proceedings in the High Court for its determination.
5. The said application was heard before Y.A. Datuk Ajaib Singh and as no decision was made on the application before him, and when there was a refusal to grant a stay of proceedings of the Tribunal, counsel for Y.A.A. Tun Mohd Salleh Abas applied for and obtained from the Supreme Court comprising Y.A. Tan Sri Wan Suleiman Pawan Teh, Y.A. Datuk George Edward Seah Kim Seng, Y.A. Tan Sri Hj. Mohamed Azmi Haji Kamaruddin, Y.A. Tan Sri Eusoffe Abdoolcader and Y.A. Tan Sri Wan Hamzah Haji Wan Mohamed Salleh, an order restraining the members of the Tribunal of whom Y.A.A. Tan Sri Abdul Hamid Hj. Omar is the Chairman from submitting any recommendation, report or advice to the King until further order.
6. In consequence of the granting of the order by Y.A. Tan Sri Wan Suleiman Pawan Teh, Y.A. Datuk George Edward Seah Kim Seng, Y.A. Tan Sri Haji Mohamed Azmi Haji Kamaruddin, Y.A. Tan Sri Eusoffe Abdoolcader and Y.A. Tan Sri Wan Hamzah Haji Wan Mohamed Salleh, Judges of the Supreme Court, DYMM Seri Paduka Baginda Yang di-Pertuan Agong suspended their

Lordships as Judges of the Supreme Court upon receipt of representations from Y.A.A. Tan Sri Abdul Hamid Hj. Omar Acting Lord President who had reportedly consulted the Prime Minister on the matter.

7. The doctrine of the separation of powers which dictates and ensures the independence of the judiciary is enshrined in the Constitution.

8. Y.A.A. Tan Sri Abdul Hamid Hj. Omar had given orders that none of the Court staff should be present, that the doors of the Court be not opened and that the facilities of the Court including the seal of the Court be denied to the Judges of the Supreme Court. NOW THIS HOUSE re-affirms its commitment to uphold the Constitution, the rule of law, the

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doctrine of separation of powers and the independence of the judiciary and views the aforementioned events and acts of the Prime Minister, Y.A.B. Datuk Seri Dr Mahathir Mohd. and Y.A.A. Tan Sri Abdul Hamid Hj. Omar, Chief Justice and Acting Lord President as affecting the doctrine of the separation of powers and being totally inconsistent with the independence of the judiciary. NOW IT IS HEREBY RESOLVED:

1. That the suspension of the five (5) Judges of the Supreme Court is a further unwarranted attack on the independence of the judiciary and a gross interference in the administration of justice in Malaysia and the MALAYSIAN BAR deplores the action of Y.A.A. Tan Sri Abdul Hamid Hj. Omar as acting Lord President in having made representations to DYMM Seri Paduka Baginda Yang di-Pertuan Agong which have resulted in the suspension of Y.A. Tan Seri Wan Suleiman Pawan Teh, Y.A. Datuk George Edward Seah Kim Seng, Y.A. Tan Sri Mohamed Azmi Haji Kamaruddin, Y.A. Tan Sri Eusoffe Abdoolcader and Y.A. Tan Sri Wan Hamzah Haji Wan Mohamed Salleh from office as Supreme Court Judges when he was and is the 1st Respondent cited in the order made by their Lordships.

2. That the Malaysian Bar calls for the immediate revocation of the suspension of the five (5) Judges of the Supreme Court as their Lordships' suspensions are totally inconsistent -with

the independence of the judiciary and will lead to the destruction of the judiciary as an independent branch of the government.

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i That by his recent actions the Acting Lord President. Y.A.A. Tan Sri Abdul Hamid Hj. Omar has shown himself to be unfit for judicial office and the Malaysian Bar no longer has any confidence in Y.A.A. Tan Sri Abdul Hamid as a Chief Justice or Acting Lord President and calls for his immediate resignation and/or removal from the Bench.

TAN SRI ABDUL HAMID: The Malaysian Bar calls for his removal from the Bench.

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'- i

And by reason of making representations to His Majesty the King to suspend the Supreme Court Judges

a) Y.A. Tan Sri Wan Suleiman Pawan Teh

b) Y.A. Datuk George Edward Seah Kim Seng

c) Y.A. Tan Sri Hj. Mohamed Azmi Haji Kamaruddin

d) Y.A. Tan Sri Eusoffe Abdoolcader, and

e) Y.A. Tan Sri Wan Hamzah Hj. Wan Mohamed Salleh

Thereby interfering in the administration of justice where he made the said representations had been in contempt of court.

This House hereby resolves that the Bar Council appoint a panel of solicitors to institute contempt proceedings against the said Chief Justice forthwith.

.The Malaysian Bar urges all Judges of the Supreme Court and High Court of Malaya and Borneo and all judicial and legal officers to stand firm for the independence of the judiciary and discharge their duties in accordance with the Constitution, the rule at law and oath of office in the face of this

. . . and urges the Rulers to deliberate on its representations.

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affront to the independence of the judiciary.

5. That the BAR COUNCIL MALAYSIA make representations to DYMM Yang di-Pertuan Agong and Their Royal Highnesses the Rulers to convene the Majlis Raja-Raja (Conference of Rulers) pursuant to Article 38(2) of the Constitution to receive representations from the BAR COUNCIL on the events

and issues that have occurred
prior to and leading, to the
suspensions of Y.A.A. Tun
Salleh Abas from his office
as Lord President and Y.A.
Tan Sri Wan Suleiman Pawan
Teh, Y.A. Datuk George
Edward Seah Kim Seng, Y.A.
Tan Sri Haji Mohamed Az ' _
Haji Kamaruddin, Y.A. Tan 5
Eusoffe Abdoolcader and Tan
Sri Wan Hamzah Haji Wan
Mohamed Salleh from their
office of Supreme Court Judges,
deliberate On the representations
and to make such decision or
decisions. as His Majesty and
Their Royal Highnesses may
deem fit and proper. 0
BAR COUNCIL MALAYSIA

e.

The PM: no respecter of the independence and authority of the judiciary
since no Tribunal has been set up to investigate the alleged "dereliction of duty" and "gross misbehaviour" of the 5 suspended Supreme Court Judges, Aliran hopes that the Conference of Rulers will advise His Majesty the Yang Di Pertuan Agung to revoke forthwith the suspension of the 5 Judges.

It is obvious to most people that the Judges have done nothing wrong. They had merely defended justice for they knew that if they failed to act swiftly on Saturday 2 July 1988, the Tribunal would have gone ahead and submitted its report to the Yang Di Pertuan Agung. This would have been grossly unfair to the suspended Lord President since the substantive issues he had raised in his affidavit to the High Court would have remained unresolved. It was because the Judges were determined to uphold cardinal principles such as the rule of law and the independence of the judiciary, which are embodied in the Malaysian Constitution, that they were compelled to act the way they did.

It now appears that the legal wrangles between the suspended Lord President and the 5 Supreme Court Judges, on the one hand and the Prime Minister as the head of government, on the other, will continue for some time to come. The number of applications submitted to the Supreme Court in connection with the "Tun Salleh plus five" case is an indication of how determined both sides are to vindicate their respective positions.

A protracted legal squabble is not in the interest of the nation. It will not only bog down the administrative machinery of the State but will also have a negative impact upon the economy which is beginning to show signs of a slight recovery. BCSldCS, political uncertainty created by

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An Appeal
To Revoke
Suspension Of
Supreme Court
Judges

litigation of this sort will further add to the general atmosphere of gloom and despair which is so pervasive today.

More important, Aliran fears that the government and particularly the Prime Minister whose credibility has reached its nadir, may in frustration, try to short-circuit what he may regard as cumbersome legal processes by resorting to desperate measures. This has happened in other similar situations where men determined to cling on to power, whatever the consequences, have lost their patience with time-consuming judicial procedures. Our Prime Minister has revealed through both word and deed that he is no respecter of the independence and authority of the Judiciary. Allegedly there are some disturbing signs to show that groups associated with the ruling elite are beginning to exert extra-legal pressure upon institutions concerned with the administration of law and justice. The demonstration staged by some UMNO Baru Youth members outside the High Court against the Bar (one is an example of this). Again, these are familiar tactics used by

authoritarian regimes which are intolerant of independent judicial authority. Invariably, they are aimed at intimidating lawyers and judges into submission to the whims and caprices of the ruling elite.

It is because Aliran realizes what all these unhealthy developments portend for the future of Pakistani Democracy in our country, that we are appealing, in all humility, to the Conference of Rulers to act on behalf of freedom and justice.

As Muslim Monarchs, they will no doubt understand that justice is closest to piety: .

CHANDRA MUZAFFAR

Pmsttlortt

15 July 1978

The

UMNO Baru

Youth Demonstration

liran is saddened to learn that about 100 Selangor UMNO Baru members had demonstrated against the Bar Council on Thursday 14 July 1988.

The demonstration, according to news reports took place outside the Kuala Lumpur High Court building.

The demonstrators, it is alleged, were angry with the Bar Council for challenging the legitimacy of the Tribunal and for questioning the competence and integrity of the Acting Lord President, Tan Sri Hamid Omar.

It is a pity that Selangor (MM) Baru Youth has misunderstood and misinterpreted the whole issue. The Bar, Aliran and a number of other concerned groups are merely responding to one of the gravest injustices that has taken place in our country since Merdeka: the strangulation of the Judiciary so dramatically epitomised in the suspension of Lord President Tun Salleh Abas and 5 distinguished Supreme Court Judges.

It is because the suspension episode and everything related to it is so unjust and unfair that not only groups like the Bar (Utama) and Aliran are unhappy but the general public as a whole, is totally disappointed with the Government. We are sure that Selangor UMNO Baru Youth is very much aware of how the ordinary citizen feels about the suspension episode.

The Bar's attempts to obtain some justice in this very difficult situation by petitioning against the Acting Lord President and by seeking audiences with their Highnesses the Sultans, should be understood against the background of all that has been happening to the Judiciary in the last few months. There is no need for the Selangor UMNO Baru Youth or any other group to react harshly to the Bar.

At the same time however, Aliran must emphasise that members of the Bar, like everyone else should pursue the cause of truth and justice with dignity and decorum. Jeering and booing any individual or group whose public stance differs from ours, does more harm than good to our own struggle. Noble goals should be pursued through noble means.

14 Jul 1988 THE EXECUTIVE COMMITTEE

THELPSACKED__1

dealing with an independent Supreme Court. In the total Aliran deeply regrets to note that pursuant to the recommendation of the Tribunal hearing the complaint against the Lord President, he has been removed from office by the Yang Di-Pertuan Agong.

It is obvious from a perusal of the Tribunal's Report (as published in the newspapers) that the Tribunal proceedings were tainted with bias and animus. The composition of the Tribunal, its unquestioning acceptance of one-sided evidence and its conspicuous haste in completing the proceedings all point to a determination to arrive at a foregone conclusion. One gets the

overall impression that the Tribunal
. hearing was only meant to provide
/' a veneer of legality to a scheme for
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context of various connected events,
it is clear that the object of the
exercise was to ensure that a certain
decision would be made on the
Appeal of the 11 UMNO members
before the Supreme Court.

In all this of course we see
the heavy hand of the Prime
Minister and chief puppeteer, Dr
Mahathir Mohamad, unsubtly mani-
pulating the puppet strings so as to
entrench himself in power.
The Tribunal proceedings will
surely rank with the trial of Socrates
in infamy_.

11 August 1988

Executive Committee

bamoancv
VISION OF
GREATNESS

The Filipino Struggle

We publish below excerpts from the Tun
azak Memorial lecture delivered by the' retired
Chief Justice of the Philippines. CLAUDIO
TEEHANKEE on 7 July 1988 at the
University of Malaya.

- EDITOR

however, a tragic development in Philippine
political history occurred in 1972. when
Mr Marcos, on the seventh year of his
presidency and no longer eligible
constitutionally to run for a third term
as President. declared martial law after taking a supposed
ambush of his defence minister (in which nobody
suffered even a scratch). Avowedly to "save the
Republic? he invoked the Commander-in-chief clause
Of the Constitution and took absolute command of the
nation. He padlocked the regular Congress of the
Philippines and took over the power to legislate. Much
later, in 1980 when the ad interim legislature was
convened. after sham elections. he continued to legislate
even when a national legislature existed. which mainly
concerned itself -- I am sorry to say , to routine
matters.

He thereafter systematically and effectively
emasculated the judiciary to the point or near impotence
such that the courts failed to shield the people against
the capricious whims and arbitrary exercise of naked
power by the authoritarian ruler. Security tenure
lost its meaning. All the members of the
Judiciary, including the Supreme Court justices. were
reduced to the status of casuals. replaceable at any
time. The sword of Damocles hung over their heads.
At one time. he let the sword fall on all existing
Courts (except the Supreme Court and the special
nine-member Court) were abolished and he issued new
appointments for some 2,000 judges of so-called "new
courts."

It reached a point where the majority of our Supreme
Court held that one single clause. the (Commander-in-
Chief clause. allowed the President to take absolute
command of the military and that the people could only
trust and pray that he would not mislead them. Thus, as
long as a person was held under a Preventive Detention
Order of the ruler. he could be detained indefinitely
without charges, yet have no recourse to the courts.
Even if he were acquitted in court. the military would
not release him until and unless the ruler lifted the
detention order. ('Garcia-Padilla v. Enrile. G.R. 54095,
25 July 80)."

Justice warned. that single consolidated government
would become the most corrupt government on
earth." The lesson that could be learned from our
experience is that while Martial Law was imposed
avowedly "to save the Republic and reform our
society" the dictatorial measures under one-man rule
so transformed our Republic that it ceased to be a
republic State and the people's rights and freedoms
were lost and denied them. Martial law served but to
destroy the institution and the very Republic it was
supposed to save."

I indeed tower corrupts absolutely and as Thomas
. . . the courts failed to shield the people
against the capricious whims and arbitrary
exercise of naked power by the authoritarian
ruler.

Recall sadly that the Marcos 1973 Constitution was
presented one November day in 1972 to him at

Mdluturrrning Palace by the oiTieers and members of the
(kmstnntronal Covention. He then ordered the release
from the stoekzide oi the (lonstitutional Convention
members whom he had ordered loeked up. Most of the
Constitutional Convention members present greeted
his announcement with yells and applause like children
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who had been given a bar of candy, not realizing yet that they were presiding at the death-throes of Constitutional democracy in the land.

The Supreme Court, however, by a majority of two out of ten members, declared that whether or not the new Constitution had come into force and effect was a political question. With the 1973 Constitution validated in effect by the Court's majority, Mr Marcos cited its transitory provisions as the legal basis for his one-man rule by decree under martial law. He then fashioned the Constitution by subsequent amendments proposed and proclaimed by himself to suit his long-prepared schemes for consolidation and perpetuation of power in his person under his Martial Law regime.

As later events showed, the Supreme Court majority found itself unable to rule out these arbitrary acts under the political question theory it had embraced and consequently could do nothing but legitimize Mr Marcos' total consolidation in himself of all government powers."

people had prayed for the opportunity to break their chains and vote out the dictator. The election was so fraught with frauds and irregularities that the people rose in bloodless revolt. On February 25, or 18 days after the snap election, the Filipino people in a massive show of solidarity triggered by the breakaway former Marcos' long-time Minister of Defence Juan Ponce Enrile (now a member and minority leader of the Philippine Senate) and his own cousin the Vice-Chief of the Armed Forces of the Philippines Fidel V Ramos (now Secretary of National Defence) rigged as the elections might be, the Filipino

described by his immediate successor Chief Justice Pedro L Yap and the current Chief Justice Marcello B Fernan, in the following words:-

Of his (Chief Justice Teehankee's) many impressive He was . . . the shining exemplar of the true Judge holding high the proud traditions of the Bench.

proclaimed Corazon C Aquino as the seventh President . and the first woman President of the Republic of the Philippines.

Ours is indeed a unique case wherein the armed forces rebelled against the dictator's having done everything he could to steal the election in order to enable the true winners of the election to assume their rightful place as the new leaders of the nation. Contrary to world experience, we showed that in the Philippines dictators could lose elections.

When Corazon Aquino's emissary came in the late afternoon of Monday, February 24th, to ask me to administer her oath of office as President of a provisional government, and thereby join the revolution, that was my moment of truth. In all humility, I made my stand in line with what I have stood for all my life and in over seventeen years that I had then served in the Supreme Court. There was no room for fear or hesitation. We went to the Club Filipino that night where everything was in readiness. But our new President preferred to take her oath and take power in the name of the Filipino people in the light of day the next morning. So, we gathered anew at the break of dawn on Tuesday, February 25th."

revolution against tyranny. It was a call for the restoration of our liberties. It was a transformation of our nation from a long silenced flock of sheep into an irresistible non-violent instrument of the Almighty, and the national will. It was the finest hour of the Filipino, a vision of the nation's true

greatness. .

Our bloodless February, 1986 Revolt was a
is worth noting that Teehankee has been
accomplishments, he will be best remembered for his
valiant defence of democracy during the period of
martial law and despotism. That was a daunting time.
Yet, often alone in the Court, he resisted the abuses
of the dictatorship, welding a trenchant pen tempered
by years of legal scholarship and sharpened by his
passionate commitment to the rule of law and the
inviolability of liberty.

He was the bright light in that night, the shining
exemplar of the true Judge holding high the proud
traditions of the Bench. Against the intimidations and
insolence of power, he stood firm. He opposed when
it was safer to conform. Despite the perils of protest,
he dared to disagree. His greatest virtue was not that
he was always right but that he was never afraid. And
for this he became, during those dismal days, the
conscience of the Court. 'i

DEMOCRACY

Rule by law .

3

is NOT

Rule of law

Rule of Law as one of the five principles of the Rukunegara is a familiar term to all Malaysians. Its meaning as a legal and political doctrine may be known and understood by most people but it can be questioned whether many appreciate that the primary aim of the Rule of Law is to protect and preserve fundamental rights. That worthy aim has been emphasised in the Rukunegara's own explanation of the Rule of Law - that it is the foundation of justice and that it hinges upon fundamental liberties that are guaranteed in the Constitution. The principle itself is to be guaranteed by the existence of an independent judiciary empowered to determine whether or not actions of the executive are legal and constitutional.

This meaning given to the Rule of Law is similar to the noble aspiration expressed in the preamble of the 1948 Universal Declaration of Human Rights adopted by the United Nations General Assembly. Whereas it is essential, if man is not compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the RULE OF LAW".

Malaysian society has lately been undergoing what appears to be an increasing awareness of the significance of the Constitution and national laws in public life. We hear of more concern being expressed by national leaders on the necessity of political actions being taken in accordance with the Constitution. It is not only the legally-qualified Attorney-General, constitutionally entrusted to render legal advice to the Yang di-Pertuan Agong or the Cabinet or any Minister, who issues statements on the constitutional or legal bases

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of specific issues or questions. It is not unusual these days for many a politician to stress that the government observes the strict letter of the Constitution or some particular law or other. Such assertions are usually accompanied by the reiteration that laws have been made by the people's democratically-elected representatives in Parliament, thereby reflecting the popular will.

But is this the Rule of Law or merely rule by law that is being upheld? Does the making and subsequent strict application of laws amount to that Principle of the Rukunegara? Is that noble ideal dependent only on the existence of written rules, regulations and rituals made by man himself to control his fellow human beings?

If that were so then we would have to confer Rule of Law labels to Adolf Hitler, who caused untold suffering during the 1930s and 1940s; to Josef Stalin's violent and brutal actions against critics and opponents in Russia; to the cruel Israeli suppression of the Palestinian people's efforts to leave the land; even to South Africa's white minority government which has oppressed the black majority in the name of their racist apartheid policy. Would the 70-year-old black champion of human rights, Nelson Mandela, agree that there is Rule of Law in his country merely because his indefinite

detention without trial is allowed by law?

Sutely it is only natural and obvious that lite
Principle cannot be devoid otijustiee. equalityt
fairness and other universal values oi humankind
whieh nations and peoples have constantly striven
to preserve and protect ever since time intmenmrial.
Such valiant hopes know no boundaries of race.
colour or time. There is little difference between
the Frenchman's revolutionary slogan of Liberty.
Equality and Fraternity, in 1789, and Tnnkn

Abdul Rahman's proud proclamation of our own country's independence as its sovereign democratic and independent State founded upon the principle of liberty and justice . . . followed by those resounding shouts of Merdeka! Rule of Law therefore must be distinguished from rule by law in order that legitimacy of actions by government is also morally based - to prevent legal dictatorships, totalitarian rule or authoritarian controls. That is why jurists from all parts of the world including Malaysia, have agreed to become members of that well-renowned and highly-respected International Commission of Jurists (ICJ). The ICJ devotes itself to promoting throughout the world the understanding and observance of the Rule of Law and the legal protection of human rights.

It is interesting to note that the ICJ has achieved its objective partly by organising regional seminars on the Rule of Law and human rights. At the New Delhi Congress in 1959, and re-affirmed by the Declaration of Bangkok in 1965, this useful working definition of the Rule of Law was adopted: "The principles, institutions and procedures, not always identical but broadly similar, which the experience and traditions of lawyers in different countries of the world, often having themselves varying political structures and economic backgrounds, have shown to be important to protect the individual from arbitrary government and to enable him to enjoy the dignity of man,"

Proceeding from this definition, guidance can be obtained as to how Rule of Law is to be best achieved by considering various basic requirements for a representative government under the Rule of Law, such as:

1. Representative government derives its power and authority from the people, exercised through representatives freely chosen and responsible to them.
2. Free periodic elections should be held under such conditions that the right to vote is exercised without hindrance or pressure. Election expenses of candidates should be regulated to ensure that elections are both free and fair.
3. Freedom of expression through the press and other media of communication is an essential element and also necessary to ensure an informed and responsible electorate. The people should not only be literate but should have a proper understanding and appreciation of the principles of democracy, the functions of the different branches of government and the citizens rights and duties.
4. Representative government implies the right to form opposition parties that are able and free to pronounce on the policies of the government, provided their policies and actions are not directed towards the destruction of

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representative government and the Rule of Law.

5. There should be an efficient, honest and impartial civil service.
6. There should be effective machinery for the protection of fundamental rights and freedoms.
7. The ultimate determination as to whether the law or an executive or administrative act infringes those rights and freedoms should be vested in the Courts. The ultimate protection of the individual depends upon the existence

of an enlightened, independent and courageous Judiciary.

Since human rights and fundamental freedoms are universal in nature, any representative government under the Rule of Law can refer to numerous international standards on human rights protection in order to determine that it is in compliance.

Malaysia is a Member State of the United Nations and must surely pay attention to the common standard of achievement for all peoples and all nations . . ." in the 1948 Universal Declaration of Human Rights.

There are so many questions to be answered before a Malaysian can confidently assert that the Rule of Law is alive and well in his country. There are sufficient developments over these last few months which pose serious questions for us to ponder over. For eg., Is it enough that Article 125 of the Constitution be slavishly followed in the legal procedure for removal of the Lord President of the Supreme Court and 5 other Supreme Court judges, without also considering the damage caused to public confidence in an independent and impartial judiciary? What of that principle whereby no man shall be judged except by at least his peers? One can also raise questions regarding the rights of ISA detainees, who are basically arrested and incarcerated on the basis of suspicion of having acted or being likely to act against state security. They are therefore not convicted criminals or even accused of being such. Yet their treatment and rights, according to the relevant laws, are even less than those of ordinary criminals. Whereas the person unlawfully detained under an ordinary penal law can go to court to obtain release through habeas corpus, yet the ISA detainee finds that remedy slipping away from his grasp through the passing of amendments to preventive detention laws. And what of recourse to the courts as the individuals right to lodge complaints about denial of rights? More and more laws deny this universal right of access to justice with their proliferation of ouster clauses that arrogantly declare executive decisions to be final and not subject to review or appeal in any court of law."

Is all this part of our Rule of Law? 0

Azmi Khalid

DEMOLISHING MYTHS

In this article the writer looks at certain myths which are propagated by our political leaders to

cloud the peoples understanding of democracy.

Editor

WHO ARE THE ELITES?

The public would have noticed that certain

Government leaders often criticize and

condemn iielitistic groups for imposing

their will upon the people, for trying to

influence the peoples thinking. Elitistic

groups have even been accused by one or two

Government personalities of "wanting to seize power

from the people, of planning to depose the leaders

dictated by the masses.

Who are these elitistic groups? In the Government's

vocabulary groups like Aliran and the Bar Council,

among others, would be elitistic. The Judiciary is the

latest addition to this list.

It is worth observing in this connection that in a

speech in Sarawak at the beginning of July, the Prime

Minister alleged that a certain institution was out to

wrest power from the people - the institution alluded

to, given the context, was perhaps the Judiciary

according to various political analysts. The Malaysian

Judiciary must be the first Judiciary in history to have

such an accusation hurled at it! We know of Colonels

and Generals conducting coups, but a coup by Judges

would be really an unique event. It would have given

us a place in the Guinness book of records.

It is not the first time that such a preposterous

allegation has been made. In August last year, the Prime

Minister accused Aliran of attempting to usurp the

authority of the Government and the power of the

country. It is hard to believe that anyone can even

pretend of a public interest group seizing power.

Since these accusations against public interest

societies like Aliran and institutions like the Judiciary

are symptomatic of the Government's aversion towards

ielitistic groups we should now find out what the

term iieliteli means for we suspect that the term itself

has been wrongly used.

The term telitei, according to one authority was

originally applied to items of particular

excellence? Later crack military units and the higher

ranks of the nobility were called elites. As far as its

usage in social and political writings goes, the term

telitei began to acquire a certain meaning in the late

18th century. It is this usage that concerns us here.

Two of the most outstanding students of elites

known to the world, Vilfredo Pareto and Gaetano Mosca

used the term to describe the groups of people who either

exercised directly, or were in a position to influence

very strongly the exercise of, political power? It is

obvious from their studies that it is those who have

political power, or are linked to political power, that

deserve to be called elites. The leadership in

Government, and those who are able to influence them,

directly or indirectly, would be the elites in our context.

Another famous thinker, the French sociologist

Raymond Aron, also viewed the elite as a governing

minority". Harold Lasswell, a well-known American

political scientist, was more explicit. For him, the

political elite comprises the power holders of a body

politic?

If we took all these concepts of elites into account,

there is no doubt at all that the real elites are those

who designate others as "elitistic groups". It is, of

course, true that sociologists like T B Bottomore, have

employed the term elites to describe individuals from

groups that enjoy high status in society. But even

when used in this very loose sense, the elites are. more likely than not. individuals associated with the Establishment.

As a case in point within the university community, the Vice-Chancellors. their Deputies, the Registrars. the Deans. etc. would be the elite. It would be wrong to fix that label upon every lecturer or tutor. Similarly, within the business community. those who own and control the big corporations and earn huge incomes would be the elite. The retailer along Penang Road selling wristwatches is not part of the business elite; neither is the hawker selling sugar-cane water in Kuala Kedah.

Elites are elites only if they command power, authority. wealth. influence. status and privilege. What this implies is that the political. economic, cultural. academic and legal elites of our society are those who enjoy a direct or indirect relationship with power. wealth. authority and status. Seen from this perspective, Aliran is certainly not part of the elite stratum of Malaysian society. Neither is the Bar Council though there may be individual lawyers who by virtue of their personal statuses occupy niches in the elite stratum. Within the Judiciary. the Lord President and the Chief Justice because of their offices would be elite. This explanation and analysis of who are actually the elites is important. There has been so much confusion over. and distortion of. what the term really means due largely to the elites themselves especially

the titling elite. It is not just because of ignorance that This obviously elitistic trend in politics is paralleled by this has happened, though ignorance is often one of the an equally dangerous elitistic pattern in the cultural underlying causes of some of our social ills. The ruling sphere. Today's ruling elite has much greater power than elite has an ulterior motive for projecting the Bar its predecessors to determine what sort of cultural Council, Aliran and other such groups as iielitisticii. fare the rest of society is entitled to enjoy. The aim is to show the public that the causes they More than its policies, it is the ruling elite's lifestyle advocate and the issues they eSpouse have nothing to that makes it elitistic. The luxurious homes members do with the well-being of the masses. In this way, the of the elite own, their exquisite furniture, their fabulous elite hopes to iSolate these groups from the people clothes, their expensive cars, their extravagant holidays and create the impression that they are exclusive and abroad, set them apart from the tna sses they claim to high-brow. They are made to look selfish and insincere. represent. lfi one's lifestyle is any indication of ones It is absurd that the ruling elite should denigrate orientation, then leaders of certain public interest others as elitistic when its own elitism is so transparent. societies have much more affinity with the masses than A number of its economic policies, for instance, are those who condemn them as lielitistic ii. elitistic. Large scale industries have priority over small- Perhaps this is what it is all about: because the elites scale enterprises; big plantations over smallholdings; want to conceal the truth about themselves, their expensive technologies over capital-saving tools. At the policies, their lifestyles. they portray others as elitistic. same time, the elites conduct of politics does not allow It is a glaring example of that phenomenon called or encourage the active participation Of the ordinary sin transfer transferring ones sins to others, Sin citizen in the policy formulation process. Indeed, in transfer. needless to say, is an act in which the present the last few years, political power has become more and ruling elite is highly accomplished. 0 more concentrated in the hands of a few individuals. a It is not just the nations (ionstitution that the ruling s u P P O R I elite is expected to uphold; it must also remain faithful to the manifesto upon which it was elected. The mandate from the people which the elite is so proud E of is in a sensela mandate bestowed upon the elites manifesto. the Barisan Nasional Manifesto. By trampling IV 0 upon the authority oil the Judiciary. the ruling elite I has betrayetl the Manilesto which it presented to the people when it was returned to power in the August 1986 General l'lection. lntleetl almost everything the ruling elite has done since ()etohei 1987 trout the manipulation ofethnic tears. to the lSA arrests. to tltastie amendments to laws governing tuntlamental liberties. to the suspension of he present ruling elite sees itself as a great the Lord President and the five Supreme Court Judges , champion of the people. the rakyat. It regards sliows utter contempt tor the Burisan Manifesto and the itself as the voice of the people. Since its power FCthl'tll Constitution. This is why there is no basis at is derived from the Pmplet it argues that whatever all to the ruling eliteis claim that it is acting "in . it does is in accordance with the wishes of the pCOPIC- ueemtlanee with the wishes of the people". The people It claims that it has the support of the people tot all want Icudcn m ptmet to protect and dut to subvert its policies and actions the ('onstitttttion. They want democratic institutions It is true that as a (iovernnntent elected by the people. to be preserved and perpetuated.

The people did not
the elite has the right to rule, It has the mandate from gouty, u mandate tlptm Ille UMNO
and Burjgan elite
the rakyat to make policies and to implement to establish a highly authoritarian politica
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Cortstitutional principles and values. 'to do so. This in itseltshows that the ruling eli
te, in its

heart of hearts. does not believe that it has the support of the people.

if it is not prepared to find out how the people really feel through a clean, honest General Election, then it can at least allow the people to express their genuine sentiments about the present situation through the mass-media. The daily newspapers in Bahasa, Chinese, Tamil and English and Radio and Television should be given all the freedom and opportunity to create effective channels for the unfettered articulation of the rakyat's views on what is happening in the country today.

Of course, for people to speak up, the prevailing political climate should also be conducive. The fear of arbitrary arrest generated by the wide-ranging ISA detentions of October 1987 must recede. If the Government chooses to release unconditionally all those who are still detained from the October crackdown, there is every likelihood of the political climate changing for the better. More people will be more prepared to exercise their democratic right of free expression. The very fact that the ruling elite has to perpetuate a climate of fear, in order to quell dissent - and to sustain its own power and position, is indicative of its lack of genuine support among the people. it is an indirect admission on the part of the elite that it has lost the moral mandate to rule even if its legal mandate has yet to be repudiated formally.

An elite that clings on to power after it has lost its moral authority to rule cannot have much respect for the people that it is supposed to represent. Unwilling to return the mandate that it has betrayed to the people who put it in power, the ruling elite is likely to employ more and more coercive measures in order to remain at the apex of Malaysian society. it is quite conceivable that at the same time it will continue to pretend that it is the champion of the people, the voice of the masses. By putting on this show, the elite is, in effect, making use of the people - or rather the aura that the term the people conveys. It is undoubtedly a form of exploitation of the people for the selfish ends of the ruling elite itself. .

MAJORITY RULE

: DEMOCRACY?

The Malaysian ruling elite has a very simplistic notion of democracy. Democracy means majority rule. Since the principle of majority rule is observed, Malaysia is a Parliamentary Democracy. Prime Minister, Dato Seri Dr Mahathir Mohamad has gone even further. in a democracy, it is wrong, he argues, for the minority to question or challenge the majority. Minority opinion should be sacrificed for the sake of the majority.

It is of course true that majority rule is one of the characteristics of democracy. But it is not the only one. In fact, outstanding students of democracy like Robert MacIver, Robert Dahl and Barrington Moore Jr would even argue that it is one of its minor characteristics. individual freedoms; the legitimacy accorded to dissent; tolerance of diverse opinions; sufficient scope for the articulation of minority views; widespread participation of the ordinary citizen in the decision-making process; the institutionalization of public accountability; the effectiveness of curbs and controls upon the power of the State; the independence of the Judiciary; respect for the rule of law; the presence of a media that is not subservient to the State; the acceptance of the rightful role of political parties and public interest groups etc. are far more important features of a democratic society

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than majority rule as such. Most of these features help

to define the character of a democracy. They help to distinguish a democratic system of government from other systems.

Majority rule, on the other hand, by itself will not reveal the uniqueness of a democracy. Even in political systems which are diametrically different from democracies. it is quite conceivable that the majority supports the Government of the day. As MacIver put it. iiQuite possibly in Russia. at the time of writing (in the forties) a larger proportion of the people approves and supports its government than may be found in democratic countries to support their governments. But that fact is quite irrelevant to the question of democracy. In the Soviet Union, under these conditions. there is no free exercise of opinion on matters of policy, nor any constitutional means by which the changing currents of opinion can find political expression. it would therefore be the sheerest confusion to classify the Soviet system as democratic."

It is obvious from our analysis that it is fallacious to regard smajority rule as that one characteristic which establishes the identity of a democratic society. Besides, those within the Malaysian ruling elite who are so eager to equate majority rule with democracy, do not pause

to ask a vital question: how is the support of the majority obtained? &

Majority support in a democracy should be acquired . it .4 " '- through democratic ttteansi And yet we know that in V I almost every General Election since Hot) and especially itt the WM) contest the ruling elite has used all sorts of dirty tueties to win. Voters have been bribed by promises of development assistance. Voters have been blackmailed by threats of withdrawal of development aid. Television and the Government-Controlled Press have eatttppaigned actively for the ruling Burisan Nusionul entilition. The Batisan has no qualms about mobilising all available State resources including Ministry of Information personnel, Kcmajuan Masyarakztt (KliMAS) officers and school teachers to ensure its electoral victory.

At the same time, the severe limitations under which Opposition patties operate between general elections become even more i'CSlt'lCilVC during the election period. The mass media gives hardly any coverage to their eutitpztign. Often the dailies and both the public and private Television networks go all nut t0 discredit and denigrate them. The Opposition is denied its legitimate right to eoutttetzttet tlteii' tsmear wut'l via the same channels. Othet' avenues oil muss emttmuniezttion are not easily available to Opposition parties. Since 1969. election campaign periods have become exceedingly brief. Public rallies an important channel for the dessimination of opposition ideas 7 have been effectively banned since 1978. in the last 7 years. the only person who has been allowed to hold mammoth PLITISTIC ECONOMIC POLICY: Large scale rallies at any time and zit any place is Dr Mahathir industries have priority over small scale

Mohamed himself. enterpnse

Obtaining ttujerity support in this manner zttitl through these Cl1'CUlllSILlllCCS is not tthztt deitioetztey is all about. By acquiring power in at most tttttletttoettttie fashion. the ruling elite htts. itt tittett tleprivetl its ltttujm'ity ittle' dtgtttttettt tthCl1lkuiJll i etttm.

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Chandra Muzaffar

THE UMNO CONFLICT

Abuse
of Power

TUNKU on the Current Crisis

BAPA MALAYSIA lashes out at what he see as attempts by the Mahathir regime to hoodwink Malaysians, and at attempts to .drag the Rulers into politics.

he UMNO Baru members have been told not to use the word ttBarull by the Party's Information Chief, Senator Datuk Hussein Ahmad. According to him, when UMNO Baru was registered, the word ltBarul was not registered. Only Pertubuhan Kebangsaan Melayu Bersatu (Baru) was added to it. As a result, he said it was wrong to use the word UMNO Baru and members have been urged to use only UMNO, as they used to call it before.

I append below extracts from Mr Justice Harun Hashim's judgment which was strongly criticised by the Prime Minister:-

ltI find that from the moment the first unapproved branch was established, not only the approved branch so established was an unlawful
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society, but also UMNO itself In all instances, in the present case when the attendance of delegates from unapproved branches was challenged, their respective Chairmen were content to hold that as their branches had paid up their subscription, they were entitled to attend the division conference

In this case, up to date of the trial the unapproved branches remain in existence as unapproved branches and therefore, UMNO, its divisions and branches are deemed by the Act to be unlawful societies under Section 12(3) and 41(C). Not only are the unapproved branches declared unlawful societies, but the parent body is also unlawful? ttTherefore as UMNO was an unlawful society at the material time, persons who took part in the elections in 1987 at branch, division and general assembly levels committed an offence (Section 43 of the Act) and therefore the elections were null and void and the office-bearers election at all levels were not office-bearers at all. The entire series of elections was a nullity all the way?

It is not right for UMNO Baru to drop the word llBaru" and pass off as the original UMNO.

ttAs a result, the office-bearers elected at the General Assembly in 1984 continue to be the lawful office-bearers of UMNO. The remedy therefore is for the office-bearers elected in 1984 to hold fresh elections at all levels after obtaining the necessary approval in respect of the unapproved branches from the Registrar of Societies. But no attempt was made to obtain the Registrar's approval even up to the time of the trial. It follows that UMNO is still an unlawful society. That being so, the plaintiffs as members of UMNO cannot acquire any right which is founded upon that which is unlawful."

llAs I see it now, neither can the present office

.bearers of UMNO Baru acquire any better right to be where they are (even though they had been . registered as UMNO Baru) until the case has been referred to the UMNO General Assembly of 1984 and I repeat, after obtaining the necessary approval of the Registrar of Societies".

No political party has any right to pass itself off as UMNO. So it is not right for UMNO Baru to drop the word ttBarut and pass off as the original UMNO. What UMNO Baru should have done was to appeal against the judgment of Mr Justice Harun and if they succeed, they can then have the right to call themselves UMNO. Otherwise it is not legal to declare themselves or to call themselves other than UMNO Baru. They are now known as UMNO Baru with their own symbol and their new Constitution. They cannot, by any stretch of the imagination, declare they are the original UMNO. They are entirely a new political party whose object is to take over the country and run it for the benefit of a few following the rule of dictatorship, instead of the former UMNO based on Parliamentary Democracy with rulers as its head. It will be appreciated that UMNO Baru is not even entitled to the assets of UMNO which have been taken over by the Official Assignee.

It will be appreciated that UMNO Baru is not entitled to the assets of UMNO, which have been taken over by the Official Assignee.

In another instance, Deputy Prime Minister Ghafar Baba in Seremban urged the people to make use of the law in solving controversial issues. He was commenting on the Malaysian Bar Resolution of no confidence in the Acting Lord President Tan Sri Abdul Hamid Omar and calling for his resignation. He added that it was the right of the law body to voice its dissatisfaction.

"This is the freedom as provided under the Constitution. Everyone is allowed to voice his opinion, whether to support or to oppose but any decision must be made according to the Constitution. This is the best way. The law should be followed in solving any problems.

uThe Malaysian Bar has 2,500 members and they have voiced their opposition against Tan Sri Hamid. What if another group with 4000 or 5,000 members voiced their support for Tan Sri Hamid? What are we to do then? Who are we going to listen to? That is why we must follow the law v let the Tribunal decide?

The point at issue actually is the ruthless action by the Executive Head of Government to take over control of the Judiciary without regard to the

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Tan Sri Hamid said he was acting on the command of the King, but the Rulers must not get involved in politics. Everything is done by the Prime Minister.

Constitution and the time-honoured practice by law-abiding nations to provide sanctity for an independent J udiciary. Who is there who will go to tilt Court as constituted now to seek justice? Tan Sri Hamid said he was acting on the command of the Yang Di Pertuan Agung, but everybody knows the Rulers must not get involved in politics. They are above the law and are symbols of authority only. Everything is done by the Prime Minister.

I am reminded of what happened in the early days of Merdeka when Malaysia had some misunderstanding with the Middle East countries.

Emissaries from the Middle East came here and didn't see me but went straight to the Yang Di Pertuan Agung and asked that the Prime Minister be sacked at the request of a Middle East head of State. The Yang Di Pertuan Agung was very shocked and told the Emissary, "I cannot sack my Prime Minister but he can sack me. He is the people's representative and the Executive Head of State. Under our present system of Parliamentary Democracy, this country is ruled by the people and for the people, so I am just a figure head? To the Arab Emissary, this was a revelation for they were under the mistaken belief that every Ruler is an absolute Ruler.

According to Encik Anwar Ibrahim, the Prince Abdul Rahman is a voice of the past. A grand old man who has done his bit. Now people are more critical and more sophisticated. Cabinet meetings in the past were very short and sweet. Now we argue the cases for three or four hours. This is the 805, not the 603." u

I would like to remind Encik Anwar that ever since the established independent nation subscribes to a political ideology, and except for a few changes, these governments have stuck to the policy for ages. In England, except for the Labour party, the Conservative party (Tory) and the Liberal party have stuck to their policy for hundreds of years, and so is the case in America, where the Democratic Party and the Republicans have been in existence since the American independence. These countries have been acclaimed as powers in world politics, and their leaders have never been branded as old and decrepit in running their countries.

The trouble we get among the countries in Asia is that they are new and raw, and the leaders become unduly oppressive and ruthless in their quest for power. We have had people like Soekarno, Marcos and many others but the old type are stable

THE AUTHORITARIAN REGIME - others
have tried and failed. From top: SOEKARNO,
NE WIN, MARCOS

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politicians and they live on. Dr Mahathir himself said on July 26: It is meaningless to have many small but weak political parties as that will only lead to an unstable and ineffective coalition Government? He was addressing about 1,500 teachers from North Kedah at the Jitra Secondary School.

He has made no secret of his desire and intention to establish an authoritarian government for Malaysia. Obviously with himself as the leader. So he was opposed to political parties fighting for places in Parliament. And for him there should be only one dominant party.

He was further reported to have said that, He regretted the UMNO culture was nearly destroyed through the action of certain frustrated members who had resorted to dirty tactics to achieve their goals?

The Prime Minister put the blame on what he called frustrated members all wanting to break up UMNO. The truth is that the dirty moves have been taken all along by UMNO Baru to their advantage. The Prime Minister also criticised those who believed that demonstrations were necessary to achieve their goals), The only demonstration we have had so far was by Pemuda UMNO when they threw stones into the Bar Council Chambers.

All what he had said to the teachers in Jitra was in respect of his own handiwork. All the faults which he put down to others were his own doing. Sometimes it would be a good thing for a leader to take a look at things in the real and proper perspective. Then he would know who is to blame for all these happenings today. The authoritarian regime which Dr Mahathir aims to set up is nothing new in Southeast Asia. For others had tried it before and failed. Most of the past leaders or dictators had to give way. The last one to leave as a dictator was General Ne Win of Burma. And he decided that dictatorship is not a good thing, especially for developing countries.

Now Mahathir is experimenting with Malaysia. Soekarno, Marcos and others have gone - so it is no new experiment to set up this form of government. He wants the sole right to run Malaysia. He should take a lesson from these people and give up this idea.

One can see clearly what is happening in this country. My duty, old as I am, is to fight to restore UMNO to its former status and uphold it as the political pillar of strength in the cause of democracy in this country and also to avoid it being used for the benefit of ruthless and, avaricious politicians. Another matter which I greatly regret is that the Sultan of Pahang has been dragged into politics in the open in support of the government. Rulers have kept out of politics in the past and I hope they will continue to do so for the good and the well-being of Malaysia. Therefore they must at all times remember that they are above the law and above politics and should take a neutral and independent stand on political, administrative and legal matters 0

DETAINEES WATCH
FROM FRYING
PAN INTO FIRE

Global Concern for
Deteriorating Human Rights in Malaysia.
Our nation today lives from event to
event. Never before in our history has
power and politics wrought such tumult
in one successive drama after another.
The cumulative damage to institutions
and laws being inflicted today will leave for
posterity a diminished opportunity to enjoy good.
decent government. This is an era where values
are trampled and principles tossed to the winds.
where tyrants reign disguised with fawning slaves
at their command. It is an age where all sense of
shame has taken leave of those who occupy the
most important positions in the country. This is
a very sad chapter in our history.

As the country leaps from frying pan into fire
it is heartening to note that the ISA detainees
have not been forgotten. On June 28th, 28 US.
members of Congress addressed a letter to the
Prime Minister. While applauding the release of the
ISA detainees and the reopening of the STAR.
the letter expressed the hope that these events
signal a return to Malaysia's tradition of respect
for democratic processes. At the same time the
members of Congress expressed concern over the
continued detention without trial of the remaining
detainees. The letter further noted:
"It appears that the Internal Security Act is
being applied in ways that violate internationally
recognised standards of human rights. The
detainees have been denied their right to a fair
trial. Many have been denied their right to
peacefully express their beliefs."

Two days later on June 30th the Congressional
Human Rights Caucus which consists of 156
members addressed a letter to US Secretary of
State George Schultz. In this letter they registered
their concerns about recent developments in

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Malaysia and to request that you (the Secretary
of State) raise human rights issues in your July 9
meeting in Kuala Lumpur with Malaysian Prime
Minister Mahathir. As we know from local press
reports, the Secretary did indeed raise the matter
of the ISA detentions when he met the Prime
Minister in KL.

The same letter recounted not only the
OCT/NOV 1987 ISA detentions and the closure
of some newspapers but also the new press
legislations that followed. It referred also to the
March 1988 Constitutional amendments "designed
to limit the scope of judicial review and increase
the Executive's power to decide where cases will be
heard". The letter then went on to note:

"These serious developments are a dramatic
departure from Malaysia's reputation as a
country in which political pluralism has generally
been tolerated. and we believe that an expression
of US concern would help encourage a return
to that tradition. We respectfully request that
you urge all prisoners detained for the peaceful
expression of their views be freed from detention.
and that all other ISA detainees either be tried
in accordance with international standards of
fairness or released."

Congressional concern for deteriorating human

rights in Malaysia has also led to a decision by the
US House of Representatives Foreign Affairs
Subcommittee on Human Rights and International
Organisations to hold a hearing on recent
developments in Malaysia (and Singapore) on July
7th. Testimonies were scheduled from
representatives of the human rights organisations
Asia Watch and Amnesty International as well as
from a Temple University academic and possibly
from the US State Department.
continued on page 43

UNDANG-UNDANG

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CURRENT COMMENT

A'rocond of Aliran 5 complete press statements made in the precedlmg months

All the following statements have not appeared in any daily. - Editor

ADOPTION OF

PALESTINIAN CHILD

en of us from Aliran repre-
sents a multi-racial and
multi-religious cross-section
of Malaysian society are jointly
sponsoring a Palestinian child. He
is Ahmed Mousa and he comes
from a family of six Children who
have, lost their father and eldest
brother. Mousais father died in
an Israeli prison under torture
in 1982.

Our joint act of support is
to express our concern for thou-
sands of innocent children who
grow up in an environment of
Fear, bloodshed and war. These
circumstances deny a child his/her
rightful opportunity for a normal,
healthy development

Our joint act of support is to
express our conviction that the
Palestinian issue is a human rights
issue, It demands the response of
every human being to reach out
in commassionate care and cry
for reconciliation and justice.

4July 19m

DENISON JAYASOORIA

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THE UNITED STATES

ACTION AGAINST AN

IRANIAN COMMERCIAL

AilRLlNER

liran joins other human rights
in Asia. Europe and North
America in condemning the
American Government for shvuting
down an Iranian Commercial air;
liner carrying 290 passengers over
the Strait of Ilormuz.

It is a shame that President
Ronald Reagan has argued that
this dastardly deed was Ua proper
defensive actionlh

01' her right senses will ever believe
No one in his .

that the cruiser USS Vincennes
using the American navy's most
sophisticated radar missile system
could have mistaken an A-300
Airbus for a F-14 fighter.

The shooting down of a com-
mercial plane by a warship has
placed in jeopardy civilian air
travel in the entire West Asian
region. Commercial airlines and
Governments throughout the world
should demand that the Reagan
administration conduct a full-
scale inquiry into the incident
and take appropriate action
against those responsible for this
massacre of innocent lives.

In a larger sense, the airline

tragedy merely underscores the grave danger posed by super-power involvement in any conflict in any part of the World. At the same time, one hopes that the tragedy would challenge the conscience of the entire international community to work earnestly for a just solution to the Iran-Iraq war. Finally, Aliran offers its deepest condolences to the families of all the victims of this terrible tragedy.

5 July 1988 Chandra Muzaffar

Pregldent

The airline tragedy under-scores the danger posed by super-power involvement in conflict regions

38

ENDORSEMENT FOR

ROYAL CALL

liran gives its full endorsement to the call by His Royal Highness the Sultan of Kelantan to defend the system of Parliamentary Democracy and the Constitutional Monarchy.

At a time like this, when the very bastion of Parliamentary Democracy, an independent Judiciary, is under siege, His Highness's call assumes a special significance.

It is important that individuals in high places, who command respect and influence, come out in defence of the cherished values and institutions of Parliamentary Democracy. For there is a concerted attempt by the ruling elite, bent on maintaining its power at whatever cost, to use both Parliamentary legislation and political trickery to destroy democratic institutions which stand in its path. The suspension of Lord President and the five Supreme Court Judges is an example of the ruling elite's determination to bring the Judiciary under its control.

Institutions like the Judiciary, the Monarchy, the Police, the Army and the Public Services should in the face of increasing authoritarian dominance by the ruling elite, guard jealously their authority and jurisdiction.

12 July 1988

MOHAMED A KADIR

EXECUTIVE Committee Member

THE KARPAL APPEAL

liran is deeply distressed. the decision of the Supreme Court to uphold an appeal of the Government against the order of an Ipoh High Court judge to release Karpal Singh from detention under the Internal Security Act (ISA). The decision is a total travesty of justice. The Supreme Court has once again upheld that in cases involving

political detention, it is only the subjective satisfaction of the Minister of Home Affairs that matters. In the Supreme Court's view there are no objective criteria. By arguing that the reasonable cause for detention is something which exists solely in the mind of the Home Minister who alone can decide it", the Supreme Court has yet again denied the Judiciary

its' legitimate right to review Executive action. Indeed, it is the repudiation of judicial review in one of the most crucial areas of human existence _ the right of an individual to life and liberty.

What is worse, the Supreme Court decision has in a sense legitimized arbitrariness in the exercise of executive authority, t' at a time when such arbitrariness is so rampant and so blatant. The Executive will now be further emboldened to pursue its own narrow political interests at the expense of the well-being of Malaysian society.

If anything, the recent amendments to the Internal Security Act which became law in lightning speed, will provide a veneer of legality to actions of the Executive which may well be erroneous, careless or in bad faith.

20 July 1988

The Executive Committee

THE ISA: ITS USE

AND ABUSE

Aliran welcomes the release of PAS Youth leader, Khalid Samad from detention under the Internal Security Act (ISA). However, the conditions imposed upon him are so restrictive that it makes his release meaningless. Aliran hopes the authorities will revoke all those conditions which not only restrict his freedom but also violate his human dignity. At the same time, we call upon the Government to release unconditionally all the others who were detained under the ISA in the October-November crackdown on democracy.

. Aliran is also astonished that persons have been arrested in Sarawak under the ISA for alleged involvement in a series of fires in and around Kucing. If this is the real reason for their arrests, then they should be tried for arson in an open court of law. It is wrong to use the ISA for all sorts of alleged crimes. The insecurity, argument is now being exploited to circumvent open court legal proceedings. It amounts to undermining the judicial process. It reveals a total lack of respect for the rule of law.

Aliran would like the Government to put the 5 ISA detainees from Sarawak on trial in a proper court of law.

20 July 1988 GAN KONG HWEE

Executive Committee Member

(Speeches by Aliran President Dr Chandra Muieffar)

IN ENGLISH: I'

1. AN ISLAMIC suns OR A SECULAR STATE? (\$5.06 tipostage 0.50)

This speech deals with various issues involved in the Islamic State vs Secular State controversy. It suggests a non-Sectarian spiritual alternative which is in line with Aliranis philosophy.

2. JUSTICE BEFORE CO-OPERATION (\$5.00 t postage 0.50)

This talk covers the main issues in the dominance of developing countries like Malaysia by the powerful industrialised countries of the North. It gives numerous examples of how we are controlled in areas such as raw materials, trade, finance, informations and culture. It argues for genuine independence and self-reliance for countries in the South.

3. THE REAL THREAT (\$5.00 t postage 0.50)

An analysis of how certain elements in Government are trying to manipulate ethnic feelings in order to strengthen their political position. The speaker argues that this is the real threat to the nation's well-being.

4. CHALLENGES FACING ASIA (\$5.00 4- postage 0.50)

The speech outlines the awesome challenges faced by Asians today and suggests ways to deal with them. It identifies the crucial areas that have stood in the way of progress and good government and insists that unless effective transformation first takes place in these areas, no lasting or meaningful change can come about.

5. OPPOSE OSA (THE OFFICIAL SECRETS ACT) \$5.00 e Pomee 0-50)

In this enelym of the 1986 amendment: to the Official Secret: Act, an attempt is made to spell out the consequence: of that law for freedom and democracy. The public is shown how their right to know could be effected and how public accountability would lose its

AT THE CROSSROADS: 25 YEARS OF MERDEKA (\$5.00 4- poetage 0.50)

This talk which was given at the Annual Aliran Merdeka Dinner deals with the major problems facing the nation. It attempts to diagnose some of their causes.

7. DEVELOPMENT - FOR WHOM? (\$5.00 1' poetage 0.50)

A studied criticism of the authorities for the wasteful spending, for obsession with prestige projects and for excluding the poorer segments of society from main-stream development. The talk deplores the increasingly elitistic trend in development as a betrayal of the people's dream of a just 'society'.

The Johor Baru By-election is perhaps the most important by-election that has ever taken place in our country. It is the first Parliamentary by-election since the October 27th episode. In the last 9 months, drastic changes have been wrought to political and legal institutions and traditions which have far-reaching repercussions for Malaysian society as a whole. The wide-ranging arrests under the Internal Security Act (ISA) apart, fundamental liberties such as the freedom of expression and the freedom of assembly have been further restricted; newspapers with some sense of independence have been hushed into submission: the Judiciary which displayed traces of courage has been forced to concede to the authority of the Executive; and the Head of the Judiciary and 5 Supreme Judges are being penalized upholding the principles of truth and justice. At the same time, UMNO, a party with some democratic attributes, is being transformed into an organization under the control of an authoritarian elite. This transformation of UMNO is dangerous for the entire political system. For if UMNO which wields so much influence upon Malaysian politics, ceases to be democratic, it will not be possible to prevent a highly authoritarian system from imposing itself upon the nation. This then is the central issue before the Johor Baru voter. Will he allow a highly authoritarian system

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 Solidarity!
 For Justice,
 Freedom,
 i affords an unique opportunity to a
 1 multi-ethnic constituency which is
 a microcosm of the population of
 ' Peninsular Malaysia, to show its
 ? total abhorrence of all that has been
 1 happening in our country in the
 i last 9 months. This is the chance to
 show that Malaysians care for demo-
 , cratic institutions and practices.
 i, This is the occasion to show our
 commitment to freedom and
 justice
 For voters in the Johor Bahru
 Parliamentary constituency to
 show that they reject authoritarian
 rule and uphold a democratic way
 of life. there must be a clear-cut
 choice before the electorate. A
 clear-cut Choice is only possible if
 there is a straight fight between a
 apartheid, Third World development and
 Our approach to these issues IS non
 Aliran does not get any foreign financial help We depend
 entirely on Malaysians for support. The Aliran Monthly
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 Our quest is for a just and humane society
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 communal, non-sectarian and truly multi-racial
 human rights.

candidate associated with the authoritarian trend and another opposed to it. Whoever stands on behalf of Datuk Seri Dr Mahathir Mohamad's UMNO Baru would represent the former; Datuk Shahrir Abdul Samad, in our opinion, is in the best position to represent the latter.

1 There are 3 reasons why we feel this way. One, the Johor Baru by-election has come about as a result of Datuk Shahrir's decision to quit his Parliamentary seat so that the voters would have a chance to judge the misdeeds of the Mahathir regime. As the incumbent who had surrendered his seat to allow the voters to express their feelings on the rise of authoritarianism and the transformation of UMNO, Shahrir is, in a sense, the logical choice to carry the torch of freedom and justice.

Two, since old authoritarianism's recent months has a lot to do with the conflict within UMNO, a repudiation of authoritarianism through someone associated with that party would have much greater significance than if it is expressed through some other Opposition candidate. Indeed, the impact upon the Mahathir regime would be much more profound if the anti-authoritarianism vote is delivered through Shahrir.

"Three, the man-in-the-street, it appears, wants the by-election to be a straight fight between UMNO (Baru) and Shahrir. This is a sentiment which obtains not only in Johor Baru but throughout the country.

It is Aliran's hope that for all these reasons the Democratic Action Party (DAP) and the Parti Sosialis Rakyat Malaysia (PSRM) will not contest the Johor Baru by-election. It is in their interest, as it is in the interest of all Malaysians, to let the by-election emerge as a referendum of sorts on Mahathir's authoritarianism. Both the DAP and PSRM are mature political parties capable of sacrificing their immediate aspirations for future ideals. They should realize that the most urgent task at hand is to put up an effective challenge against the growing threat of authoritarianism. Only in that way can we ensure that in the long run democracy will endure in our dear land.''. '

Datuk Shahrir and the UMNO .46 that support him should, for their part, approach the by-election from a broad angle. It is not, they must understand, a feud between two conflicting groups within UMNO. The issue involved are

fundamental to the very survival of the democratic system. This is why Aliran would like to see Datuk Shahrir present a comprehensive manifesto to the voters of Johor Baru on how he intends to check the slide towards authoritarianism. Equally important he must be willing to speak up for meaningful democratic reforms, whether he wins or not.

For in the ultimate analysis it is not Datuk Shahrir or UMNO 46 or UMNO Baru that is important: the real question is whether Johor Baru will signal the beginning of the reversal of the rising authoritarian tide in Malaysian politics.

3 August 1988

THE EXECUTIVE COMMITTEE

and solidarity among all Malaysians. feeling and caring Malaysian society.

BE

Last year Aliran celebrated its tenth birthday. As a reform movement, it has fearlessly stood up for truth, justice, freedom. Despite the difficulties and the constraints, Aliran has been in the forefront of the struggle for an honest and open system of government which will be accountable and the creation of a thinking, 1 Appeal for Donations

To bring about greater public awareness, Aliran has frequently organized talks and forums. It has published books and produced audio cassettes on major issues concerning the nation. The Aliran Monthly can boast of being the only truly independent and non-partisan monthly which presents rational views on major national and international issues.

To carry out these activities, Aliran needs funds. It is financially self-supporting and depends on its members and well-wishers for its financial support. Throughout history nations as well as societies have always had to pay a price for freedom. History abounds with examples of noble and heroic men and women who have even laid down their lives in the defence of freedom and justice.

Dear Malaysian, we ask you for a small sacrifice. Put your shoulder to the Aliran wheel. Strengthen the bastion and keep the beacon burning.

Donate generously and help us to serve you.

A friend of Aliran is a friend of the people.

The Treasurer

a

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Send your donations to:

No. 6 Jalan Pantai Jerjak 11, Sg. Nibong,

11900 Bayan Lepas, Pulau Pinang

THE JETTY TRAGEDY

liran extends its deepest con-
dolences to the victims of
the Pengkalan Sultan Abdul
Halim tragedy.

'I'his modest contribution of 310
ringgit made to the Tun Dr Awang
Relief Fund is an expression of
liJESTI E FOR ALU1

GLoa'. ism? FOR. HUMAN RIGHTS cnusmz

Compiled by SAMMY C OCCENA

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Our sorrow and sympathy. We hope
others will also donate both money
and blood to help the victims.

Aliran is pleased that a Royal
Commission of Inquiry has been
established to investigate the
tragedy. The recommendations of
the Commission we hope will
serve as guidelines in implementing
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safety measures which will ens 1
that such tragedies do not ml
in future.

Finally, Aliran commends;
hospitals in Penang and Ke
for their dedicated response to u
tragedy.

5 August 1988 V Malayan

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freedom of atbitmy arrest and detehiion.

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To tell the truth to a Ruler
is true loyalty; to conceal it is treason
- SAIYYIDINA ABU BAKR

CORRECTION

It has come to our notice that the Chief Justice of Borneo, Yang Arif Tan Sri Lee Hun Hoe, was not at the meeting which decided to send a letter to the Yang Di Pertuan Agung and the Rulers complaining about the Prime Ministers attacks on the Judiciary, Aliran was misinformed on this point. Its statement, on its Composition of Tribunal Vested Interest (p. 9, Aliran Monthly-824), "Betrayal of Justice Muslim Lawyers and Islamic Champions" (p. 11 Aliran Monthly 8:4) contain this serious error.

Aliran offers its sincere apologies to Y.A. Tan Sri Lee for the pain and embarrassment our mistake has caused him. I

- Editor

FROM FRYING PAN INTO FIRE: continued from page 36
. Meanwhile in Europe, the European Parliament unanimously adopted a resolution on July 7th which among other things called for :

(i) the institution of an independent enquiry by the judiciary into the ISA arrests, and the use of the Internal Security Act in general,
(ii) the release of the remaining detainees, and
(iii) a stop to attempts to interfere with the independence and impartiality of the Judiciary by the country's political leadership.

There can be no doubt that almost jingoistic arguments will again be raised against what will be seen as foreign meddling. And again it will have to be pointed out that it is historically obsolete to maintain that all that happens within a certain country is entirely that country's affair and no one else's. This argument simply cannot stand when it comes to human rights deprivations. These are rights which are universal and sacred and which belong to the entire human family. This is why when an abuse of such rights occurs in one part of the world, human beings in other parts of that same world have the right to speak up.

We live in an era of unavoidable and increasing global inter-connectedness and inter-dependency. The greatest challenges facing humankind today are global and very much beyond issues which are local and suspensions of judges. In such a situation we would do well to "think globally, act locally" instead of reacting from instincts of animalistic territorialism.

Tong Veng Wye

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wear Malaysians down today such as ISA detentions

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