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The author, Dr Kua Kia Soong is director and founder member of SUARAM (Suara Rakyat Malaysia), a non-governmental organisation which campaigns for human rights and environmental protection. He is by profession, Principal of New Era College, a community college set up by Dong Jiao Zong, the Chinese educationist movement.

He was Opposition Member of Parliament for Petaling Jaya from 1990 to 1995; Director of Huazi Research Centre from 1985 to 1990; Higher Education Adviser for the Malaysian Chinese schools from 1983 to 1985.

Kua received his BA Econ (1975), MA Econ (1976) and PhD in Sociology (1981) from Manchester University, UK. He taught Sociology at Manchester University and also the National University of Singapore in the Seventies.

During the mass arrests and detentions under the Mahathir regime's "Operation Lalang" in 1987, he spent 445 days under Internal Security Act detention without trial. He was Prisoner of Conscience for the second time in 1996 when he spent six days in prison for organising the Second Asia Pacific Conference on East Timor which was disrupted by a mob from the ruling coalition.

By the Same Author

- K. Das & The Tunku Tapes* (editor, SIRD 2002)
People Before Profits: The Rights of Malaysian Communities in Development (editor, Suaram 2001)
445 Days Under Operation Lalang: An Account of the 1987 ISA Detentions (Oriengroup 1999)
A Protean Saga: The Chinese Schools of Malaysia (Dong Jiao Zong 1999)
Mother Tongue Education of Malaysian Ethnic Minorities (editor, Dong Jiao Zong 1998)
Mob Rule: The East Timor Conference in Malaysia 1996 (editor, Suaram 1998)
Malaysia's Energy Crisis: The Real Issues (Oriengroup 1996)
Inside the DAP, 1990-95 (Oriengroup 1996)
Reforming Malaysia (Oriengroup 1993)
Malaysian Political Realities (Oriengroup 1992)
Malaysian Political Myths (Huazi 1990)
Mediawatch: Use & Abuse of the Malaysian Media (editor, Huazi 1990)
Malaysian Cultural Policy and Democracy (editor, Huazi 1990)
Polarisation in Malaysia: The Root Causes (editor, Huazi 1987)
Defining Malaysian Culture (editor, Huazi 1987)
Class and Communalism in Malaysia (nom de plume, Hua Wu Yin, Zed Press, London 1984)

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MALAYSIAN CRITICAL ISSUES

Kua Kia Soong

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Perpustakaan Negara

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Acknowledgements

For all our languages, we can't communicate
For all our native tongues, we're all natives here
Sons of their fathers dream the same dream
The sound of forbidden words become a scream
Voices in anger, victims of history
Plundered and set aside
Grown fat on swallowed pride

With promises of paradise through quotas at a price
Champions and the warriors are racists in disguise
Ministers and their mistresses, they make us wait
Inherit the earth, they scream the enticing bait
With the touch of a young child's hand
Innocence turns to shame
The devil that dwelt within
It sleeps out in the rain

For all of our languages, we can't communicate
For all of our native tongues, we're all natives here
The scars of the past are slow to disappear
The cries of the dead are always in our ears
Only the innocent can talk about wrong and right
Of those who are forced to choose
Some will choose to fight

For all our languages, we can't communicate...
(Adapted from 'Natives', Paul Doran)

- * Special thanks to Dr Syed Husin Ali for writing the Foreword to this collection which I dedicate to all Malaysians who care about these critical issues.

Foreword

It is both an honour and a pleasure to write this foreword for Kua Kia Soong's forthcoming book, *Malaysian Critical Issues*. I have deep respect for Kua (as many of his close friends call him) as a person, and hold him in high regard for his active involvement in the NGOs and for his socially critical essays on many important issues that affect Malaysia and Malaysians alike. For me, Kua is one of a kind, a rare gem hard to find in our society nowadays.

After Kua joined opposition party politics about twelve years ago, he stood in the general elections and was returned to Parliament from Petaling Jaya for a term. In Parliament he was outspoken, raising many pertinent public issues, some of them managing to make occasional headlines, even in the government controlled media, and often touching the hearts of common people. He also wrote a number of books and many essays based on his own experiences and personal thoughts.

Now Kua is no more "wakil rakyat" (people's representative) and has given up party politics. But he has not ceased to be socially active; in fact, I am glad he has become more prolific with his writings. The subjects he covers in this volume are wide ranging – from human rights and democracy (like ISA and local government), to racial discrimination, effects of so-called "development" (especially large dams) on the people and environment, ecological and labour reforms, of course education (which appears to be his first love), and many more.

Kua's writings are always simple and captivating, presenting analyses and alternatives that are penetrating and persuasive, and exposing facts and data that are not easy to challenge or debunk. I

am sure politicians and ordinary people who take the trouble to go through this book with an open mind will have much to gain from it.

I believe that serious and genuine writers – who normally form only a very small minority – do not commit themselves to what they do merely to seek self-satisfaction or personal benefit (which financially is insignificant). They often write with a mission, namely, to create awareness among their readers on the social issues, problems and realities surrounding them. Through his writings, Kua tries to generate awareness for change among the people. But this is a slow and painful process.

Actually, I regret that Kua has left the arena of party politics, in which I think he is well suited. Nevertheless, I am happy that he continues to express progressive ideas through his essays, like the ones represented in this collection. His writings, like his involvement in education and his activism through the NGO (particularly SUARAM) clearly show that Kua Kia Soong has not given up his ideals to create social awareness and to serve the people in ways that he feels he can do best and be most effective.

Dr Syed Husin Ali

President, Parti Rakyat Malaysia

22 July 2002

Introduction

Malaysian Critical Issues is the fourth in a series of collected essays by the author. From the early eighties when he first returned to Malaysia from his studies in Britain, he has been participating, observing, analysing, writing and speaking out on critical issues facing the country. His first collection was published as *Malaysian Political Myths* in 1986; the second, *Malaysian Political Realities* in 1992, while the third, *Reforming Malaysia* was published in 1993.

It is noteworthy that *Reforming Malaysia* pre-dated the Reformasi Movement which burst upon the Malaysian political scene soon after the incarceration of the former Deputy Prime Minister Datuk Seri Anwar Ibrahim in 1998.

The author's efforts have cost him his freedom on two occasions – once in 1987 when he was detained without trial under the Internal Security Act for 445 days, and the second time was when he spent six days in the lock-up for participating in the Second Asia Pacific Conference on East Timor in 1996. He has written about these experiences in *445 Days Behind the Wire* (Oriengroup 1999) and *Mob Rule* (Suaram 1998) respectively.

Malaysian Critical Issues presents Malaysians with those issues which they must come to terms with as we confront the challenges of the globalised world in the twenty first century. Malaysia professes to become a developed nation by 2020 and yet, at the turn of the millennium it clings on to laws and policies which are more reminiscent of a banana republic. Few countries in the world, notably those where there are no wars of liberation, have a law like Malaysia's *Internal Security Act* which allows detention without

trial. As the well-known writer, the late K. Das wrote in his Foreword to the author's *445 Days Behind the Wire*,

Kua writes on a subject (the Internal Security Act) he has come to know intimately, making observations which are striking and important....

Can Malaysia become "a mature democracy... at peace with itself" (Vision 2020) when the ruling coalition continues to use this Indefensible Suppression Apparatus every time its power is threatened?

As the enlightened world condemns *Racism and Racial Discrimination* as relics of pre-war fascism and medieval primordial sentiments, we find that such an ideology is still practiced in Malaysia in various guises. The author has been studying this phenomenon since his PhD research into *Class and Communalism in Malaysia*, which was published under the *nom de plume* "Hua Wu Yin" by Zed Press, London in 1984. He submitted this memorandum to the UN-sponsored "Conference Against Racism and Racial Discrimination" at Durban, South Africa in May 2001.

Should development be based on *People Before Profits* or the other way round as has been the trend for the last twenty years of the Mahathir administration? Not only have the peoples' interests been sacrificed in this process but also Malaysian ecology has been brutalised. The author has just edited *People Before Profits: The Rights of Malaysian Communities in Development* published by Suaram in 2001, in which he writes the keynote address published in this volume.

Like a vile obsession, the *Bakun Dam Project* has once more been revived, threatening to destroy an area of Sarawak wilderness the size of Singapore island while ten thousand indigenous peoples have already been unceremoniously displaced to the Sungai Asap Resettlement Scheme, a fate best described as "ethnocide". The author was part of the Fact-Finding Mission which went to investigate the conditions at Bakun in 1999 although he has been part of the Coalition of Concerned NGOs on Bakun from its inception. In the author's 1996 publication *Malaysia's Energy Crisis: The Real Issues*, he points out the irresponsibility of building such a monstrous dam when the Government's energy policy is absolutely unsustainable and there is not even a National Energy Policy.

Likewise, the Government does not have a Water Resources Management Policy nor any serious water conservation campaign and yet it has decided to build another monstrous dam, the *Sungai Selangor Dam*, destroying a magical recreational park and displacing more than 300 Orang Asli from their ancestral land. The author has been part of "SOS Selangor", the Coalition of Concerned NGOs and individuals that was formed to Save Our Sungai Selangor.

With the establishment of the National Human Rights Commission in 2000, the *Struggle for Human Rights in Malaysia* must surely be top of the national agenda. The Government can no longer give excuses to put off implementing international human rights instruments if it wants to be part of the international community. Malaysia cannot pretend to be an enlightened society if it is not even confident about ratifying the Convention against Torture and the two International Covenants. The author has been a human rights activist since the seventies and was a founding member, and is still director of Suaram, the Malaysian human rights organisation.

The author was one of the organisers of the *Campaign to Save Bukit Sungai Putih Forest Reserve* not only because this is a Permanent Forest Reserve and Wild Life Reserve but also because this forest happens to be in his backyard. The campaign involved organising and involving the communities around Bukit Sungai Putih and is an important case study for People Before Profits in any development project. It is also a classic case of corruption and conflict of interest involving a State Government subsidiary and the action by the former Menteri Besar of Selangor who de-gazetted the forest by stealth. This is a critical issue for Malaysians who care for Malaysian Nature and who care about proper governance and accountability.

The *Non-Sustainable and Non-Integrated Transport* in many Malaysian cities, especially the capital city, is a critical issue for city folk and especially for the majority of Malaysians who rely on public transport. Twenty first century Malaysia must quickly decide on its priorities, whether to allow the car lobby backed by the Powers-That-Be to continue dominating the transport industry to the detriment of the environment or, allocation of resources in favour of pedestrians and public transport users. The author raised many

transport issues during his stint as Opposition Member of Parliament from 1990 to 1995. He hopes to publish these in a forthcoming publication on Malaysian Transport.

The current economic problems coming on so soon after the 1997 financial crisis is a reminder to Malaysians of the *Fundamentals That Matter* for a viable economic policy. This involves transparency, accountability and free flow of information. The author has been pointing out these weaknesses in the Malaysian economic policy and management since the early eighties. They include: over-investment in non-productive assets; profligate spending on ostentatious monuments; a neglected agricultural sector and small/medium industries; questionable contracts; lack of skilled human resources due to brain drain; failure to upgrade and improve productivity due to dependence on cheap foreign labour; abused pensions and employees provident funds to bail out cronies and failed businessmen.

The recent *Haze* and other environmental disasters including the water crisis, landslides and flash floods, cry out for ecological reform. This is more than a crisis of economic development for it reflects the contradictions in the untrammelled capitalism being pursued by the Mahathir Administration and the imbalance in body and soul of the nation. The haze crisis and official duplicity illustrates this reality perfectly. It all points to the truism that the ecology is essentially political.

Labour Reform is another critical issue in Malaysia. Workers' unionisation is regressing and corresponding labour rights are not respected. Plantation workers in particular are still living in the abject conditions that prevailed more than half a century ago. Income inequality is growing and workers are always asked to tighten their belts during recessions but conveniently ignored when the economy is booming. The Government continues to rely on foreign labour to keep domestic wages down instead of upgrading wages and investing in higher value-added technology. At the same time, foreign workers are subject to racist treatment and they do not enjoy the human rights they are entitled to. The author provides some constructive proposals for improving the conditions of workers in Malaysia.

Whenever UMNO faces an internal party crisis, you can be sure that there will be a controversy involving Chinese and Tamil schools.

It has been a well-used method to try to create an external bogey. We saw this in 1987 over the controversy of unqualified school administrators sent to Chinese schools which then led to the mass arrests under Operation Lalang. The Vision Schools controversy which erupted toward the end of 2000 is really a rehash of the "Integrated Schools" proposal in the eighties. The author reveals just *Who's Blurring the Vision Schools Issue*.

Even without the convenient Internal Security Act to detain dissidents without trial, the Government has other "catch all" laws such as the *Sedition Act* 1948. This law has been used time and again to deal with the Opposition since its enactment and was used again recently against Karpal Singh, Marina Yusof, among others. If found guilty, the accused can be fined up to 5,000 ringgit or three years' jail or both, which disqualifies him or her from standing for elections. This has been a well tried method to emasculate Opposition politicians. The author argues instead for the replacement of such contemptible legislations by a Race Relations law to deal with racist politicians and others who threaten ethnic relations in the country.

The disastrous Nipah viral epidemic which affected pig farmers in 1999 contains many lessons for us. In *Mad Cows, Sad Pigs, Bad Politicians*, the author points out the negligence and wrong priorities on the part of the Government in not taking emergency measures quickly enough. The antics of Chinese politicians on both sides of the political fence trying to outdo each other at *siu yok* (roast pork) eating binges did not help to educate the public about the issue. Official scientists failed to think "outside the box" and this had critical consequences. Above all, it exposed the discriminatory attitude of the authorities toward this 1.6 billion ringgit industry which had developed without any government subsidies at all. Even at that time of need, the pig farmers had to rely on charity instead of national assistance. The comparisons with the Mad Cow Disease epidemic in Europe are drawn.

In his winning letter to *Malaysian Business*, the author argues for the reinstatement of *Elected Local Government*, a critical area in urban governance. Reflecting the frustration with the performance and non-accountability of Malaysian local governments, he calls for

twenty first century solutions to waste and infrastructural management, efficient planning and maintenance. Good urban governance and a robust civil society require representation to justify taxation as well as the participation of rate payers. It is time to bring back this elective principle to local government, a right suspended in 1965 during the *Konfrontasi* crisis but which has still not been restored to this day.

Democracy for Dummies should be seen as a critical issue in Malaysian society since this problem/syndrome of political leaders refusing to relinquish power after years in office afflicts not only the ruling coalition but also Opposition parties. If we are to disprove the currency of the "Oriental Despotism" thesis, then we have to be more consistent than those Western ideologues who portray Orientals as power monopolists. More recent examples of Western leaders who promptly relinquished power are Bill Clinton (as US President) when his two terms expired and William Hague (as leader of the Conservative Party) when he lost the British General Elections in June 2001.

Democracy is humankind's greatest achievement of the last millennium. It is about accountability. It is about participation. The spirit of democracy, as with the aim of education, is to empower and to generate capable citizens – the more the better. The biggest failure of leadership in any organisation is failing to train new leaders to have a go at leadership. A democratic society is surely one in which leaders are no more than the representative of other competent men and women.

The final essay, *Coalition Politics for Dummies* is the second of the series written to remind Malaysians to keep in focus the political agenda which is to build an Alternative Front capable of taking on the Barisan Nasional. This agenda must address these Malaysian critical issues and expose all careerist opportunistic politicians if we are to work toward a peaceful, just and democratic society.

ISA: An Instrument of State Terror*

It is time Malaysians and the rest of the world woke up to the fact that this Indefensible Suppression Apparatus, better known as the ISA, is the ruling coalition's licence to torture. It has long served the purpose of terrorising social activists, dissidents and the Opposition. It is not surprising that to date, the Malaysian Government has still not ratified the United Nations Convention Against Torture. This is shameful for a country that has chaired a session of the UN Human Rights Commission.

Torture under the ISA is not hearsay. The judges in the recent Habeas Corpus hearings should have known better. This is amply documented in affidavits by ISA detainees before, during and after Operation Lalang in 1987 (See Kua Kia Soong: *445 Days Under Operation Lalang*, 1999: Appendix 3).

Torture Under the ISA Pre-1987

Prior to the mass arrests of October 1987, human rights organisations and international missions including Amnesty International have contended that the conditions under which detainees are held are deplorable; that long periods of interrogation are tantamount to mental torture and emotional deprivation. An International Panel of Lawyers who visited Malaysia in 1982 concluded in their report that:

"The cells lack the most basic of comforts, being of cement with no linen or furniture. They are badly lit and ventilated and are infested with

* Speech at the launch of the Anti-ISA Movement, Selangor Chinese Assembly Hall, 29 April 2001.

insects, especially mosquitoes. The detainees, who are kept in solitary confinement, are deprived of any basic hygiene needs and are not allowed out of their cells except for interrogation."

(Report by the International Mission of Lawyers, 1983)

A 1982 Malaysian Bar Council Memorandum to the Government noted that detainees are "invariably held in solitary confinement which can have very serious psychiatric consequences". The Bar Council added that detainees complained of round-the-clock interrogation, causing "severe mental and physical stress".

The tortures undergone by ISA detainees during the Fifties, Sixties, Seventies and Eighties are well known to those who know these former ISA detainees. Their experiences are slowly but surely coming to light, mainly in Chinese publications. The following is an excerpt from a hitherto unpublished statement by "political prisoners of Kawasan A, B, C", dated 1 May 1969, a historic document released from Batu Gajah Detention Camp thirty two years ago today:

- "1. We political detainees have undergone days and nights of endless interrogation which have inflicted grave toll on the mental condition of many detainees;
2. During interrogation, we have been handcuffed, had our abdominal parts kicked, our heads bashed against the wall until they bled, and some have had to be hospitalised;
3. We have had needles stuck in our fingernails and pencils used to squeeze our fingers between them;
4. We have been burnt with cigarette lighters and hit with elastic bands, some have had nails inserted into their genitals;
5. We have been asked to strip off our pants and to sit on open bottles;
6. We have been made to take off our clothing and to stand before fans and air conditioners until we have passed out;
7. The Banishment Law has been invoked to force political detainees out of the country, while those who do not accept banishment are kept on long-term detentions. Some at Seremban Detention Camp have already been detained for between ten to twenty years already;

8. We political prisoners here have been detained for between four to eight years without trial;
9. The riot squad has been mobilised to storm our detention camp in order to force those who have refused to wear handcuffs when they leave the camp to do so. In the process, there has been bloodshed;
10. Health and medical services are very poor in the camp. Those who leave for hospital treatment are forced to be handcuffed. After nine o'clock, we are forced into hot and stuffy cells...."

Torture during Operation Lalang, 1987

As a victim of the ISA under Operation Lalang from 1987 to 1989, I can vouch for the mental torture that we went through during the first sixty days. Such conditions are far worse than those accorded convicted criminals. Most oppressive of all is the terror of lawlessness under the hands of torturers who are not accountable to the public. Yeshua Jamaluddin was detained for being a Malay Christian convert. His affidavit at his Habeas Corpus hearing in October 1988 should be an eye-opener:

"I was not allowed to sleep for days at a stretch and was warned that I would not get any food if I did not cooperate. One Inspector Yusoff also threatened to disturb my girlfriend if I did not give any information. I was assaulted by Inspectors Yusoff, Zainuddin, Ayub and another officer on a number of occasions. On one occasion I was knocked to the ground and injured my back. Since then, I have been passing blood in my urine and have been suffering from pains in my lower back constantly...."

"On another occasion during interrogation, Inspector Yusoff forced me to strip naked and to enact the crucifixion of Jesus Christ. Inspector Yusoff also forced me to crawl on the floor in a naked state...."

"A police constable forced me to stand on one leg with both my arms outstretched holding my slippers. He made me remain in this position for two hours. He then called in a woman constable and her young daughter and asked them to look at me saying: "This Malay is not aware of who he is. He changed his religion. He has no shame!" (Kua, K.S., 1999: 194).

Similar charges of physical torture under the hands of Special Branch personnel can be seen in the affidavits by Chow Chee Keong and Irene Xavier at their respective habeas corpus applications.

Torture Under the ISA, Post-1987

The March 1989 seating of the Malaysian Parliament heard this shocking disclosure of torture inflicted on an ISA detainee, Abdul Rahman Hamzah, a former Sarawak State Assemblyman:

"I was tortured by various means... at any one time there were always three officers present but on one occasion, seven officers tortured me by kicking, punching, slapping and by hitting me with broom sticks. I lost consciousness a few times.

"I was asked to duck walk, frog jump, crawl all over the room, corridor and bathroom, urinate like a dog, given the air-condition treatment after a cold shower, forced to do hundreds of push-ups....

"A tin was used to cover my head and at the same time the tin was hit with a stick. The sound of the hitting of the tin deafened one's hearing and cut and bruised my head, cheeks and ears. This caused my head and upper face to swell.

"My interrogators would sometimes lift my body by throttling my throat with their hands and at the same time forcing me up. When this was done, my throat protruded and saliva would come out of my mouth. At the same time I was being hit over the cheeks and jaw areas.... They twisted my wrist and body round several times before swinging me violently against the wall. I was forced to do mock sexual acts before my sneering torturers who also used stretched elastic bands to flick at my ears and nipples.... My head was pushed into a filthy squat toilet bowl while it was flushed repeatedly.... I was also poked with a floor mop used for cleaning the toilet..."

Abdul Rahman and also other detainees have concurred that:

"The interrogators would appear to be possessed by the devil. When they interrogated me, their lips, hands and fingers would quiver. At times like this, I was frightened as I felt I was in the hands of people who had lost their reason" (*ibid*).

Recent Torture Under the ISA

The brutality inflicted on the former Deputy Prime Minister Anwar Ibrahim by the Inspector General of Police himself in 1998 has been well-publicised not only over the internet but also in the mainstream press. The IGP has admitted that much but while the victim of that brutality is languishing in jail, the torturer has been enjoying precious freedom all this time!

The Royal Commission of Inquiry found Rahim Noor (IGP at the time) culpable in the beating of Anwar but no other members of the police were found to be complicit, despite the fact that several senior police officers were present in the room during the beating and they had not come forward with this evidence. The Prime Minister who was also then Home Minister was not found to be culpable by the Commission even though the police force is under the charge of the Home Minister.

In February 1999, Mior Abdul Razak bin Yahya released an affidavit stating that he was threatened and abused while in police custody in 1998, which resulted in him falsely confessing to having sexual relations with the former Deputy Prime Minister. Abdul Malek Hussein also filed police reports and released an affidavit stating that he was tortured physically, including being beaten unconscious and being forced to drink urine while he was detained under the ISA in 1998.

Dr Munawar Anees' harrowing experience under the ISA can be seen in his 36-page statutory declaration which is available on the web (Search: Affidavit/Statutory Declaration of Dr. Munawar Anees). This is a cleaned up selection to show the depths of depravity and inhumanity of the Malaysian Special Branch:

"By the end of the second day the long hours of interrogation, the lack of sleep, and the lack of decent food had left me completely disoriented and exhausted.... Lying there curled up in that foetal position I could only replay in my mind what my captors had repeatedly drummed into me, the sex acts they asked me to act out, the vulnerable position I was in....

"One of the four screamed at me to stand up. I did so. All four came from behind the table and surrounded me in a very aggressive manner as if they were about to assault me. One of them literally had his face

in mine. They all screamed at me, in my ears, loudly, again and again and again that I had (had sexual intercourse) with Anwar. They screamed and screamed and screamed, in my ears, at my face, at me, again and again, over and over asking me to say 'yes' until I gave in and broke down saying yes, yes. They stopped screaming. That was what they wanted to hear. They were not interested that it was untrue."

SUHAKAM Must Bring the Torturers to Book

It is a scandal that such sub-humans in the Malaysian Police Force are going about their grisly work as servants of the State, in the name of the people unpunished. It is an abomination of justice that such sworn affidavits can be dismissed as hearsay.

We call upon SUHAKAM to bring all these torturers to book. The Human Rights Commission has sufficient evidence to start with. We demand a full inquiry that will not let off any torturer who has inflicted pain on any detainee. At the same time, we call upon all former political detainees to lodge a report of their detention with SUHAKAM so that our nation can know the full chronicle of this ISA Reign of Terror.

All Malaysians must demand that the Malaysian Government ratifies the UN Convention Against Torture and abolishes the ISA forthwith.

Racism and Racial Discrimination in Malaysia*

The recent outbreak of violence with racial overtones at Kampung Medan in Petaling Jaya requires Malaysians to face up quickly to this most critical yet unresolved problem of racism and racial discrimination in Malaysian society. This agenda is highly appropriate and timely because this year happens to be the UN Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) to be held in Durban, South Africa in August 2001.

Racism and racial discrimination have been part of Malaysian political, economic, social and cultural realities ever since colonial times. Today, race has been so deeply institutionalised that it is a key factor determining benefits from government development policies, bids for business contracts, education policy, social policy, cultural policy, entry into educational institutions, discounts for purchasing houses and other official policies. Practically every aspect of Malaysian life is permeated by the so-called "Bumiputera policy" based on Malay-centrism. This is unabashedly spelled out by political leaders in the daily mass media in Malaysia.

It is an established fact that racial polarisation is prevalent in various Malaysian institutions. A new survey by the University of Malaya shows that 98 per cent of Malay students do not mix with non-Malays while 99 per cent of Chinese students and 97 per cent of Indian students do not mingle with the other races.

* Submitted at the World Conference Against Racism and Racial Discrimination at Durban, 3 September 2001.

While the Government tries to account for this problem by blaming other extraneous factors such as the existence of vernacular schools, it is clear that the roots of polarisation lie in this institutionalisation of racism and racial discrimination.

Institutionalisation of Racism

Racism is an integral part of the Malaysian socio-political system. The ruling coalition is still dominated by racially-defined component parties, the United Malays National Organisation, the Malaysian Chinese Association and the Malaysian Indian Congress. These parties compete for electoral support from their respective "racial" constituencies by pandering to "racial" interests. Invariably, their racist inclinations are exposed at their respective party congresses.

Some opportunistic Opposition parties likewise pander to their constituencies using racist propaganda to win electoral support and they have also contributed to the vicious circle of racial politics which has characterised Malaysian politics all these years.

UMNO, the ruling party continues to insist that "Malay Unity" and even "Malay Dominance" are essential for National Unity. "Malay dominance" is invariably used interchangeably with "Malay Privileges", which the ruling Malay elite justifies in the Malaysian Federal Constitution.

Consequently, we have witnessed the periodic controversies over the alleged "challenges to Malay Special Privileges" every time sections of Malaysian society call for non-racist solutions to Malaysian problems. The recent fracas over the Appeals (*Suqiu*) by the Chinese Associations of Malaysia is a case in point. There have been other cases in recent Malaysian history in which the ruling party has allowed racist reaction to be used against the non-Malay communities.

The official White Paper on the mass ISA detentions of 1987 documents the UMNO Youth rally at the Jalan Raja Muda Stadium on 17 October 1987, at which racist and seditious sentiments were flagrantly displayed, e.g.: "MAY 13 HAS BEGUN; SOAK IT (*KRIS*) WITH CHINESE BLOOD..." UMNO leaders, including those who are ministers today were among the rabble rousers on the podium.

The ruling party condoned such racism on the grounds that theirs was a reaction to the protests by the Chinese organisations over the posting of unqualified officers to the Chinese schools in 1987. In the same way, UMNO Youth tried to justify their recent boorish protest over *Suqiu* at the Selangor Chinese Assembly Hall by the fact that they were "provoked" by *Suqiu*. The reality is principally because they were trying to externalise the internal problems within the ruling party, UMNO itself.

Even more recently on 4 February 2001, a Malay Action Front rally was organised by former and current UMNO leaders using the provocative emblem of an unsheathed *kris* (Malay dagger) against a blood-red backdrop and calling for the further extension of Malay rights and privileges.

Racism and racial discrimination are also manifested in the way indigenous peoples are uprooted from their traditional homelands and displaced to ill-planned resettlement schemes to make way for dams, plantations and other industrial projects. Many development agencies do not respect their native customary land rights. The underlying assumption in official circles is that their cultures and way of life are backward and they need to be "modernised". They are rarely properly consulted over these projects and their fate is tantamount to "ethnocide".

Migrant workers, including foreign domestic workers, are another group of people who face racism and racial discrimination in Malaysia. There are over two million foreign workers in the country, out of which there are over 160,000 hired as domestic help. The negative and derogatory perception of foreign workers held by many Malaysians condone the abuse of these workers. As women, foreign domestic workers are often subject to verbal, physical and even sexual abuse. They are discriminated against because of their gender, race as well as class.

Non-Discriminatory Basis of the Federal Constitution

The ruling party UMNO prides itself on the supposedly "successful" affirmative action in favour of "bumiputeras". "Bumiputera" literally means "princes of the soil", the official epithet for Malays and other

indigenous peoples but which excludes the original peoples, Orang Asli of Peninsula Malaysia. This has been the cornerstone of development plans since the New Economic Policy which started in 1971.

Consequently, while this populist "bumiputera" policy has been applied to the benefit of "bumiputeras" as a whole, the new Malay ruling elite is strategically placed to reap the full benefits of this racially-based policy. Totally committed to capitalism and to privatisation, this policy has ensured that the non-Malay local and foreign elite have also gained from the New Economic Policy since 1971. This class cohesion among the Malaysian ruling elite underpins the racialist politics which has characterised Malaysian society since Independence.

It is time for Malaysians to reaffirm the non-discriminatory basis of the Federal Constitution and to uphold human rights principles which are strictly anti-racist.

Article 8 (1) of the Malaysian Constitution clearly spells out the principle of equality of all Malaysians while Article 12 (1) allows no discrimination against any citizens on the grounds of religion, race, descent or place of birth.

Article 153 on the special position of Malays was inspired by the affirmative action provisions of the Indian Constitution to protect the minority under-privileged class of *harijans*. Ours is fundamentally different from those provisions because the ethnic group in whose favour the discrimination operates in Malaysia happens to be the one in political control, the Malays.

At the time of Independence in 1957, four matters in relation to which the special position of Malays were recognised and safeguarded were: land; admission to public services; issuing of permits or licences for operation of certain businesses; scholarships, bursaries or other forms of aid for educational purposes. The Federal Constitution certainly does not adhere to any notion of "Ketuanan Melayu" (Malay Dominance), which is a totally racist concept.

When the Constitutional (Reid) Commission was considering whether such a provision should be included in the 1957 Constitution, it made the following comments:

"Our recommendations are made on the footing that the Malays should be assured that the present position will continue for a substantial period, but that in due course the present preferences should be reduced and should ultimately cease so that there should be no discrimination between races or communities."

(Report of the Federation of Malaya Constitutional Commission 1957, Government Press, para 165, p. 72)

After the Tunku was deposed in 1971, the new Malay ruling elite felt that adequate opportunities had not been made available to Malays, especially in education and that there should be a larger proportion of Malays in the various sectors. In 1971, *under Emergency conditions*, Article 153 was duly amended to introduce the quota system for Malays in institutions of higher learning. Clause (8A) specifically provided for the reservation of places for Bumiputeras in any University, College and other educational institutions.

Nevertheless, the quota system was not intended to be the totally non-transparent and non-accountable and unfair system we know it today.

Firstly, Article (8A) makes it clear that the Yang di-Pertuan Agong can only order a reservation of a proportion of such places for the Malays. It would therefore mean that the quota system is applicable only on a faculty basis and more importantly every faculty or institution should reserve places for students of every race. No faculty or institution under this provision could cater for the Malays alone to the exclusion of the other races.

Years after the implementation of this racial quota system, there was no trace of any such order being made by His Majesty nor was there evidence of any such order having been gazetted. Such a directive would thus seem to have been made by the officials of the Ministry of Education.

Thus, it is not clear whether the quota system is made applicable on an institutional basis or on the basis of the total number of places available in a particular course of study of all the universities in the country. To apply the quota system on the total number of places available in any particular university will again be a wrong interpretation of the provisions of the Constitution.

Article 153 (8A) does not authorise the administrators of any university to refuse admission to any student of a particular race. It only allows a proportion of the places to be reserved for Malay students. On such a reasoning, the constitutionality of institutions like the Asasi Sains in the University of Malaya or Kursus Sains Matriculasi Sidang Akademik of the Universiti Sains Malaysia which cater only for Bumiputera students is doubtful.

Furthermore, the Constitution of the University of Malaya expressly prohibits discrimination on grounds of race for the admission of any student to any faculty or institution of the university. In this context too, the constitutionality of other institutions which admit students of a particular race only to the exclusion of other races is also doubtful as it violates the equality provision of Article 8.

From the above, it is clear that the question of the constitutionality of the quota system as it has been practised since 1971 especially in totally Bumiputera institutions has never been tested.

We know what the original intentions of the "Malay Special Privileges" provision in the Merdeka Constitution were, but to maintain that it is a *carte blanche* for all manner of racial discrimination as we have witnessed since 1971 is a violation of the spirit of the Malaysian Constitution.

International law sets major limits on affirmative action measures. Notably, affirmative action policies must be carefully controlled and not be permitted to undermine the principle of non-discrimination itself nor violate human rights. Holding the equality principle uppermost, the *raison detre* and reasonableness for differential treatment must be proven.

Another important criterion to ensure successful affirmative action and synonymous with international law is that such special measures should be introduced for a limited duration as was suggested by the Reid Commission in its Report of the Federation of Malaya Constitutional Commission in 1957.

A consequence of the so-called affirmative action policies up to now is that for the poor of all ethnic communities, including the indigenous peoples in Malaysia, these objectives of wealth redistribution for their benefit have not been met. Worse, the poorest

community remains the Orang Asli of Peninsula Malaysia, the Original People of Malaysia who are not even considered "Bumi-putera" under the Federal Constitution.

The Root Causes of Polarisation in Malaysia

While it is widely recognised that racial polarisation exists in many Malaysian institutions such as schools, universities and the civil service, it must be stressed that this is not a "natural" consequence of a plural society. On the contrary, through the years there have been deliberate attempts by those in power to create divisions among the people. There is general agreement that racial polarisation has its origins in colonial divide-and-rule strategy. This has been well-documented in studies such as by W.R. Roff (*The Origins of Malay Nationalism*, 1974: 24) and Hua Wu Yin (*Class and Communalism in Malaysia*, Zed Press 1983).

The racist formula was institutionalised in the Alliance at Independence and perpetuated by the Barisan Nasional to the present day. Attempts at creating racial discord among the people continue to be perpetrated in public institutions and the mass media whenever it suits the politicians. These instances have been well-documented. (See Kua Kia Soong (ed.), *Polarisation in Malaysia: The Root Causes*; K. Das Ink, KL 1987; Huazi Research Centre 1990, *Media-watch: Use and Abuse of the Malaysian Media*).

Of all the official policies and public institutions which practice racial discrimination, there is none more pervasive than the New Economic Policy (NEP) which has been implemented as a fait accompli after the Emergency declared in 1969. Although its specific objectives were "restructuring of society to correct the economic imbalance of wealth holding which led to the identification of race with economic function" and "eradication of poverty irrespective of race", the NEP has been implemented these thirty years in a racially discriminatory way with little transparency or accountability.

Just 10 years after the NEP was implemented, the 1980 Census showed that more than 80 per cent of all government executive officers were Malay; Malays held 75 per cent of the publicly-funded

tertiary education places; and 96 per cent of FELDA settlers were Malay. By 1990, it was widely held by observers that the wealth restructuring policy objective was very much on target if nominee companies listed under "other Malaysians" were analysed. It is also well-known that many of these nominee companies have been formed by the bumiputera elite.

All the same, these figures showing ownership of equity capital, however distorted, also reveal that the rich non-Malay elite have done quite well under the NEP. This perhaps accounts for the elite cohesion which has held the Barisan Nasional coalition together for so long. The evidence further shows that the NEP's "wealth restructuring" has mainly resulted in increased wealth concentration and greater intra-ethnic inequality.

By the mid-eighties, it was found that the top 40 shareholders in the country owned 63 per cent of the total number of shares in public companies; the top 4.4 per cent of investors in the Amanah Saham Nasional had savings amounting to more than 70 per cent of ASN's total investments.

The ASN is a prime example of a savings institution, secured by Malaysian taxpayers irrespective of race, but which blatantly discriminates against non-Bumiputeras. This racial discrimination extends to access to loans, end-financing, housing purchase, shares allocation, etc.

Racial discrimination in education policy is manifested in unfair financial allocations to the different sectors and language streams and the reluctance of the Government to allow development of the mother tongue schools of the non-Malays. Thus, the number of Chinese and Tamil primary schools in the country have actually dropped from 1,342 and 888 at Independence to 1,284 and 535 respectively today, even though the population has doubled in the last 44 years. The government has continued to ignore the grave problem of shortage of qualified teachers for these schools for years.

By 1990, the realities of the racially discriminatory quota system in education were as follows: an average of 90 per cent of loans for polytechnic certificate courses, 90 per cent of scholarships for Diploma of Education courses, 90 per cent of scholarships/loans for degree courses taken in the country, almost all scholarships/loans

for degree courses taken overseas were given to Bumiputeras. Regarding the enrolment of students in residential schools throughout the eighties, 95 per cent of these were Bumiputeras. The enrolment in MARA's Lower Science College, Maktab Sains MARA was almost 100 per cent Bumiputera throughout the Eighties.

Racial discrimination in the realm of culture is seen not only in education policy but also in the discrimination against non-Malay cultures and religions in the National Cultural Policy. Non-Muslims face obstacles in their freedom to build places of worship and access to burial grounds, among other complaints.

Non-Racial Alternatives to National Development

Racism and racial discrimination have dominated Malaysian society for far too long. Now that the Malay ruling elite has clearly gained control of the Malaysian economy, it is high time for a new consensus based on non-racial factors such as class, sector or need to justify affirmative action.

It is time for all Malaysians who hunger for peace and freedom to outlaw racism and racial discrimination from Malaysian society once and for all and to build real unity based on adherence to human rights, equality and the interests of the Malaysian masses.

⇒ *Non-Racial Solutions to Malaysian Political Institutions*

1. Political parties formed on the basis of "race" to further the interests of their respective "races" should be outlawed as such practices are inconsistent with international conventions against racism and racial discrimination.
2. Ratify all the international covenants and UN Conventions that have not been ratified by the Malaysian Government to ensure that all legislations in the country abide by international human rights standards.
3. Enact a Race Relations Act and institute an Equal Opportunities Commission to combat racism, racialism, and racial discrimination in all Malaysian institutions.
4. Delineation of constituencies must be based on the principle of

- “one person, one vote” and there should not be wide discrepancies between the number of voters in different constituencies.
5. Reintroduce elected local government so that problems of housing, schools, etc. can be solved in non-racial ways.
 6. Ensure that there is no racial discrimination in the Civil and Armed Services and every ethnic community has equal chance of promotion.
 7. Establish an Independent Broadcasting Authority which is fair to all ethnic communities in Malaysia.

⇒ *Non-Racial Solutions to Malaysian Economic Development*

8. There must be full transparency, accountability to ensure that contracts and shares are not dispensed on a racial basis through nepotism, cronyism or corruption.
9. Public money must not be used to bail out failed private businesses under the guise of affirmative action.
10. Government policies should be strategically aimed at reducing income disparity between the rich and poor regardless of race, religion, gender, disability or political affiliation.
11. Small and medium industries, the backbone of national industrialisation, should be developed without racial discrimination;
12. Fair and adequate support should be provided to all sectors including pig farmers especially during times of crisis.
13. Land should be fairly distributed to farmers of all ethnic communities.
14. The racially-based quota system should be replaced with a means-tested sliding scale mechanism to award deserving entrepreneurs.

⇒ *Non-Racial Solutions to Malaysian Social Development*

15. Modernise the 450 or so New Villages in the country which have existed for more than 50 years, in which many of our small and medium industries are located and where basic infrastructure is inadequate.
16. Improve the living conditions (e.g. a guaranteed minimum monthly wage) and basic amenities such as housing, education and health facilities of plantation workers.

17. Ratify the International Convention on the Protection of the Rights of all Migrant Workers and members of their families.
18. Set up an Equal Opportunities Employment Commission to address all forms of discrimination in the workplace.
19. Gazette all communal lands of the Orang Asli and other indigenous peoples so that they can control their own land resources and choose their own way of life.
20. Enact laws to confirm the rights of urban settlers and obligations of developers to provide fair compensation and alternative housing to urban settlers.
21. Cater to the special needs of women, children, senior citizens and the disabled.
22. Provide more recreational facilities for the youth regardless of race to allow them to develop positive and healthy lifestyles and to encourage tolerance and awareness of cultural diversity and equality.
23. Establish a housing development authority to direct construction of low and medium-cost public housing for the needy irrespective of race.
24. Poverty eradication programmes to benefit the poor of all ethnicity must be seriously pursued.

⇒ *Non-Racial Solutions to Malaysian Education*

25. Special assistance must be based on need by under-privileged sectors and classes and NOT on race.
26. Institute a means-tested sliding scale of education grants and loans for all who qualify to enter tertiary institutions regardless of race, religion or gender.
27. Recognition of educational certificates, diplomas or degrees should be dealt with by the National Accreditation Board on strictly academic grounds and not politicised or subject to racial discrimination.
28. Schools using the mother tongue of Malaysian minorities should be built as long as there is a demand for them in any catchment of these ethnic communities and they should not be racially discriminated against in financial allocations.

29. Establish a long-term solution to the crisis of teacher shortage in the Chinese and Tamil schools.
30. Amend the Education Act 1996 to reflect the national education policy as originally stated in the Education Ordinance 1957 ensuring the use, teaching and development of the mother tongue of all Malaysian ethnic communities.
31. Make available compulsory Pupils' Own language (POL) classes within the normal school curriculum as long as there are five pupils of any ethnic community in any school.

⇒ *Non-Racial Solutions to Malaysian Cultural Policy*

32. Promote knowledge, respect and sensitivity among Malaysians on cultures, religions and ethnicity.
33. All places of prayer and worship for all ethnic communities should be gazetted in their areas of domicile free from any encumbrances and there should be no arbitrary restrictions on these places of worship.
34. National artistic and literary awards and scholarships should include all works by Malaysians regardless of the language in which they are written.
35. All ethnic Malaysian cultures should be fairly represented in official cultural bodies and the media.

Development: People Before Profits*

This national conference on "People Before Profits: Asserting the Rights of Communities in Malaysian Development" is a historic occasion even if it is long overdue. It is the first time that communities in different parts of Malaysia, communities which have been victims of so-called "development" have gathered together with Malaysian NGOs to share their experience of the last twenty years and to discuss an alternative sustainable path of development.

More importantly, this conference seeks to find ways in which people in communities can be empowered in the development process and to form a solidarity and activist network for a peoples and green movement in Malaysia.

In other words, there is a need for a radical consensus for change. This conference is an opportunity for us all to reaffirm our common values, to understand the forces shaping change and to create our own vision for the future.

The communities which have come together to this conference have been victims of unfettered capitalism and unaccountable privatisation projects. These projects invariably bear the blessing of the federal and state governments.

In most of these cases, the efforts by the communities to mobilize support for their survival and to organise resistance have been met by state violence, the police, enforcement officers as well as by

* Keynote address at the National Conference on "People Before Profits: Asserting the Rights of Communities in Malaysian Development" on 4-5 November 2000 at the Selangor Chinese Assembly Hall, Kuala Lumpur.

gangsters employed by the companies concerned. Kampong Sg Nipah in Selangor is a case in point. The Penan people in Ulu Baram have likewise been confronted by brutality and the mysterious deaths of their activist leaders. Some 19 indigenous people from Ulu Niah, Sarawak have been detained for months after a clash with the logging company which had encroached on their land. They have called this rapacious logging of their native customary land "Not Development, But Theft". The plight of indigenous peoples who have been victims of so-called development is often hidden from public view because of a controlled press.

In some cases, such as the Bakun and Bukit Merah campaigns, activists have been arrested and detained without trial under the Internal Security Act. Thus, liberty and security of persons are no less fundamental for human dignity than food and shelter. We can see clearly in such cases that the ruling elite identifies its own security with national security and suppresses all dissidents and factors for genuine change as was seen in Operation Lalang in 1987.

Community Resistance and Empowerment

It is vital for Malaysian democracy and sustainable development that communities are empowered in their struggle against the misconceived projects and the accompanying oppressive methods used to push them through. The case of Kampong Sungai Nipah is inspiring in the way in which the community there stood firm against the developers' gangsters, enforcement officers, the FRU and their water cannons. So is the case at Bukit Merah where the involvement and support of the local community was sustained throughout the campaign. The hundreds of residents who turned out without fail at court hearings on the case were formidable as it was inspiring. Many protesters were charged and convicted of illegal assembly but they were not cowed. They carried on the fight for a safe living environment free from radioactive contamination.

Their commitment to the struggle, leadership and community solidarity should be emulated by all Malaysian communities. They have shown us that direct action is about empowering people to unite as individuals with a common aim, to change things directly

by our own actions. To make democracy work, we must step up the demands we make from outside Parliament. Democracy is more than simply voting once in five years. The cynical view goes so far as to say that,

"If voting in the general elections ever changed anything, they would have abolished it by now!"

In this Keynote Address, I would like to highlight three aspects in our attempt to reassert the rights of communities in Malaysian development:

1. A pattern of "Profits Before People" in Malaysian development so far, a disregard for the rights of communities and the democratic process; growing disparities between rich and poor, East and West Malaysia, rural and urban sectors, men and women; environmental degradation and victimisation of marginalised communities;
2. That environmental protection and democracy are very much an intrinsic part of Eastern and indigenous values, that ecology is a social relationship and essentially political;
3. That sustainable development, planning to meet basic needs, decentralisation, democracy and solidarity are the best guarantee for Malaysian ecology and the rights and interests of the people.

Unequal Development

Authoritarian leaders in Asia have tried to argue that economic and social rights are pre-requisites for the enjoyment of civil and political rights, that the right to development should have priority over all other rights. This conference challenges the false assumptions of this claim by assembling cases of Malaysian communities whose human rights have been violated in the so-called "development" process. Their plight and their experiences are the best testimony to the rapacious greed and ambitions of developers and politicians.

These so-called development projects have invariably disregarded the right of the people involved to be consulted; violated regulations on environmental protection and in many cases, involved allegations of corruption, non-accountability and violations of human rights. The

Pergau Dam scandal which hit the ceiling fan of the British House of Commons in 1993 saw allegations of questionable costs and commissions charged. The cost of the Bakun Dam and that of the treatment plants in the Selangor River Dam have similarly been questioned.

The prevalent ideology of economic growth has dictated that development is geared toward ever-increasing growth in production, construction and consumption. This has kept in step with the increasing pace of internationalisation of capital with the accompanying changes in the labour process, organisation of production and changes in the working class. This ideology presumes that there is a "trickle down" effect to benefit those at the bottom of the social heap.

The reality is a crisis of increasing disparities in the distribution of wealth in the country; between East and West Malaysia; between rural and urban areas; between men and women; the victimisation of marginalised groups including indigenous peoples, urban settlers, plantation communities and other minorities; and the depletion of forest, energy and water resources.

The human right to development for Malaysians who cannot enjoy decent living conditions, public transport, education and health services is violated when inordinate amount of the national wealth is concentrated in or around Kuala Lumpur, e.g. Twin Towers, Putrajaya and the other billion ringgit projects.

In Malaysia today, some 80% of the Orang Asli live below the poverty line compared with 8.5% nationally, while 50% are among the very poor as compared with 2.5% nationally (Suaram, *Malaysian Human Rights Report*, 1998: 128). The poverty rate in Sabah is 22.6% compared with 8.9% for the whole country despite the fact that Sabah has some of the richest natural resources in the country. The poverty rate for Sarawak is also high, at 20% (*ibid*).

In terms of health care, the most neglected groups in the country include the plantation, urban settler, fishing and indigenous people communities. There are sharp inequities in the doctor-population ratio with Kuala Lumpur having a ratio of 1:500 as compared to 1:5,760 in Sabah in 1994 (*ibid*, p. 20). Malaysia's spending on health care as a percentage of the GDP is among the lowest in the Asia

Pacific region (*ibid*, p. 15). Still the most serious challenge facing the Malaysian health-care system is the impending privatisation of this system.

Deforestation is happening at an alarming rate and conservation laws have been thwarted in the process. Monstrous building projects such as the Highland Highway have been proposed with little input from environmentalists and the general public. Malaysia's river systems are an integral part of its water resources and these contribute about 97% of the raw water supply. But the government responds to the water crisis, not by developing a plan for total management of our water resources but by building dams such as the Selangor River dam and more dams.

Air pollution is reaching crisis point but the powers-that-be do not have the political will to deal with the problem because of vested interests in the automotive industry, the biggest source of air pollution. After millions of ringgit had been spent on studies of the problem, the Cabinet approved Clean Air Action Plan could not be implemented because the car lobby refused to accept the obligatory fitting of catalytic converters on all vehicles.

The shortage of low-cost housing is particularly acute in the urban areas where urban settlers are constantly faced with forcible evictions. Thus, even though Malaysia has adopted the resolution of the UN Commission on Human Rights that recognises the practice of forced evictions as a gross violation of human rights, forced evictions have been prevalent throughout the last twenty years.

The pattern has been that it is the rich and powerful backed by political leaders who decide what is to be produced, which resources to exploit and how much profits will be made. More often than not, it is the politically well-connected but unseasoned companies who get the plum contracts, for example, Radicare, linked to UMNO took over the maintenance of the KL General Hospital. In August 1997, the hospital experienced a devastating blackout when its generators failed. Similarly, Ekran Bhd got the Bakun contract although it had absolutely no experience in dam building. In Malaysia, it is also the rich and powerful backed by political leaders who control the institutions and ideological state apparatuses which justify their actions.

But the rich and powerful do not necessarily use their own money for these projects. Public money in terms of "soft loans" and even the workers' hard-earned savings in the EPF have been squandered while "lame duck" companies are bailed out using taxpayers' money. This was seen recently in 1997, when United Engineers, a listed company with a healthy cash flow and practically no debt, borrowed more than 2 billion ringgit to buy 30% of its heavily indebted parent company, Renong. As we know, both these companies are linked to the ruling party, UMNO. In the process, EPF which has 11% stake in United Engineers lost billions of ringgit (*FEER*, 29/6/2000: 50).

Besides bailing out Renong, RM2 billion of EPF funds have been used for state-owned investment company Khazanah Nasional Bhd, RM1 billion has gone toward building KLIA while another RM710 million has gone to scandal-scarred Perwaja Trengganu Sdn Bhd which has gone bankrupt twice. It has been revealed that the EPF lost RM10.9 billion through investing in stocks in 1997 and that a quarter of EPF's RM145 billion assets is wrapped up in the government's white elephant projects such as the light-rail system and power plants. The government plans to spend some RM5 billion to bail out the Kuala Lumpur Light Rail, run by Renong Bhd. (*Business Times Singapore*, 28/10/2000). It is not surprising that EPF dividends have dropped from about 8% in the 1980s to 7.7% in 1996 and 6.7% in 1997 (*AWSJ*, 14/4/99).

Another source of cheap funds is the national petroleum company, Petronas whose exact net worth nobody knows because Petronas reports only to the Prime Minister. Up to today, we do not know the exact production-sharing formula between Petronas and the production contractors, nor do we know the annual production of oil and gas since the mid-1970s or the weighted average price for oil and gas for each of these years. A conservative estimate of Petronas' net worth has been put at 200 billion to 300 billion ringgit (*AWSJ*, 14/7/2000).

During the recent financial crisis, indebted companies conveniently handed failed projects back to the government, e.g. Perkapalan sold its shipping assets to Petronas. Ekran has been paid nearly RM1 billion for the failed Bakun project. Indah Waters Konsortium has also been well-compensated.

Substantial amounts of investment funds in the country have been used for unproductive enterprises. The huge glut of office space and unoccupied property has not stopped continued building in this sector. At the end of 1999, office space had swelled to 64.8 million sq. ft. while retail space had become 35 million sq. ft. Vacancy rates were at 30% (*FEER*, 31/12/99).

The Reforms That Never Came

The financial reform which many had hoped from the Malaysian authorities since the last financial crisis, including improving transparency and accountability in the equity markets has not happened. As long as there are no reforms, workers' funds such as the EPF and other sources of taxpayers' money, including Petronas, will continue to be at the disposal of the political masters, who find these too convenient a source of cheap funds for projects.

The Bakun HEP dam project is a prime example of non-transparency, misconceived priorities and flawed planning – building a 2,400 MW capacity dam for a state whose total energy demand is only 500 MW; displacing 10,000 indigenous peoples even when the project had been suspended in 1999, and building the largest resettlement scheme at Sg Asap without following proper building procedures. The result is as the Coalition of Concerned NGOs on Bakun had warned long ago, viz. "Empty Promises, Damned Lives".

The Selangor River dam is likewise a product of flawed planning when it is well-known that the water crisis is caused by bad management, lack of maintenance culture in all the public utilities and that there are people-friendly and environmentally sustainable alternatives to the dam. As in the case of the Bakun dam, the EIA process is less than transparent and is invariably presented as a fait accompli.

As long as the authorities fail to come out with a National Energy Policy and a National Water Resources Management Policy, they cannot convince the people that there is a need for large dams. The energy crisis since the 1990s has been brought about not only by incompetence and corruption but also by a privatisation policy that benefits Independent Power Producers to the detriment of the

National Electricity Company. The contradictions created have led to unsustainable solutions because they require environmental destruction and social disruption as in the case of Bakun but also to the need to increase energy consumption and tariff rates in order to bail out TNB (see Kua Kia Soong, *Malaysia's Energy Crisis: The Real Issues*, Oriengroup 1996).

And as long as the Government does not have an integrated sustainable transport system in our cities, the displacement and forced eviction of communities for the myriad highway projects is completely unjustifiable. Traditional communities have been broken up while ad hoc highway development has served principally the Proton project and car lobby.

The destruction of the million year-old Bukit Sg Putih Permanent Forest and Wildlife Reserve for a housing project makes the recent planting of 100,000 saplings a sick joke of record-breaking proportions. In this case can be seen allegations of corruption at the Selangor State Government level when they de-gazetted this Permanent Forest Reserve in 1992; conflict of interest since a State Government subsidiary is the main company involved, and non-accountability to the community which has borne the brunt of the mud-flood disaster.

Another sickening case is the proposed clearing of the 240,000ha natural forest in Sabah by the State Government and Innoprise Corp Sdn Bhd for a plantation of exotic plants, apparently without an EIA (*The Star*, 27/10/2000). Sabah State officials have now openly admitted that logging for the proposed forest plantation and paper and pulp mill in Kalabakan was done without an EIA (*The Star*, 24/10/2000). The Sabah Chief Minister Datuk Osu Sukam's explanation was that the area was logged ahead of an EIA because "it had to be handed over by the end of the year to the company involved in the RM4.56 billion project" (*ibid*).

While the Science, Technology and Environment Minister Datuk Law Hieng Ding has stated that the Kalabakan logging is clearly against the law, the Sabah Foundation corporate secretary Safari Manan's reply was as follows:

"...it has never been the practice in Sabah to do EIAs on logging, whatever the law may say... if what we are doing is illegal, then all

logging in Sabah in the past 11 years has been illegal as none has been subjected to any impact study.... Why is Datuk Law saying this now? Why hasn't he said this in all these 11 years?" (*ibid*).

Among the areas needing reforms in Malaysia, our ecology desperately cries out for direct action. The recent environmental disasters at Cameron Highlands, Bukit Antarabangsa, Bukit Sungai Putih, the water crisis among others are merely symptomatic of the deranged logic that to spite the "West", Third World countries have a right to pollute their own land.

Eastern and Indigenous Values

Instead of claiming ecological consciousness as being an intrinsic part of age-old Eastern values, government leaders choose to condemn environmentalists and other "green" activists alike as "Western stooges".

The harmony of body and soul, the solidarity of nature and man, the interaction between the universe and human society – these are values deeply entrenched in the lives and beliefs of our indigenous peoples, in Malay, Chinese and Indian philosophies. The reverence for all living things is common to the animist beliefs of all our ancient forefathers, whether Orang Asli, Iban, Kadazan, Malay, Chinese, Indian, Japanese or Anglo-Saxon. Krishna in the Mahabharata represents the exploration of divine love and human love. Taoism is the way of Nature, it emphasises what is natural and spontaneous in humankind. Confucianism and Taoism balance and complement each other in attempting to attain societal and ecological harmony.

Political Ecology

The crisis in the environment shows not only that ecology is a social relationship but that ecology is essentially political. Nature is just as much the source of use values as labour, which itself is the expression of a natural force, the force of human labour. In the same way that political economists base their approach on a critique of

political economy as it actually exists, we denounce ecology as it actually exists in order to stress its non-sustainability.

"Productivism", or production for the sake of producing, with no care for the real needs of people or the sustainability of the project, ecosystem or needs of future generations must be opposed. Human-nature relationships should be treated not on the basis of control, but on the basis of respect of human beings, of future generations as well as of other species.

Building a highly polluting aluminium smelter dumped on us by the developed countries is one such example. To then build a 2400MW hydroelectric power dam to justify such polluting and energy-hungry industries is worse. To also displace 10,000 indigenous peoples in the process is even more unjust and unsustainable. Thus, to oppose productivism is to be on the side of the exploited and oppressed.

Concern for the environment should be one of the main thrusts of economic activity instead of the over-consumption of the last few decades. It is common knowledge that GDP does not take into account reduction of water catchments, loss of natural resources, eco-systems and biodiversity. It is more economical to go for energy saving rather than – as in the case of the Bakun dam – creating unnecessary demand. Energy saving activities can also create more jobs than a gigantic dam.

Ultimately, democracy is the best guarantee of the protection of the ecology. Centralisation has removed responsibilities for local government to the central government. Accountability has come to mean accountability of local governments to the central government rather than to local voters since local government leaders are appointed through patronage within the ruling coalition. Modern societies and economies have become too complex to be governed from the centre.

A Turning Point

We see this conference as a turning point in the resolve of the people to say "No" to irresponsible destruction of the environment; the victimisation of the Orang Asli and other indigenous peoples in

senseless projects; blatant pollution by factory owners; mindless proliferation of highways; forcible evictions of communities for questionable property development projects; the sacrifice of irreplaceable natural and cultural heritage.

Planning to Meet Needs

We see this conference as a new resolve by communities to say "Yes" to planning guided by a highly mobilised labour movement and high level of participation in civil society. There must be plural forms of ownership without unaccountable concentration of private power, a mixture of plan and market as well as a vibrant co-operative and communal sector. Within the workplace and in the wider society, democratic forms of participation must be promoted. The goal of production is to meet human needs although there is a role for regulated markets such as for intermediate need goods, e.g. clothing, foodstuffs, where market-guided production is obviously superior to centralised planning.

Malaysian Values

The victims of so-called "development" have been methodically targeted, isolated and oppressed. The decline of organised labour and new patterns of work organisation, consumption and leisure have tended to fragment the working class. We should therefore try to promote these common values among Malaysians:

- ◆ Solidarity – providing support for the oppressed and defenceless;
- ◆ Autonomy – being in control of one's activities;
- ◆ Responsibility – limiting one's needs, ensuring sustainability of life and future generations;
- ◆ Democracy – Seeking the opinions of every person on social problems and their solution.

This conference underpins the inseparable connection between the environmental movement and the peoples' movement for democracy and human rights, the integration of green perspectives into the politics of production, distribution and exchange. We want

to establish a national coalition of support and solidarity for all communities under threat from irresponsible and dubious projects and to strive for an alternative path of development in which the interests of the people come before profits and the ego of megalomaniacs.

As we move into the new millennium, it is worth pondering this famous speech by Chief Seattle of the Dewamish tribe, in his reply to the American president who wanted to buy their land:

"We at least know this, that the earth does not belong to humanity, humanity belongs to the earth. This we know, that everything is interconnected, just as blood unites a family. Everything is interconnected, and everything that happens to the earth happens to the children of the earth. Humanity did not weave the tissue of life, it is merely a thread of it. Everything it does to this tissue, it does to itself..."

Bakun Project Revived: Malaysians Awake!*

Malaysians who are all smarting from the announcement of 50-100 per cent increases in water tariffs even before the Sg. Selangor dam is ready, should wake up to what's in store for them in electricity tariffs when the Bakun project gets going.

Malaysian consumers should be reminded that we have already paid nearly RM1 billion to the failed businessmen who, the Malaysian government told us earlier were capable of handling the Bakun dam project without public money. Our EPF has also thrown good money down the drain by providing soft loans to these failed Bakun HEP contractors. The worst dividends by EPF since the seventies can be attributed to these generous soft loans to failed businessmen as well as dubious flings on the stock market.

Malaysian consumers should ask these questions:

⇒ Where Will the Money Come From?

If the Sg. Selangor dam project is anything to go by, we see that Puncak Niaga has pulled out of the project and Gamuda is having problems with their road projects as well. Very soon the main contractor will have to be bailed out because the government will explain that theirs is an "essential service".

Although the government claims that the cost of the Bakun project has been cut to less than RM10 billion, international financiers reckon that the cost is closer to RM20 billion. Based on the previous cost breakdown of the Bakun project, the submarine cables

* Paper presented at the 4th World Commission on Dams Consultation in Hanoi, 26-27 February 2000.

made up two-thirds of the total cost. The Government now says that, without the cables, the new dam project alone will cut the cost by only one-third. Malaysian consumers should demand an explanation.

The original justification by the Government for the Bakun project – that no government would be involved – has been violated. We've been told that the project will proceed in stages. What is likely to happen, as with many other such projects, is that these contracts will be farmed out to foreign contractors.

⇒ Questioning the Costs

Foreign contractors are famously expensive and not necessarily very competent. The British House of Commons Select Committee Report on the Pergau HEP project concluded that:

Pergau, at the higher price of 397 pound sterling, would be "a very bad buy" and a burden on Malaysian consumers.

(UK National Audit Office, London, 22 October 1993)

The contractor for the Pergau dam was Balfour Beatty/Cementation International.

On 17 December 1990, I raised the scandal of Malaysian consumers having to pay RM 1 billion for seven gas turbines at Paka when they should have only cost RM500 million. I have also questioned the cost of the two treatment plants charged by Splash in the SSP3 project, i.e. RM900 million, when they should only cost half that sum. The list goes on *ad nauseum*.

Our local contractors who get the concessions invariably farm them out to foreign contractors. But these foreign contractors are not necessarily competent. Dong Ah, the South Korean company handling the diversion tunnels at Bakun is responsible for the collapse of the Songsu Bridge in Seoul a few years ago. Lahmeyer, a consultant in the last Bakun project was involved in the Chixoy HEP at Guatemala, while Harza, another consultant in the last Bakun project was linked to the problems of the Tarbela Dam in Pakistan.

Malaysian consumers should also ask: If the Government cannot properly maintain the two dams at Cameron Highlands and Kenyir, which are plagued by heavy siltation and hyacinth proliferation, how

are they going to be able to handle the Bakun dam which will be even more prone to soil erosion and siltation?

⇒ **Tell Us the Impending Electricity Tariffs Now!**

The Government is the regulator of electricity in the country and should tell consumers the tariffs that will be charged in the near future when the Bakun project gets going. The estimate must be calculated and electricity tariffs must not be sprung on to consumers in the way the water tariffs have been sprung on us recently.

Under the last Bakun project, Ekran was going to sell Bakun power at more than 18 sen when the other Independent Power Producers are already selling at the astronomical 15.5 sen to TNB, whose production cost was only 9 sen! If hydro production is supposed to be so efficient, why should Bakun energy cost so much?

To be fair to consumers, there should be established an Utilities Commission in the country since consumers are at the mercy of highway toll, water and electricity monopolies. To justify tariff increases, there should be public audits of these contractors and concessionaires. As it is, consumers are not compensated when there are so many fiascoes involving water and power cuts, muddy water or power surges.

As for the dam projects, there must be comfort guarantees for consumers and downstream residents in the event of a dam collapse or diversion tunnel collapse. Can we sue? Judging by the course of the Highland Towers collapse, that redress is not straightforward.

⇒ **Consumers Demand Transparency**

Based on the record of the Selangor and Sarawak State Governments, they cannot be trusted with costs nor safety because of conflict of interests. The involvement of the children of the Sarawak Chief Minister in the Bakun project is well known. The Fact-Finding Mission to the Resettlement Scheme at Sg. Asap to which the Bakun indigenous peoples have been displaced, has uncovered the scandal that they were moved there even when the State Government agency had failed to obtain a Certificate of Fitness for the scheme.

So is the involvement of KDEB, the Selangor State Government's subsidiary in the Sg. Selangor dam project. Thus far, the Emergency Response Plans of the Selangor and Bakun dams have not been made known to the residents downstream. I have questioned the adequacy of soil tests done on the reservoir site of the Sg. Selangor dam and reiterate my call to the federal government to verify these tests.

⇒ Consumers Deserve a Responsible National Energy Policy

The manner in which the Bakun dam has been justified – from the original 2,400MW with submarine cable to West Malaysia, to a downscaled 500 MW dam, now back to 2,400MW without submarine cable – smacks of very irresponsible policy making. Almost certainly, no serious attempt has been made to justify the project in terms of energy needs and supply.

The original submarine cables were justified by the claim that Bakun HEP would be supplying West Malaysia. Now we are told that the surplus energy will be used instead for Sabah, Sarawak, Brunei and Kalimantan. Has there been a strong commitment from Brunei and Indonesia or are we just hoping there will be a demand in the future? There is no reason why Indonesia should want our energy when they have access to cheap waxy crude in Kalimantan.

If this homework has not yet been done by the Malaysian Government, it is very irresponsible planning and Malaysian consumers will be paying for this folly in the near future.

I have pointed out in my 1996 publication, *Malaysia's Energy Crisis: The Real Issues*, that the problem with the Malaysian energy industry is one of mismanagement. How else do we justify more than 10,000 power breakdowns a year when there is a reserve margin of more than 50 per cent? There is also a problem of wrong priorities in favour of Independent Power Producers. This has resulted in a totally irresponsible policy that encourages electricity consumption in order to keep TNB's profit margin healthy rather than encouraging energy conservation.

A responsible National Energy Policy should first produce an energy needs inventory giving reliable data on production and use

by domestic and industrial sources, encouraging energy savings and more renewable sources of energy production.

There are other options to trying to be the energy super producer of the region and screaming the Ah-Q-esque "Malaysia Boleh"! We can try to be an energy supermarket instead by relying on cheap Burmese gas, cheap waxy crude from Kalimantan and also cheap power from Thailand. All this cheap power can help to fuel the much talked about ASEAN grid.

Brief Background to the Bakun Project

Malaysia's Bakun Hydro-Electric Power (HEP) project on the Balui River in Sarawak has been riddled with controversy ever since it was first proposed. During the recent financial crisis, it was abandoned for the second time since it was first proposed in the seventies. But despite the stalling of the project and the downscaling of the project from 2,400 MW to 500 MW capacity, and against all the recommendations by anthropologists and other experts who did the feasibility studies, the authorities have gone ahead with the forced resettlement of nearly 10,000 indigenous peoples. The table below provides a brief summary of the history of the Bakun HEP project:

- 1970s: Initial studies to assess the hydroelectric potential of Sarawak's rivers were done by SESCO, the Sarawak Electric Supply Company.
- 1980: The SAMA Consortium, a joint venture of German and Swiss consultants together with the Malaysian authorities, was commissioned to conduct feasibility studies. Bakun was identified as one of four possible dam sites. It was to have a power generating capacity of 2,400MW even though the projected energy needs for the whole of Sarawak was around 200MW in 1990. This project was thus coupled with the proposal to build a (world's first) 650 kilometre under-sea cable across the South China Sea to carry the excess electricity to Peninsular Malaysia. The SAMA feasibility studies were, and continue to be classified information under

Malaysia's Official Secrets Act (OSA), under which there is a mandatory jail sentence of two years for offenders.

- 1980s: There were protests against the dam by Malaysian NGOs and the indigenous peoples whose ancestral lands were to be drowned by the Bakun Dam. There were also protests against a proposed heavy energy-consuming and highly-polluting aluminium smelting project in Bintulu.
- 1986: Bakun project was abandoned because of the economic recession although the Prime Minister, Dr Mahathir announced just before the UN Conference on Environment and Development at Rio that it was "proof of Malaysia's commitment to the environment" (*New Straits Times*, 13/6/90).
- 1987: At least two NGO activists were arrested and detained under "Operation Lallang" using the Internal Security Act (ISA), which allows detention without trial, for their anti-Bakun Dam activities earlier.
- 1993: With the upturn in the Malaysian economy in the early nineties and the energy crisis with the national blackout in 1992 (see Kua Kia Soong, *Malaysia's Energy Crisis: The Real Issues*, Oriengroup 1996) the Government announced the revival of the Bakun HEP project. To cushion the expected protests, the Energy Minister announced in Parliament that it would not be one large dam but "a series of cascading dams" and that it would be a privatised project. Before long, it was announced that the Bakun Dam would be a massive 205-metre high concrete face rockfill dam, one of the highest dams of its kind in the world, and it would flood an area of tropical rainforest the size of Singapore Island (69,640 hectares). Transmission of electricity required 1,500 km of overland wires and four 650 km long high-voltage cables to be laid under the South China Sea.

As far as the State government was concerned, "Bakun would ensure that Sarawak will become the powerhouse of Malaysia". The spin-off effects of the project were to be the attraction of foreign investment to the State and therefore industrial development in which the establishment of an aluminium plant, a pulp and paper plant and perhaps the

world's biggest steel plant were specifically mentioned; the development of a high-tension and high-voltage wire industry; and the development of the Bakun area as a tourist resort.

- 1994: The contract for the 2,400 MW Bakun Dam project was awarded to Ekran Bhd without an open tender process.
- 1995: The first of four Environment Impact Assessments was approved in March 1995 and work started on site clearance for office construction, an airport, reservoir and diversion tunnels.
- 1997: With the onset of the Asian financial crisis, the Bakun project was put on hold for the second time.

Concerned NGOs and indigenous peoples were relieved that at least they could remain in their traditional ancestral homes while the fate of the project was still unclear. Meanwhile, Ekran Bhd had subcontracted another Ting Pek Khiing company, Pacific Chemicals, to harvest 1,000 hectares of forest and extract 79,000 cubic metres of timber within the Bakun area. On 7 September 1998, the federal government offered to pay Bakun HEC Bhd RM811 million to take over its assets and liabilities in order to enable the federal government to take over the implementation of the project. More than half of this sum was intended for reimbursing Ekran Bhd for the expenses incurred in management and implementation of the project prior to its takeover by the federal government. In the process, a total of RM950 million will be paid out by the Government as a result of its decision to take over the project. This includes RM390 million to Ekran Bhd; RM436 million to financial institutions; RM24 million to Dong Ah, the contractor for the river diversion tunnels; RM100 million to equity holders of BHEC whose shareholders are Ekran Bhd (42.6%), Sarawak Government (25.3%), Sesco (12%), Khazanah Nasional (6.67%), Tenaga Nasional (6.67%) and EPF (6.67%). Assets and liabilities of the company include the river diversion tunnels, Bakun Resort, Bakun airport, Tubau jetty and RM100 million in cash.

- 1999: The Malaysian government announced that the project would be resumed albeit on a smaller 500MW capacity rather than the previous 2400 MW capacity. Despite the fact that the design for the downsized dam had not been prepared and the fact that the area to be filled by the new reservoir would be at least one-fifth the previous size, all the indigenous peoples (nearly 10,000) from 15 longhouses had been forcibly resettled at the Sungai Asap Resettlement Scheme by August 1999 under "Operation Exodus".
- 2000: The Sarawak State Government continues to call for re-viving the Bakun IIEP project according to the original 2,400 MW scale.

Secrecy in Decision Making

Ever since the project was first proposed, concerned Malaysian NGOs have consistently raised the issue of the lack of clear information and accountability with regard to the Bakun project. Just about every aspect of the project, including the plans for resettlement, has been shrouded in secrecy, vague promises and there has been poor consultation with the affected victims and NGOs.

At least seventeen studies by the SAMA consortium were commissioned with regard to the project. But these remain classified. Not only that, the Sarawak State government has taken pains to ensure that none of these studies are made publicly available. A Canadian anthropologist, Jerome Rousseau has stated that, as part of his contract with the Sarawak state government, he was asked to sign a confidentiality clause. This he refused to do. His study, openly available, is a highly instructive one with reference to the issues, needs and flaws in the planning for the resettlement. Other researchers contracted by the government did sign a confidentiality clause, meaning that their work and suggestions remain secret. (See Jerome Rousseau: "The Bakun IIEP Project and Resettlement: A Failure of Planning" in *Power Play: Why the Bakun IIEP Project is Damned*, INSAN 1996.)

The availability of so much information makes the shambles that the present resettlement exercise represents all the more difficult to

accept. Not only were there specific studies done on the Bakun communities, but there existed studies of previous schemes within Sarawak (not least, the disastrous Batang Ai resettlement scheme) as well as a plethora of studies from elsewhere in the world as to the principles and pitfalls that could be anticipated in any resettlement process. The World Bank, of course, has provided a number of documents, including a clear statement of the kind of mistakes that must be avoided in resettlement projects but the Sarawak authorities have chosen to ignore just about every positive recommendation of these studies.

These reports have stressed the need for early and full consultation with the affected communities ("participation"); to fully incorporate the needs and aspirations of the affected communities and to preserve as far as possible their autonomy and cultural identity; to provide a series of alternatives; to ensure that adequate fertile land be provided at any new locations; to avoid any traumatic, drastic change in lifestyle and environment; and to support, monitor and evaluate any resettlement project as it develops.

The SAMA studies, for example, had specifically recommended that the resettlement should be done as late as possible and in two phases. The first part should take place after the diversion tunnels are ready and the second part, when the dam itself is completed. The dam is of course nowhere to be seen, and the building of the diversion tunnels too has been dogged by problems and it, too, is nowhere near completion. Other studies had recommended the provision of alternatives for the people, for example utilising land further up the Balui, closer to the original site and more likely to preserve cultural identity and continuity. These could have been (and still could be) further assessed. The last thing that should happen, but which has happened in the case of the Bakun resettlement scheme, is that indigenous peoples are told where to go and what to do. In other words, they have been presented with a *fait accompli*.

The Sarawak state authorities cannot claim ignorance of the experience of resettlement schemes elsewhere in the world because they were responsible for an earlier planning disaster at the Batang Ai resettlement scheme which they themselves had implemented in the early 1980s.

The Batang Ai resettlement, like Bakun was the result of the building of a hydro-electric project, which saw some 21 long houses and over 3,000 indigenous people forcibly displaced. More than 80 per cent of the resettled people now say that they are worse off than before. They complain that there was poor consultation, poor information, many promises which were subsequently broken, unattended grievances relating to their compensation claims and a lack of proper counselling and preparation on financial management. (Compensation payments involve the sudden possession of a sizeable amount of cash which indigenous people have hitherto never been used to.) Other problems at the resettlement site include: highly inadequate provision of farming land; high expenses for basic facilities like housing, water and electricity; few employment opportunities; new social problems such as gambling, drinking, indebtedness, family dislocation and a worsening of women's position in the community.

Not surprisingly, a major report on the Batang Ai experience, by Dimbab Ngidang, remains classified.

All these reports have pointed to the potential dangers of the Bakun resettlement. They talk about the need to preserve cultural vibrancy in the new locations; they argue for alternatives; they point out that the Asap resettlement site has inadequate land; they warn about the dangers of forcing the indigenous people into a monetised economy that would lead to dependency (loss of autonomy), migration (for jobs), indebtedness, and they warn that all this will intensify social problems, including a worsening situation for women, gambling, alcoholism, prostitution and general family and community breakdown.

The issue of accountability also pertains to how contracts relating to the Bakun HEP and the resettlement have been given, to whom have they been given, and who is actually benefiting from the project. Of course, the way in which the overall contract for the Bakun HEP was given to Ekran, without tender and without any transparent process, has already been the subject of serious concern. This was amplified when Ekran proceeded to subcontract a number of projects to companies like Pacific Chemicals, which coincidentally were directly connected to Ekran boss, Ting Pek Khiing. Again, there was no publicly accountable process involved.

In terms of the resettlement, there are a number of questions that need to be raised. First of all, we should be told who gained from the various contracts for the building of the new site. Apparently some 300 million Malaysian ringgit was set aside for the resettlement. How has this money been spent? Where is the accountability?

A number of companies have been named as recipients of contracts at the Asap site. First and foremost, a British-based company, Bucknalls, was apparently given the contract for building the new longhouses. It seems absolutely extraordinary that a foreign company with no previous experience of either the design or construction of longhouses be given this contract. How much were they paid? What responsibility did they exercise with regard to the costs of the housing, the design, the standards of materials and labour used, the adequacy of the completed job and the response to grievances? What was their relationship to subcontracts – did they properly assess subcontractors, properly supervise their work and call them to account?

It is clear that the hurry to resettle these indigenous peoples is linked to the fact that the contracts for the Asap Resettlement Scheme had been given out before the onset of the economic crisis. It was also calculated that money could be made from oil palm plantations in the resettlement area. The displacement of the Balui population was thus part of the plan to convert them into wage labourers for these plantations. The state is in fact subsidising these plantation interests not only in creating this pool of cheap labour but in the budget allocation for the Asap Resettlement Scheme.

Controlled Consultation Process

From the beginning, the Sarawak state government seemed determined to control who would be consulted and how, and in the process ensured that the majority in the affected communities remained ignorant of the state plans and could not contribute to decisions affecting their lives.

The state authorities first set up the Bakun Development Committee (BDC) to act as THE forum for consultation. This committee was made up of government-appointed persons, including govern-

ment officials, politicians and local headmen, and failed to command the confidence of the majority of the affected people. The BDC itself complained of lack of information from the government and indeed, its own recommendations from a two-day workshop in 1995 were ignored. Nevertheless, the state government continues to insist that the BDC is the only "legitimate" channel for grievances.

Some of the local indigenous people set up alternative structures to voice their concerns and to ask for proper consultation. The Indigenous Peoples Development Committee (IPDC) and the Bakun Peoples Regional Committee (BPRC) were two such groups. However, any initiatives emanating from these groups were ignored by the government. Letters and petitions from individual long houses or individuals have also been ignored.

Displacement to the Sungai Asap Resettlement Scheme

The schedule for the resettlement exercise, as for the Bakun project as a whole, was subject to constant change, adding to the general uncertainty and trauma faced by the indigenous communities. It was first announced that the resettlement would take place in 1997. This was postponed several times, as it became clear that the announced schedule for the Bakun HEP as a whole was wildly optimistic and also the fact that the resettlement site itself was not complete.

But despite the fact that the Bakun HEP project had then been put on hold in November 1997, the plans for "Operation Exodus" went ahead. One can only surmise that the Government had to justify spending on the Asap Resettlement Scheme. Two other objectives for the forced resettlement include the eviction of the indigenous peoples from the forest land to be exploited and the "freeing" of the indigenous peoples from their traditional lifestyles to become wage labour for the plantations and other industries.

The first families, the Ukit from Long Ayak, were moved in September 1998. Subsequently, families from other communities were moved and Operation Exodus was completed in August 1999. It should be noted that not all families from each community have moved to the new site – some have decided to move to other sites, which have not been designated by the government. According to our figures, the situation is as follows:

Table 1: Families that have remained at their original homes on the Balui River

<i>Longhouse</i>	<i>Original no. of families</i>	<i>No. of families remaining on the Balui</i>	<i>No. of families who have moved</i>
Long Geng	250	205	45
Rumah Daro	45	43	2
Batu Kalo	75	41	34
Bato Keling	90	78	12
Long Bulan	170	133	37
Long Jawie	205	196	9

Source: Coalition of Concerned NGOs on Bakun, *Empty Promises, Damned Lives: Evidence from the Bakun Resettlement Scheme in Sarawak*, Suaram Komunikasi, Kuala Lumpur 1999: 25.

Then there are the residents on the Balui river who have chosen to build new longhouses further upstream. The situation is as follows:

Table II: Families that have moved to new long houses further upstream

<i>Longhouse</i>	<i>New Settlement Upstream</i>
Long Geng	Long Lawen – residents have already shifted
Batu Kalo	Up the Sg Bakau – new houses are almost completed.
Batu Keling	Apau Bulu – residents have already shifted.
Long Bulan	Sang Anau, an old logging camp – residents have already shifted.
Long Jawie	A site has been identified.
Long Dupah	Tubau – a Kayan settlement area.

Source: *ibid.*, p. 27.

We have noted above the reluctance and apprehension of the indigenous people to move to the Sungai Asap Resettlement Scheme. In order to get the people to move, the Government had to resort to inducements. In this strategy, the *tuai rumah* (government-appointed head of the long house) was sought and informed about

the move. Besides other preferential treatment, these community leaders were also given the community compensation funds to administer without having to meet full accountability procedures. In this way, the task of persuading the people to move was given to the *tuai rumah*.

A major lever that was used to force the indigenous people to move to Sungai Asap was the withholding of the remainder of the compensation payment (some 70%) until they had moved. Even so, months after they had moved, residents at Sungai Asap were still complaining that they had not received the major portion of the compensation due to them. This was confirmed by the Fact-Finding Mission to Bakun when they interviewed residents and officials in May 1999 (see *Coalition of Concerned NGOs on Bakun 1999: 28*).

This is both legally and morally questionable. The compensation due to the affected people is intended to be payment for the loss of their land and property. It belongs to them (individual compensation) and their communities (community compensation) as a right and should not be tied to any condition pertaining to their prospective place of residence.

The authorities also promised the affected people adequate plots of land (3 hectares), reasonable housing, jobs and other facilities at the Asap Scheme. They had no previous experience of the Asap Resettlement Scheme until their final exodus, which is a very costly journey. They had to sign the Sales and Purchase Agreement on arrival as a condition for obtaining the keys to their new homes.

As a further pressure for the indigenous people to move to Asap, the authorities closed all support services (schools, clinics, etc.) in the original long houses and all those who stay behind or move further upstream have been warned that henceforth they are trespassing on state land and liable to be forcibly evicted. Those who refuse to move to Asap have been told that they will lose their right to their compensation payments.

This is hardly the situation within which such a traumatic experience for the indigenous peoples who have lived for generations in their ancestral homes, should be taking place. Instead of receiving all manner of assistance to settle in to the new life, they have had to put up with veiled threats and (empty) inducements. The entire

"Operation Exodus" has shown a failure of planning and decision planning. The state of the Asap Resettlement Scheme itself further confirms this fact.

Conclusion and Recommendations

In a wider context, the whole process raises the fundamental questions of who defines and who benefits from development. The fact is that the indigenous population affected by the Bakun HEP have been asked to sacrifice their entire natural and cultural heritage in the name of development. Indeed, government spokespeople and others have lambasted critics as being anti-development and traitors. Yet on closer examination of the way this whole project has been planned and implemented, it is clear that the indigenous people feel utterly betrayed and degraded by this so-called "development". They have been made to change a lifestyle which they controlled and from which they could plan their future, to one where everything has been planned for them and which has robbed them of their dignity, autonomy and ability to sustain their livelihood through integration with their traditional land and its resources.

It must be pointed out that the indigenous peoples of Bakun are by no means "backward" and live primitive lifestyles. Far from it. Most communities have been participating in part cash economy for a long time now. Their original long houses have produced quite a few university graduates and professionals. The Member of Parliament for the area is himself a former headmaster. What they could do with to improve their quality of life at their original long houses are better services: transportation, education facilities, clinics and hospitals, marketing and credit, etc. They could do with some sustainable means of power for each of their long house communities. In other words, development must be based on the needs of the community and not the socially destructive type like the Bakun project.

The Coalition of Concerned NGOs on Bakun have called on the Government to set up an independent enquiry into the whole resettlement operation; an independent audit on all financial aspects of the resettlement; to declassify all reports and feasibility studies on the Bakun project, and to bring to account all officials who have

flouted the law and proper procedures. The Coalition has also called on the Sarawak State Government and its respective agencies to:

1. Take the complaints of the families who have been resettled in the Sg Asap Scheme seriously – hold meetings with them to understand their problems – implement specific measures to deal with each of their complaints – explain these measures to the people affected.
2. Seriously consider the option of allowing the longhouses which are further from the dam to move further upstream in their traditional lands – this would be in keeping with the wishes of the affected longhouses – would not disrupt their traditional way of life – would also make more land available for the 5 longhouses closest to the dam who may be forced to relocate to Sg Asap.
3. Freeze all further resettlements until these issues are settled through a process of dialogue with the people affected.
4. Annul the Sales and Purchase agreements which were signed by residents without their full understanding of the consequences. Allow electricity and water rate discounts for the settlers in Asap since they have sacrificed their ancestral homes for a HEP project.
5. Ensure that the dispensation of compensation payments, including the investment of the community's compensation be transparent and accountable to the long house people. The survey and the basis on which it was done should be published in full.
6. Review the present provision of land at the site, and provide, as a matter of urgency, further, adequate land to the resettled people, for cultivation and other purposes. We also call that serious consideration be given that land at the original site which will not be inundated remain in the hands of its original owners.

Water Crisis and the Sungai Selangor Dam*

As in the Bakun Dam project, an environmentally and socially damaging project – the proposed Sungai Selangor Dam – has been clouded by twisted logic and tangled facts. Just twenty years ago, we prided ourselves with having drinkable water supplied through an enviable water system, unlike the dirt and silt we find in today's potable water. How quickly have we forgotten that last year's water shortage crisis was caused more by the incompetence of the water supply contractor than the depletion of water sources. During that crisis, the water treatment reservoirs had to be drained due to the spillage of diesel into the river system by industries in the area.

The recent natural disaster at the Bukit Sungai Putih development project has further demonstrated that the Selangor State Government's assurances of environmental protection are worthless especially when they have direct conflict of interests in these projects.

After the economic, environmental and social disaster created by the Bakun Dam project, it is highly irresponsible of the Selangor State Government to go ahead with the Sungai Selangor Dam. As in the Bakun Dam project, the disastrous social impacts on the affected indigenous people and the environmental damage caused by the project have been overridden by the State Government's claim that there are no alternatives. This is a grotesque misinformation at a time when we are trying to encourage "smart" consumers and an informed public.

* A compilation of press statements written between June 1999 and March 2001.

The displacement of the 10,000 indigenous peoples of Bakun at the Sungai Asap Resettlement Scheme and the broken promises of the State Government there testify to the fate awaiting the Orang Asli at the Selangor River Dam site.

Malaysians should be aware of the fact that the World Bank has decided not to fund dam constructions any more because of their damaging environmental and social effects and the fact that there ARE alternatives to water resources other than dam construction. Rather than a cost effective programme to ensure the security of clean water supply, the State Government has come up with various schemes which involve privatising the water authorities to enterprises which do not have the qualification, the expertise nor the experience in operating such a system.

Privatisation and the Public Interest

So far, the choice of privatisation contractors has not been executed in a transparent manner. The example of the pollution of the Sungai Langat in 1997 shows the incompetence of the main water supply contractor. Like many other privatised projects in this country, it is clear that the contractor has no track record in water supply privatisation.

Now we have been told that the Selangor dam project is to be given to the consortium of Gamuda, Tan Sri Wan Azmi (TSWA) and a Selangor State Government enterprise (KDEB). For a start, the participation of the State Government reveals a stark conflict of interest and the EIA will be seen as a *fait accompli* just like the Bakun Dam project. True to form, the Selangor Menteri Besar announced that the project would go ahead even while the EIA was still being studied by the public. The refusal of the DOE and the State Government to divulge the 45 conditions attached to the EIA shows that they are afraid to be transparent. Unless they make these documents public, we can only assume that they have something to hide.

Gamuda was first given the contract for the EIA. How could this have any semblance of independence when it is then awarded the contract to build the dam? It is common sense that any credible EIA,

especially for such a publicly sensitive project should be done by a consultant who is seen to be independent. An important criterion would be that such a consultant has no connection to any contracts in this country – ideally, an international multilateral agency. The procedure for determining the best option must be transparent.

The contractors in the case of the proposed Selangor Dam, TWSA and Gamuda have a history of subsidised projects. TWSA is a property developer; Gamuda is involved in toll roads, including the controversial SPRINT and the Damansara-Puchong highway. We have observed the cross-subsidising by Renong and PLUS to salvage their loss-making highway operations. The rate payers are already paying unfair fees for the Puchong highway. It won't be long before we see cross-subsidising of the water project by these contractors with their other operations. When that happens, can we expect clean, reliable and economic water supply?

Selangor water consumers' interests have been totally ignored in this whole process. These are the questions which the State Government needs to answer:

What Water Tariff will Splash be Charging Consumers?

Currently, Jabatan Bekalan Air Selangor is distributing treated water at an average price of 86 sen per cubic meter to household and industrial users. With the inflated cost of the whole project, the Splash consortium will be supplying treated water at the rate of at least RM1.30 sen per cubic metre. This is 51% higher than the current price to consumers (*The Sun*, 22/11/99). How is this justifiable? The hugely inflated cost of the project must be justified to consumers.

Based on the appalling record of the Selangor State government on water management in the state and its privatisation policy so far, it is shocking that the State Government had the temerity to impose up to 50% to 100% increase in water tariffs on Selangor consumers in February 2001.

Selangor consumers are asked to pay for such an exorbitant tariff increase, but will consumers be compensated when the private contractors are negligent as they have been on numerous occasions

already? The so-called "water crisis" a few years ago was actually caused by incompetence and negligence of the contractor who failed to detect diesel that had leaked into the Semenyih water catchment at Sungai Langat. Incompetence and bad management have been identified as the cause of many fiascoes in Selangor water supply.

Will we be compensated when there is a water cut, loss of water pressure or when there is muddy water in our taps as has happened on countless occasions? If not, how can the State Government expect consumers to pay such a hefty tariff increase?

To satisfy consumers if there is to be any tariff increase, there should be a public audit of all water privatisation contracts and management. Only then can such an increase be justified. We reiterate our call for the establishment of a Utilities Commission which can study the reasonableness of any proposed tariff increase in utilities.

Before these consumer protection mechanisms and water demand management measures are in place in Selangor, the State Government should reconsider the water tariff hike.

1. Why was the Project Awarded without an Open Tender?

We know that there was at least one other contractor that put forward an alternative and lower tender and which did not involve the displacement of the Orang Asli at Pertak and Gerachi. Another bid involved a company which did not need to build any treatment plant, which would have saved consumers considerably. We would like to remind the Selangor State Government that the Minister for Works, Datuk Seri Samy Vellu has recently pronounced that all projects should be openly tendered so that consumers will gain from the best and lowest-cost tender.

2. Conflict of Interest is Costly for Consumers

There is a clear conflict of interest in this project where a Selangor State Government company, viz. KDEB is directly involved in the Splash consortium which has been awarded the project without an open tender. Consequently, there is no independent judgement when

the EIA for the project is conducted by a company appointed by the Splash consortium itself, viz. SMHB Sdn Bhd. Allegations of unethical practice against SMHB Sdn Bhd has been made by one other contract contender, Klang Valley Utilities (KVU) Sdn Bhd:

"From KVU's findings, it is evident that SMHB's Table 3 in the EIA report (comparing the Sg. Selangor Dam and alternative dams) can be construed as a deliberate act to discredit KVU's proposal by the use of unsubstantiated and uncorroborated information, not to mention untruths. This practice is totally against the norms of an independent professional practice of a consultant and must therefore be dismissed as repugnant and ill-willed, whatever the motives."

(KVU's Response to the Sg. Selangor Dam EIA)

3. The Cost of the Treatment Plants for the Project is Grossly Inflated

We have been told that the cost of the treatment plant in the SSP3 project is nearly RM1 billion. Now we know that the technology involved in water treatment plants is far from "Star Wars" technology unless the SSP3 treatment plant is going to be lined with Italian marble! The JKR estimate for like treatment plants is RM200 million per treatment plant. The Splash consortium must explain this discrepancy.

4. How will the Consortium Finance the SSP3 Project?

Too many infrastructure projects have been awarded to companies which have not convinced shareholders and the public that they are capable of raising the money to start their projects. The Bakun dam was just one example – in the end, taxpayers had to compensate Ekran to the tune of almost RM1 billion and after the area had been thoroughly logged. Ekran's attempt at raising funds in the market was a flop. So how will the financing for this project be solved? Will the Government or EPF be providing a soft loan or is there going to be foreign assistance? Or will the consortium simply subcontract the project to some foreign company and earn a commission? Consumers have a right to know because it will be costly for them.

The Question of Dam Safety

Among the most worrisome aspects of the dam is the question of suitability and safety of the proposed dam site. Many Malaysians are not aware of the fact that in 1883, there was a much smaller dam at the proposed site and this dam collapsed, killing at least 25 people – and that is how *Ampang Pecah*, the township near Kuala Kubu Baru got its name! Before the authorities proceed any further with the project, we wish to alert the public and especially the residents living downstream to the following facts:

⇒ 50% of Dam Area Sited on Soft Rocks

We have discovered that 50% of the impounding area is sited on metasediments – soft, porous rocks (shale, schist, phyllite) which disintegrate upon impacted water. This is clear from *The Geology and Mineral Resources of the Fraser's Hill Area, Selangor, Perak and Pahang, Federation of Malaya* by F.W. Roe, Caxton Press, KL 1951. This presents a high structural risk as a result of under water seepage, washout and sliding.

This has been admitted by an official from the Department on Minerals and Geosciences who told a local newspaper recently:

"Our job is only to determine the geology of the area. It is up to the project proponents to enlist dam specialists to do a detailed study of the information we have provided them to determine whether it is safe."

(NST, 21/9/99)

The Gamuda consortium claims that dams can be constructed on almost any foundation citing the Batu, Pedu and Sungai Tinggi dams and that remedial treatment can be taken. The truth is that remedial treatment will incur increased cost but which may not help anyway because of the incompatibility of the geological composition of the impounded area and the surrounding area. The Batu dam and others are on different geological mix and orientation of metasediments. Besides, the soil studies on the Batu dam alone took some ten years to complete!

The logical conclusion to ensure a safe dam is to build on solid granite. The lives of people are too valuable for the authorities to compromise even 1% of the dam's safety.

To allay the fears of the residents living downstream as well as the general public, the authorities should make independent studies of the site. The public will not trust private consultants, especially those consultants contracted by the concessionaires.

The best authority to conduct such a study is the Federal Geology Department. We want to know whether there have been discussions on dam safety between the State authorities, the Geology Department, Jabatan Bekalan Air and the DOE. If not, why not? The federal authorities must also bear responsibility if they allow the State authorities to get away with not fulfilling their responsibility to public safety and interests in the event of the Selangor dam collapse.

The residents and the public also want to know whether a seismic fault runs across the proposed dam site and we want the relevant authorities to confirm or deny this fact. The authorities should also release all reports and studies relating to the geology of the proposed dam site and the dam disaster of 1883.

⇒ How Many Bore-Hole Tests has Gamuda Conducted?

We have reason to believe the TSWA-Gamuda-KDEB (TGK) consortium has not done sufficient bore-hole tests on the site. We would also like to know whether the results have been monitored by the relevant government departments and what time-period has been allocated for soil testing.

It should be pointed out to the Malaysian public that for the KLIA, at least 2,000 bore hole tests were carried out. It has been estimated that the Selangor dam site requires in excess of 700 bore hole tests in the light of the danger to life the dam poses.

In the United States, only two authorities are allowed to build dams, one of which is the US Army Corps. Even so, there was a dam failure in 1988.

The EIA Conditions on the Selangor Dam

From past experiences of the Bakun Dam and other environmentally destructive projects in Malaysia, concerned Malaysians and NGOs

have learnt not to be impressed with the EIA conditions on the Sungai Selangor dam project because:

- i) The EIA was not carried out by a truly independent body. We know that the EIA contract was given to a component of the Gamuda-TSWA-KDEB consortium without an open competitive tender;
- ii) The many ecological disasters in recent Malaysian history such as Bukit Sg. Putih, Highland Towers, Pos Dipang, Bukit Antarabangsa, have shown that monitoring and enforcement of these EIA conditions by the DOE and municipal councils is unreliable.

The Department of Environment must convince the public that the monitoring and enforcement of the Sungai Selangor dam project will be completely credible by informing us how many qualified personnel will be despatched to the site and how intensively they will be carrying out their responsibility. For instance, we are particularly intrigued by how the DOE is going to enforce the EIA conditions that logging must be confined within the 600 hectare reservoir area; that the reservoir area must be thoroughly cleaned before flooding; that wildlife must be given adequate berth to escape from the area before flooding, etc.

It is more likely that the DOE will, as is the practice so far and as the EIA conditions show, merely "demand" reports by the private management group concerned. Now, if the experience of the Bukit Sg Putih development is to be a lesson for us all: The mudflood disaster happened less than a month after the State Environment Minister Datuk Ch'ng Toh Eng assured residents (including the writer) below the development at a specially convened meeting, that his department and the local municipal council were monitoring the project very closely and there was "no reason for us to be unduly concerned".

Can we now believe the same State authorities when they give us assurances that this currently biggest dam project in the country will be properly monitored and enforced?

Our misgivings about the way in which the Sungai Selangor dam project has become a *fait accompli* are as follows:

1. Why can't the 45 EIA conditions be made freely available to the public?

The Selangor State Government has still not made the 45 EIA conditions freely available to the public. We have had to rely on second-hand sources. If the dam is as safe as the government assures us, then why have they not made these EIA conditions freely available to the public, especially to the residents who will be directly affected in the event of a dam collapse?

We would like to remind the public that it was only after the Highland Towers disaster that we learnt that the contractor concerned had not followed the strict conditions during construction and that the municipal council had been negligent in not monitoring the project.

2. Can we see the Emergency Response Plan in the event of a dam collapse?

In the event of dam failure, any responsible government must draw up an emergency plan for the evacuation of the people living downstream. This is only mentioned in passing in the EIA conditions. Such a plan must specify the speed at which areas downstream will be flooded and the procedure for emergency evacuation. Do the authorities have such a plan? Can the public scrutinise it?

The way in which disasters have been handled recently – Highland Towers, Pos Dipang, Bukit Sungai Putih, Bukit Antarabangsa – does not give us confidence that the authorities are competent to handle a prospective Selangor dam disaster.

The government needs to allay the fears of the residents living downstream especially since there was a dam collapse in 1883 from whence Ampang Pecah got its name and after which Kuala Kubu Baru was resited further upstream. We believe 25 people died in that tragedy. The public should be informed about that tragedy, especially the geological character of the dam site that led to the collapse.

3. Are Gunung Ganang Corporation Sdn Bhd and KLIAB qualified and independent?

We have now learnt that the Government has appointed Gunung Ganang Corporation Sdn Bhd and KLIAB to be in charge of environmental management for the project. The important questions we need to ask are:

- * How can they be considered independent?
- * What credentials in environmental management of a dam project in a Malaysian rainforest do they have?
- * Who are their qualified environmental engineers?
- * Did they get the contracts through a competitive open tender?
- * Are they registered with the Department of Environment?
- * When were they registered?
- * How much is this "environmental management" contract worth?

If the authorities believe in transparency, they should let the public have this information. If this environmental management contract was another backdoor negotiated tender, then it is not good enough. It is then yet another example of the way in which the dam contract was awarded in the first place.

Will we see the same outcome as the Bakun project, namely, the contractor's main achievement was to log the area bare! In this case, we know that Tan Sri Wan Azmi's Land & General manufactures wood products.

The Fate of the Orang Asli

It is outrageous that the construction of the Sungei Selangor Dam in KKB is proceeding at a rapid pace even though the Orang Asli at Peretak and Gerachi have not been properly resettled. In the process, serious social and environmental considerations have been side-stepped by the SPLASH consortium and the authorities who are supposed to be monitoring the situation. It is sickening to see the "Original People" of this land being treated with contempt and being short-changed in the compensation due to them.

Firstly, the safety of the Orang Asli still living in their original settlements has been compromised. In Kg Gerachi, in particular, a 10-metre earth wall (and a construction road) looms over the dwellings. With the onset of the rainy season, the threat of a calamity not unlike those of the Highland Towers and the Pos Dipang mudslide tragedies is not inconceivable. It is however certainly preventable.

One of the conditions in assigning the project to SPLASH is that the Orang Asli be resettled into their promised oil palm homesteads. The wisdom of forcing the Orang Asli into oil palm plantation work is highly questionable in the first place, but even so, this should have been done before construction on the dam was started. The photographic evidence gathered by SOS Selangor amply reveals the utter contempt shown toward the Orang Asli still living at Peretak and Gerachi while the hill slopes all around them are being devastated by bulldozers.

When will the Orang Asli be resettled to their new sites? When will the houses and other amenities be constructed? And when will the oil palm plantations be established?

From the amount of silt in the Sungai Selangor after every downpour, it is evident that the SPLASH consortium is not adhering to the EIA conditions. One of the 45 conditions states that only the 600-hectare dam area can be logged. From the photographic evidence, it can be seen that silt traps are non-existent or inadequate to prevent erosion during downpours.

Secondly, according to the local press (27/5/2000), a total of RM6.9m in compensation was paid to 84 families for "loss of livelihood". The amounts per family ranged from RM30,000 to RM600,000. The basis of the computation was not revealed.

It should be added that the compensation package is based on the assumption that the Orang Asli do not own the land they have traditionally owned and used. Thus, the compensation amount seems to take into account only "replacement costs" of crops to be inundated. There is no computation for the cost of acquiring the Orang Asli's lands. (With the resettlement, the Orang Asli stand to lose more than 80 per cent of their traditional lands as recognised by the government in 1965.)

Even so, the RM6.9m compensation amount for 'loss of livelihood' pales in comparison to what has been granted, or awarded, to Orang Asli elsewhere who were forced to resettle. In Bukit Lanjan, for example, the 158 families were promised RM61m in compensation (i.e. 4 times that of what the KKB Orang Asli received). And in Sungei Linggiu, Johor, where a dam (to supply water to Singapore) caused the Orang Asli there to lose their traditional

lands, the court awarded the 225 Jakun in 45 families a total of RM26.5m (i.e. 6.5 times more than what the Orang Asli in KKB got) for 'loss of livelihood'.

Logging activities are also under way in the traditional territories of Kg Peretak and Kg Gerachi. According to the Aboriginal Peoples Act (1954, revised 1974), and upheld by a court decision in Perak in 1991, all forest products in Orang Asli areas, even if they have not been formally gazetted as Orang Asli reserves, belong to the Orang Asli. Who, therefore, is enjoying the right to the current logging activities in the dam area?

Each (registered) household in Kampung Gerachi is promised a 0.4 hectare plot of land for their house and 2 hectares of oil palm (i.e. a total of 2.4 hectares per household). The Orang Asli in Kampung Peretak, however, will only receive the 0.4 hectare house plot, it being assumed that their orchards will not be inundated and they will continue to own, and have access to them.

Several potential issues arise from this arrangement, for example, is 2 hectares of oil palm sufficient to maintain a level of income to keep the households above the poverty line? FELDA, for example, gives its settlers 4 hectares per family as official data suggests that at least 3.2 hectares of oil palm is needed to keep a family (of 4) above the poverty line. Then again, the resettlement package assumes that the size of the communities will be fixed at the surveyed level in perpetuity. It assumes that no new families has been, or will be established from the time the initial survey was done (assuming, also, that the survey was comprehensive in the first place). Those who have married recently and those planning to set up families in the future are expected to find their own accommodation or squat with their relatives.

There appears to be no written agreement between the Orang Asli community and the authorities regarding all the promises that have been made to the former. For example, what are the specifications of the houses promised; what happens in the event of non-delivery of the various promises? Surely it is mandatory for the Orang Asli to have the benefit of legal counsel of their choice in all decisions. In the absence of such binding agreements, the Orang Asli are at risk of being short-changed with little legal recourse.

On the question of land titles, there is nothing in black-and-white to guarantee that land titles (individual or group) will be issued. Press statements by SPLASH seem to suggest that this is a matter for the state to decide. And going by the Selangor State government's own record whereby, in the last decade 76 per cent of Orang Asli reserves have been de-gazetted, what assurance is there that the Temuans will actually be given titles to their land? In fact, thus far, the state has yet to issue land titles to the Orang Asli who have been displaced for one project or another (including the KLIA). Or for that matter, not a single individual land title has been issued to Orang Asli residing in their traditional lands thus far. In the absence of a binding agreement, we can only remain sceptical of this promise to grant land titles to the Temuans in KKB.

The Temuans of Kampung Peretak will not receive the monthly subsistence allowance as their orchards will not be inundated and they will continue to have access to these lands. But does this imply that their right to these lands are being recognized, and will land titles then be issued for these lands? What is to guarantee that these lands will not be acquired for some 'national interest' or 'economic development' purpose in the future especially when the catchment area is turned into a resort of sorts?

According to the local press of 21/1/99, the compensation package promised RM250 per household for 3 years, "pending maturity of the oil palms". In another local press report of 14/1/2000, however, it was stated that the Temuans of Gerachi are to receive a subsistence allowance of RM250 per month for 2 years. Can the authorities clarify if this allowance is for 2 years or 3 years? And what if the oil palm is still not ready to be harvested after this period?

After the proven disasters of the Batang Ai and Bakun resettlement schemes, the only guarantee that the affected Orang Asli at Kg Gerachi and Kg Peretak must have is a compensation package written in tablets of stone and not in official mouth water. Otherwise, as the indigenous peoples of Batang Ai and Bakun have already realised too late – they were merely given empty promises and their lives and cultural heritage were damned from the moment they were displaced.

This fate of our indigenous peoples can be considered as ETHNOCIDE – a fate even our former colonial masters did not commit against them!

The disasters at Batang Ai and Bakun must not be allowed to be repeated at the Sungai Selangor dam site. What happened to the claims that our nation strives to preserve and develop our indigenous cultural heritage? Thus, before such a legally binding compensation package has been signed, it is highly irresponsible for the authorities to allow work at the dam site to proceed.

There are Alternatives to the Sg. Selangor Dam

The Sg. Selangor dam cannot solve the water crisis in the country while there is no serious effort to implement a National Water Policy, incorporating water conservation campaigns; water demand management through pricing and fiscal measures; re-piping the water network; cleaning up all rivers and preserving our natural water catchments. Yes, there are more responsible and rational ways to solve the water crisis in the Klang Valley!

There are a number of alternatives which have been tried and tested in countries which do not depend on dams for their water supply.

⇒ Cleaning up Our Rivers and Preserving Our Natural Water Catchments

Although the developed countries are heavily industrialised, they protect their rivers and recycle their water and so do not need to build new dams. This is currently not possible in this country because some 75% of the country's water sources are so polluted beyond the acceptable WHO standards that water once drawn from the reservoirs cannot be used again. The main sewerage contractor simply dumps sewerage into the rivers instead of recycling it. Sewage pollution accounts for about 79%, industrial pollution for 8% and agricultural pollution for 13% of water quality deterioration (CAP-SAM, "State of the Malaysian Environment", 1996: 12).

The repeated incidences of industrial pollution of our water sources reveal the extremely poor controls on zoning and enforce-

ment by the authorities. The number of instances of contamination of the Sungai Langat, a vital source of potable water, is instructive. In October 1997, six thousand litres of diesel from a quarry overflowed into the Sungai Langat and led to the closing of two water treatment plants. Such negligence by the local and state authorities demonstrates that we do not have efficient and strict monitoring. How many industries have since been relocated away from our rivers and catchment areas?

When some of these polluting industries are in fact State Government enterprises, one wonders why there is no political will to redress the crisis. As long as this pathetic state of affairs exists, the authorities have no credibility in telling us that there are no alternatives to the Sungai Selangor Dam.

⇒ Repiping of the Water Network

It has been reported by various authorities that as much as 30-40% of water pumped through the existing water pipe network is lost through leaks. The increasing occurrence of pipe burst and siltation in the pipe system shows the lack of properly managed preventive maintenance. Yet nothing has been done to redress the problem. An independent study should be carried out immediately while its implementation by a suitably qualified contractor should be done through open tender. The revenue earned from the savings could then be shared between the contractor and the State.

⇒ Serious Water Conservation Campaign

We have yet to see a serious water conservation campaign in this country, one which not only encourages household and industrial consumers to conserve but also provides imaginative fiscal incentives to conserve water without affecting productivity. The same can be said for the lack of a serious energy conservation campaign. Unless this is done, we will continue to see the wasteful attitude to water usage in this country and the needless building of dams.

What we have witnessed in recent years is the wanton destruction of precious water catchments such as Bukit Sungai Putih Forest

Reserve, to name just one recent example of official irresponsibility. It is an indication of the lack of an overall assessment of the forests, rivers and land resources in the state to determine sustainability:

Even the Drainage and Irrigation Department director-general Kheizul Abdullah concedes that no attempt has been made by the respective State Governments to establish the capacity to supply water of each of the 150 river basins in the country. He says it is easy to work out the amount of water that can be extracted sustainably from each basin.... As long as the State Governments fail to take into account the capacity of the river basin, there is no guarantee that adding new dams can solve water shortages."

(New Straits Times, 2/2/99)

The facts from the developed countries reveal that the water and energy conservation campaigns in these countries have resulted in phenomenal savings in water and energy consumption. Thus without the need to construct any new dams, conservation measures alone have resulted in breath-taking savings in water and energy consumption while *at the same time* produced impressive growth figures.

These developed countries embarked on serious water and energy conservation more than twenty years ago. Isn't it high time we did the same before more pristine environment and indigenous peoples are sacrificed at the altar of so-called "development"?

All Malaysians who care for the Malaysian environment and the residents at the site should support our campaign to save the Selangor river. We have witnessed enough environmental and human disasters caused by greed and irresponsible planning. It's time to tell the Government in no uncertain terms that this is the last straw.

The Struggle for Human Rights in Malaysia*

In November 1996, a 600-strong mob led by the Youth wing of the ruling coalition in Malaysia violently disrupted an international conference in a Kuala Lumpur hotel convened to find a peaceful solution to the East Timor conflict. The police arrived an hour late, after the mob had succeeded in taking over the conference hall and in terrorising the participants.

How was this possible given the heavy Special Branch presence around the hotel since dawn that day? This was the same Malaysian Police which had so promptly and brusquely broken up so many peaceful protests in Kuala Lumpur, including that over the Bakun Dam at the Lake Gardens on 7 April 1996.

The mob leaders were released on bail that same day while 59 NGO activists and other organisers of the conference were thrown into prison, 10 of them (including the writer) for as long as 6 days. The statements by the top leaders of the Barisan Nasional Government condoning this violent mob attack on the APCET II conference can be seen in the just published record of the incident (*MOB RULE: The East Timor Conference in Malaysia, 9 November 1996*, edited by Kua Kia Soong, SUARAM 1998). The same Barisan Nasional leaders are now condemning peaceful "reformasi" demonstrations as "mob rule"!

While this shameful affair succeeded in publicising the East Timor struggle world-wide, it nevertheless highlighted the shocking fact that Malaysians do not enjoy the basic human right to freedom

* Paper presented at the Asia-Pacific Peoples' Assembly, 9 November 1998.

of expression and assembly, a freedom enshrined in the Malaysian Constitution 41 years ago.

This basic freedom of expression was even more cynically violated recently when a serving Member of Parliament, Lim Guan Eng was sentenced to 18 months' jail for "publishing false news". The case confirmed the Attorney General's (AG) predilection for selective prosecution. In the course of his investigations into the allegations made by an underage girl against the Chief Minister of Malacca, the AG exposed her admissions of sexual involvement with other persons. But in spite of having successfully prosecuted those other persons in the girl's admissions, the Attorney General chose not to believe her complaint against the Chief Minister in question and the case did not even reach the courts.

Another NGO activist, Irene Fernandez has been similarly charged under the Printing Presses and Publications Act after she exposed alleged maltreatment of refugees and other atrocities in several detention camps in Malaysia. Her trial is still proceeding.

The way in which Malaysia's criminal justice system operates has now been exposed to the whole world with the court appearance of the former Deputy Prime Minister Anwar Ibrahim with a black eye and other bruises sustained while under ISA (Internal Security Act) detention.

So shocked are Malaysians at the fate and treatment of Anwar that they have protested in their thousands each weekend since his arrest. Essentially, this raises the question of rights and personal safety - "If this can happen to the Deputy Prime Minister, what about ordinary people?" These peaceful demonstrations to protest the blatant injustice and the use of the ISA have been on a scale unprecedented in Malaysian history. They have been met with water cannons, tear gas, police brutality, arrests and the detention of hundreds of people.

In this paper, I will focus mainly on:

- i) The Malaysian State's use of detention without trial as a convenient and insidious suppression apparatus, centring on the Internal Security Act;
- ii) Other violations of civil and political rights which are used to justify authoritarian rule;

- iii) The fact that the human rights that do exist are the products of struggles by the Malaysian peoples.

ISA: An Insidious Suppression Apparatus

The infamous career of the Internal Security Act these 38 years has seen its arbitrary use by the State against not only opposition leaders and dissidents but also passport forgers, cloners of mobile phones, even "internet rumour-mongering". The writer himself was detained under "Operation Lallang" in 1987 for, of all things, speaking at a forum in support of mother tongue education! In 1996, the Government threatened to use the ISA to detain NGO organisers of a Tribunal on Police Abuses. Recently, on 24 October 1998, the police stopped a forum on the ISA organised by SUARAM (*Star*, 25/10/98).

As at 20 October 1998, there were 237 detained in Kamunting under the ISA (*Star*, 22 October 1998). The recent spate of ISA arrests and detentions of Anwar's sympathisers once again confirms the fact that this anachronistic law exists as a convenient and insidious suppression apparatus for the Malaysian State. It allows up to sixty days of solitary confinement, during which detainees are subjected to interminable interrogation and mental torture. During Operation Lallang in 1987, affidavits by several detainees, including Yeshua Jamaluddin, alleged physical torture by the police but none of these torturers have since been brought to justice. (See *445 Days Behind the Wire: An Account of the 1987 ISA Detentions* by Kua Kia Soong, Huazi Resource Centre, Kuala Lumpur 1989.)

During the Sixties, detention without trial was systematically used to detain Opposition party members (mainly from the Labour Party and Parti Rakyat) in order to restrict the ability of the Opposition to attain success at the polls. Thus in 1963, just before the 1964 general elections, there were a total of 1,052 ISA detentions. (See *Authoritarian Populism in Malaysia* by Anne Munro-Kua, Macmillan, London 1996, Table 9.1.)

From the Seventies onwards, whenever the ruling party UMNO faced a political crisis, mass arrests and detentions under the ISA would be used to deflect from the crisis through the spectre of "racial antagonism". This was seen in 1974 and 1987 when critics

and dissidents were summarily silenced while structural adjustments were then made to consolidate the hegemony of the ruling coalition.

Besides the ISA, other laws allowing detention without trial include the Emergency Ordinance 1969 and the Dangerous Drugs Act 1985. As at 1994, the figures below show the pattern of arrests and detentions using the respective laws by the Malaysian State:

Table 6.1: Total Number of Arrests and Detentions without Trial (up to July 1993)

<i>Law Used</i>	<i>Number of Arrests and Detentions</i>
ISA (since 1960)	9542
Emergency Ordinance (since 1969)	797
Dangerous Drugs Act (since 1985)	3195

Source: Reply to Parliamentary Question No. 69 by MP for Petaling Jaya, 21 July 1993, cited in *Reforming Malaysia* by Kua Kia Soong, Oriengroup, Kuala Lumpur 1993: 269.

The retention of the ISA all these years has enabled the Malaysian State to maintain the formal appearance of parliamentary democracy, a central mechanism for obtaining consensus. At the same time, the Executive has gradually eroded the principle of separation of powers (Anne Munro-Kua, 1996).

During these periodic ISA Operations of the last four decades, it has served the purpose of dealing with the tensions created by State policies and actions. Thus, minorities', peasants', workers' and urban settlers' demands have been suppressed in this way. Their demands have centred on the right to democratic participation in determining the "development" process and to basic human rights. Their experience of development "from above" has been one in which their needs have been subsumed to the interests of the ruling elite.

The very success of the New Economic Policy since 1971 in restructuring capital to ensure the dominance of the new Malay corporate class has in the process transformed social classes and increased class differentiation of the Malay community. Compared

to the other ethnic communities, intra-ethnic inequality has widened most in the Malay community. For example, the struggle against land acquisition and forced eviction of Malay settlers, both urban and rural, has been the most prevalent struggle of the Nineties. These plus the financial crisis, mismanagement of the economy, the allegations of nepotism, cronyism and corruption, the use of criminal justice against Anwar Ibrahim and his supporters have all contributed to the 1998 "Autumn of Discontent" in the streets of Kuala Lumpur.

Other Violations of Civil and Political Rights

The Malaysian Government has violated the civil and political rights of Malaysians with laws that allow detention without trial; that restrict the rights to organise and assemble; that constrain the freedom of movement, and that limit the freedom of expression. Preventing access to information has led to the cover-up of financial scandals and questionable projects.

Malaysians' right to freedom of assembly is restricted by the Police Act 1967, amended in 1988, which requires a police permit 14 days before any public assembly. The police have, and continue to refuse permits to those assemblies organised by the opposition and NGOs. Furthermore, any assembly of more than five people may be considered an "illegal assembly" and the police can order such an assembly to disperse.

The right to association is limited by laws such as the Societies Act 1966, under which any association of seven or more members must register as a society. The Government may refuse to register a new society, impose conditions or de-register a society. A society may also have to wait a long time before approval. Thus, it took the National Human Rights Society, HAKAM, several years to be registered, while the Malaysian chapter of Amnesty International has still been refused registration after six years of application. IPK (Institut Pengajaran Komuniti), an NGO registered under the Registrar of Businesses in Sibu, Sarawak was deregistered in early 1996. IPK was an active member of the coalition of 40 NGOs opposed to the Bakun Dam project.

The Universities and University Colleges Act also violates the right to association of students and academics. Under Section 15(3) of the Act, students and faculty members are not allowed to express or do anything which may be construed as expressing support, sympathy or opposition to any political party or trade union. Any campus demonstrations must be approved by the Vice-Chancellor.

The right to freedom of movement has been denied in some cases to activists and opposition party leaders. This has been the case with Gara Jalong, an activist from Long Geng, Belaga, Sarawak; Wong Meng Chuo, an activist working on indigenous peoples' rights in Sibu, Sarawak; Jok Jau, an indigenous peoples' leader from Baram, Sarawak; Jannie Lasimbang, a Kadazan activist from Sabah, among others.

Access to the media is limited by the fact that the ruling coalition has a monopoly of the mass media including the publicly owned Radio and Television Malaysia, which is under the direct control of the Ministry of Information and is not an independent body. The private television channel, private radio stations and the main daily newspapers are owned and controlled by interests linked to the ruling parties.

Abuse of power by the police occurs when they have taken a partisan role on the side of the developers in the eviction of urban settlers/squatters; with loggers/developers/government agencies in encroachments of indigenous peoples' Native Customary Rights (NCR) land, and with employers or management in workers' industrial action.

• *Documented case of abuse of police power against Penans in Ulu Baram*

On 29 January 1996, some Penans from Kampung Long Lamai in Ulu Baram were on their way to talk to the workers at the Atapa logging camp which was encroaching on to their NCR land. They turned back when the Police Field Force (PFF) fired 16 shots to warn them off. On 9 February 1996, the Penans attempted to prevent further encroachment of their land on which logging was proscribed but they were confronted with knife-wielding workers from the Atapa camp. The Penans reported the incident to the police but no

action was taken. On 1 April 1996, 38 Penans from Kampung Long Lamai went to ask a bulldozer operator to stop working on the proscribed area. Soon after, PFF personnel arrived. They directed their M16 rifles at the Penans but the latter refused to budge, maintaining that they were merely defending their ancestral land. A commotion started but it was broken up by the arrival of the head of the field force there, Sargent Antony Besar who ordered those under his command to leave. As soon as the sergeant had departed, two remaining field force officers shouted at the Penans, taunting them to a fight. They fired 13 more shots.

(Suaram: *Malaysian Human Rights Report 1998*, chapter 8)

• *Documented case of abuse of police powers against urban settlers in Kg Chekkadi, Buntong, Perak*

On the morning of 10 March 1996, around 160 residents of Kampung Chekkadi, a large settler community in Buntong, Ipoh marched peacefully to the Buntong Police Station to lodge a report against a contractor for attempting to demolish a few houses the previous week. The Chief Inspector of the police station arrived and, without pausing to find out what was happening, ordered the arrest of all the residents. Six men were shoved into the lock-up and another woman was handcuffed. The riot squad (FRU) had also arrived and began to clear the station grounds. A crowd soon gathered outside the station when Kg Chekkadi residents heard about the detentions. After they were assured that the detained would be released, they began to disperse. Despite their decision to disperse, the FRU personnel charged into the crowd and at least 15 people were hit and kicked by the riot squad (see *Aliran Monthly*, 1996: 16(3) for a detailed account). In the incident, 166 persons were arrested and released on police bail under Section 90 of the Police Act allegedly for unruly behaviour.

(Suaram: *Malaysian Human Rights Report*, chapter 8)

• *Documented case of abuse of police powers against plantation workers at Brooklands Estate, Selangor*

At Brooklands Estate, plantation workers who had worked for generations for the company and had earlier been promised house

ownership by the management, were later given eviction notices by management. In August 1996, the police arrested three members of the Plantation Support Committee while they were having a meeting with the workers in the community temple. The workers protested and lodged a police report against the wrongful arrest since they were at the plantation on the invitation of the workers there.

(Suaram: *Malaysian Human Rights Report*, chapter 8)

• *Documented case of abuse of police powers against migrant refugees*

On 26 March 1998, over 3,500 Malaysian police launched an exercise to deport hundreds of Acehese detained in four different detention centres around the country. The Acehese resisted because they did not want to meet their fate at the hands of the Indonesian military if they were sent back. The police responded with firearms and batons and riots erupted in all four camps. Eight Acehese and one policeman were reported to have died at the Semenyih camp. The Acehese Refugee Committee reported more fatalities. Some 545 Acehese, including the injured, were taken to the nearest ports and shipped back to Indonesia. When they arrived in Aceh, all were taken into military custody and moved to the dreaded Rancung Military Detention Camp.

(See *SUARAM Update*, March 1998)

• *Documented case of abuse of police powers against suspects*

On 11 April 1998, Raja Aziz Addruse, President of the National Human Rights Society revealed that in the preceding two-and-a-half years, more than 50 persons, suspected of being armed robbers had been killed on the spot. He called on the police not to "assume the roles of judge, jury and executioner, all rolled into one" (*New Straits Times*, 11/4/98). On 2 October 1998, police shot dead five suspected kidnapers, including two women in Kuala Lumpur. The following day, six robbery suspects were shot dead in Tumpat, Kelantan (*Sun*, 15/10/98).

There have been physical abuses and deaths under police custody. According to official statistics, between 1980 and 1990 a total of

151 prisoners have died in remand. (Reply to parliamentary question by MP for Petaling Jaya, 18 July 1991, quoted in Kua Kia Soong, 1993: 270.)

• *Documented case of abuse of police powers in the peaceful assembly against the Bakun Dam project at Padang Merbok, Kuala Lumpur*

Around 300 people including indigenous people from Belaga, Sarawak who were holding a peaceful gathering at Padang Merbok in Kuala Lumpur to protest against the Bakun Dam project were assailed by the FRU (riot squad) with tear gas and mace, turning the orderly function into a riotous situation. About 20 people, including journalists, women and children were injured and had to receive outpatient treatment. Police had sealed all the roads leading to the park, preventing the public from participating in the gathering.

(Source: *Malaysian Human Rights Report 1998*: chapter 4)

Unprecedented changes have taken place to undermine the rule of law and thus the protection of Malaysians' civil and political rights. The Judiciary was deprived of its independence in 1988 when the Lord President and two other Supreme Court judges were removed from office. The fairness and accountability of the Attorney General (AG) has been cast in doubt in the Anwar Ibrahim and Lim Guan Eng cases and in his decision to drop charges against the Chief Minister of Melaka for statutory rape while convicting 14 others for the same offence involving the same child.

In another case when a judicial inquiry had found 11 police officers responsible for the death of a mechanic, Lee Guat Leong, while in police custody on 12 May 1995, the AG selectively prosecuted only two police lance corporals for his death (*FEER*, 14/12/95). Another instance of selective prosecution was seen when the author of a "poison-pen letter" – who turned out to be a High Court judge – was not prosecuted for the same alleged "crime" of "publishing false news". In the case in question, serious allegations of corruption had been made against a number of senior judges in Malaysia (*Aliran Monthly*, 1996: 16(5)).

The Malaysian Government's contempt for judicial decisions is demonstrated in the number of re-arrests of people released by the courts through *habeas corpus* applications. Examples of this include: Karpal Singh in 1988; Philip de Silva 1998. From 1989 to 1996, seven out of 15 people arrested under the ISA, 190 out of 395 arrested under the DDA, and 36 out of 71 arrested under the Emergency ordinance, who were released by courts, were re-arrested (*Sun*, 17.10.98).

The incarceration of Anwar Ibrahim has revealed further insights into the workings of the judicial system in Malaysia. For example, the former Inspector General of Police (IGP), Tan Sri Haniff Omar recently came out of retirement to back up Dr Mahathir's story about Anwar's alleged homosexuality, a heinous crime in Malaysia. The former IGP claimed that five years earlier, he had obtained evidence on this which he divulged to the Prime Minister, but at the time, the PM "did not show any interest" – so he left it at that!

This episode undermines the claim often made by the Government and the police that arrests and detentions by the police in Malaysia are made independently of the Government. Then, in his haste to cast Anwar as a sodomist, Dr Mahathir momentarily forgot about his erstwhile claims about his Government's uncompromising stand against corruption during a recent interview with a local press:

Q: Anwar has said he has evidence of corruption against you...

A: No. I am going to ask him to prove the corruption. He can prove, he must remember that we also have a lot of proof about his own corruption. But that is something else. I am not interested in that. I am interested in these things which I cannot accept. I cannot accept a man who is a sodomist to become a leader in this country.

(*New Straits Times*, 23/9/98)

This public airing of the Prime Minister's opinion was just a small part of the trial of Anwar Ibrahim by the Malaysian media, which had festooned their front pages with the banner headline: "We were sodomised" even before the trial had begun.

The use and abuse of the media by the ruling parties, restrictions on the rights to freedom of expression, assembly and association and abuse of police powers have violated the civil and political rights of Malaysians. To this day, the Government has not ratified

the International Covenant on Civil and Political Rights and the UN Convention Against Torture.

Human Rights are Products of Struggles

The human rights that do exist in Malaysia are the product of decades of struggles for human dignity by Malaysians of all ethnic groups, individually and collectively. Since colonial times, social movements involving workers, farmers, minorities, women, indigenous peoples, urban settlers and other marginalised groups in Malaysia have contributed to the struggle for democratic and human rights.

On Human Rights Day, December 8th, 1998, all the 50 or so Malaysian NGOs which have endorsed the Malaysian Charter on Human Rights 1994 launched the first and the most comprehensive *Malaysian Human Rights Report* that has ever been written. Its accomplishment is a tribute to the spirit of solidarity among Malaysian NGOs and the spirit of struggle among the various sectors of the Malaysian peoples for whom they work.

We can say that the very concept of human rights has been part and parcel of the value systems of the various ethnic communities in Malaysia and that it has gained significance through the Malaysian peoples' struggles. Thus, Malaysian politicians do the Malaysian peoples a great disservice when they try to portray human rights as some sort of weapon wielded by the West in order to put pressure on developing countries such as ours.

In recent years, Malaysia's Prime Minister, Dr Mahathir Mohamed has been one of the main Third World leaders to call for a "rethink" of human rights. He has argued that developing countries like Malaysia need to have their own human rights standard befitting their level of development as well as their particular cultural values.

This argument prioritises economic development over civil and political rights and is used as the justification for laws which clearly violate human rights, such as the Internal Security Act (ISA) and other laws that allow detention without trial, the Emergency Ordinance and the Dangerous Drugs Act. An extension of this argument is that "Asian values" place greater importance on the

community and hence, collective rights should have precedence over civil and political rights.

The question is: Have these so-called "Asian values" been a priority in the Malaysian path of development? Which Asian values, for example, could justify the Bakun Dam project with its planned destruction of an area of rainforest the size of Singapore and forced resettlement of 10,000 indigenous peoples from their ancestral land?

It is evident that the rampant economic growth pursued by the Malaysian Government in the last three decades has badly affected the collective rights of the Malaysian people to clean air, water and a safe environment. Air pollution in Malaysian cities has become a problem long before the haze which the world beheld via satellite television in 1997. This year, the capital and several other cities of Malaysia suffered a water crisis which was unprecedented and provoked outrage from the city dwellers. The Department of Environment's Annual Environmental Quality Report 1997 has just revealed that the number of clean rivers has been reduced from 42 in 1996 to only 24 in 1997 and that the number of polluted rivers has increased from 13 to 25 (*New Straits Times*, 22 October 1998).

Time and again, the struggles of Malaysian workers, the indigenous peoples' and urban settlers' to defend their collective rights have been thwarted by the violation of civil and political rights. Thus, the peaceful protests against the Bakun Dam are linked to the defence of the livelihood and cultural identity of the indigenous communities and their right to determine the kind of development they want. The civil and political right to personal security against police abuse is similarly related to the defence of workers' and settlers' community rights to housing, access to information, etc.

There is a fatal flaw in the "stages" argument that denies the indivisibility of human rights, that says we must have development first, and only then can we enjoy human rights. But it is not as if human rights are rights that are enjoyed in the Western developed countries and are beyond the attainment of developing countries such as Malaysia. The bald fact is that these basic human rights and freedoms denied Malaysians today are by no means new but were enjoyed by Malaysians in the Fifties and Sixties.

During the Fifties, Malaysians enjoyed the right to vote for their local municipal government. Today we have reverted to the colonial practice of appointing loyal party leaders to sit in municipal councils. During the Fifties, the opposition parties could organise public rallies to present their platform to the voters. Today, this is prohibited, although the ruling coalition can do it under the guise of Government activities. During the Fifties, opposition parties could freely sell their newspapers to the general public. Today, they can only sell them to party members.

So, the question to ask the Mahathir government is: Have we gone backwards in the development process? Is Vision 2020 merely rhetoric?

The reason we will not get a cogent reply from the Mahathir Government is because much of this argument to justify authoritarian rule is indefensible and mere posturing, for after all, did not the Malaysian Government together with all the other UN members confirm their commitment to the Universal Declaration of Human Rights in Vienna in 1993?

As the current economic and political crisis deepens, the emerging contradictions created by crony monopoly capitalism and authoritarian rule will have to succumb to the growing demands of the Malaysian middle class, workers and farmers for greater democracy and basic human rights.

The Collective Rights of Indigenous Peoples

The "stages" argument is fundamentally flawed for it is not borne out in Malaysian cases. If collective rights are so valued, then why is it that the collective rights of the indigenous peoples to their Native Customary Land and their right to decide their own path of development have not been recognised by the Malaysian Government in the Bakun Dam project and in so many other cases? This failure to recognise the collective rights of Malaysian indigenous peoples through so-called "development" projects has led to the erosion of their culture, identity and affected adversely their source of livelihood.

Some 10,000 indigenous peoples are to be resettled away from their ancestral land in the Bakun area of Sarawak to make way for

the dam project. From the start, they were not fully consulted and the Malaysian public as a whole were not fully informed about the project. Now, despite the fact that the project has been deferred, the resettlement of the affected natives is still proceeding even though the questions of compensation and cost of the new houses have not been resolved.

There have been other cases of encroachments by logging concessions, plantation companies and other commercial interests into the land of the indigenous peoples. Despite being the "original people" of this country, some 80% of the Orang Asli in Peninsula Malaysia live below the poverty line. The poverty rate in Sabah and Sarawak is still around 20%.

If one were to speak of "Asian values" as an exception, surely the indigenous peoples' cultural values count just as much as any other Asian values? Their traditional practices and harmonious relationship with nature – what is referred to as "sustainable development" today – should be allowed to thrive. Respecting the collective rights of communities involves processes which value consultation and not coercion.

The Rights of Urban Settlers

Similarly, the record of eviction cases in the last two decades shows that the Malaysian Government does not recognise the collective rights of urban settlers to housing. Although Malaysia has adopted the resolution of the UN Convention on Human Rights that recognises the practice of forced evictions as a gross violation of human rights, this practice has been a commonplace occurrence in plantations and other areas occupied by urban settlers especially in the last twenty years.

While there is a grave shortage of low-cost housing, land has been mainly allocated for commercial purposes. The public sector only managed to meet 36.7% of its target, or 46,497 units out of the required 126,800 units under the Sixth Malaysia Plan (7MP, 1996: 556-7). There are approximately 423,000 people residing in officially designated "squatter" settlements in the Klang Valley. (*Malaysian National Report, 1996*: 15) They make up 19% of Kuala Lumpur, 17% of Petaling Jaya and 23% of Kota Kinabalu.

Evictions are usually sought by developers through court actions for summary possession. Draconian legislation exist which gives powers to enforce summary eviction without recourse to the courts, eg. Section 426 of the National Land Code 1965 and the Emergency ordinance (Clearance of Squatters) Regulations 1969. The National Land Code criminalises illegal occupation of State land.

Such forced evictions have destroyed settled communities overnight, a violation of "Asian values" which place great emphasis on the community for emotional and social sustenance. In many cases, protracted struggles by urban settlers have lasted for years. They often suffer hardship when basic amenities such as water and electricity are cut off. They are harassed by gangsters hired by developers and also by police and enforcement officers. Settlers are regularly arrested and detained in the struggles to protect their homes.

The claim by the government of shortage of land is unconvincing when at least 150 golf courses in the country have been approved by State Governments. It has been estimated that just half the area of land used for these golf courses would be more than sufficient to meet Malaysia's low-cost housing needs.

Clearly, the path of development adopted by the Barisan Nasional Government has been biased toward meeting the hobbies of the rich while neglecting the basic needs of the Malaysian populace.

Rights of Workers

The key concerns of workers in Malaysia include restrictions on the freedom of association, the right to organise and collective bargaining, and the right to strike. The Trade Union Act 1959, inherited from British colonial rule, restricts unions to representing workers in a "particular establishment, trade, occupation, or industry or within *similar* trades, occupations, occupations and industries". This is contrary to ILO guidelines. The Industrial Relations Act 1967 also imposes restrictions on collective bargaining and the right to strike.

Thus, ever since the Seventies, electronics workers have been prevented from joining the Electrical Industries Workers Union through the 1973 ruling that these are not similar industries. The

Director General of Trade Unions has absolute authority to determine what is "similar". His decision is discretionary and not subject to challenge in court. Only in 1988 were in-house unions of electronics workers allowed. Even so, by 1996, only 2.9% of the entire electronics workforce of 150,000 were in 8 in-house unions (*Sun*, 22/8/96). The saga of the RCA Workers Union shows the weakness of in-house unions and the legal obstacles they face. Their victory was a landmark case for Malaysian workers' struggle against an intransigent multinational corporation.

Workers employed under categories "confidential", "managerial", "executive" and "security" are prohibited from joining trade unions. Police and defence personnel in uniform likewise cannot join trade unions, while public servants require approval to set up "in-house" unions. Affiliation of unions is also controlled. To date, less than 10% of the Malaysian labour force are unionised, with only 706,253 members in 1995.

In recent years, plantation workers have been the most critically affected by the widespread closure of estates as plantation land has been converted to industrial and commercial use. They are among the poorest paid workers in Malaysia – the per capita real income of rubber tappers was below RM500 per month in 1995 (*Sun*, 1/9/96). NGOs working with plantation workers have together initiated a campaign for a minimum monthly wage of RM750 for that sector; a minimum annual increment of RM50; an annual bonus of one month's salary and a retirement or termination benefit of RM1,000 for every year of service.

More women workers have joined the Malaysian workforce which now stands at more than 8 million. While this has given women some measure of economic independence, it also means that they have to bear the triple burden of holding a job, doing the household chores and looking after the whole family, the fate of most women in the developing world. Women are still at the bottom of the job market, discriminated in pay and opportunities for training and promotion. Sexual harassment at the workplace is also an issue of concern for women workers.

The incidence of child labour is still cause for concern. The 1980 population census reported that there were 43,000 children between

the ages of 10-14 years employed, half of this number being employed in rubber estates and other agricultural activities. In 1993, the International Cooperation of Free Trade Unions – Asia Pacific Regional Office report stated that there were 75,000 child workers in the country. Current estimates are even higher. (See SUARAM, *et al.*: *Malaysian Human Rights Report 1998*, Chapter 5.)

Foreign workers suffer the most human rights abuses. In 1996, there were 449,565 legal or documented foreign workers in the country although there are estimated to be more than twice that number of illegal migrants (*Sun*, 23/9/96). They are mainly employed as cheap labour in the infrastructure and export-led industries and face serious restrictions on movement, risk arrest, undergo poor and unsafe working conditions, and discrimination at the workplace. They are even more restricted than Malaysian workers in their rights to organise and to associate.

Between 1992 and 1995, more than 47,000 migrants have been detained at detention centres at Semenyih. There have been abuses and deaths in detention. The Malaysian NGO, Tenaganita has uncovered overcrowding, unhealthy conditions, insufficient food, water and medical treatment in the camps (*Tenaganita Report*, August 1996). In mid-1995, the Deputy Home Minister confirmed in Parliament that 46 detainees had died, 42 of them at Semenyih alone. Ten had died of beri-beri while 12 had died of "gastric". There were no post-mortem reports. In mid-1996, the government divulged that 98 detainees had died in detention. (SUARAM, *et al.*: *Malaysian Human Rights Report 1998*, Petaling Jaya.)

To date, Malaysia has not ratified the ILO Convention 87 on the Freedom of Association and Protection of the Right to Organise; the ILO Convention 97 on Migrant Workers; the UN Convention on the Rights of Migrant Workers, nor the International Covenant on Economic, Social and Cultural Rights. The Malaysian Government would be upholding the interests of workers in this country by ratifying these treaties.

Women's Rights

Apart from the discrimination suffered by Malaysian women at the workplace, violence against women is one of the most serious forms

of oppression of women. The Domestic Violence Act (DVA) was finally enacted in 1994, after 9 years of lobbying by women's organisations. The Act was only implemented two years later. However, under the DVA domestic violence is not defined separately from the Penal Code, as a result of which no distinction is made between violence perpetrated by her husband and that by a stranger. Furthermore, in cases where there are no signs of physical injury or if the injury is light, women may still not obtain any protection under the law.

According to available police statistics, there has been an increase of more than 100% in the number of reported cases of domestic violence following the enactment of the DVA in 1994, from 532 cases in 1994 to 1,413 cases in 1996. (WOA, *Battered Women in Malaysia: Prevalence, Problems and Public Attitudes*, Petaling Jaya, 1995.)

Official statistics on rape show an increase of around 50% since 1991, from 682 reported cases in 1991 to 1,071 cases in 1996 (Bukit Aman, cited in *New Straits Times*, 16/2/97). Women's groups estimate that only one out of 10 rape cases are reported because of the stigma attached to rape victims. Cases of incest are believed to be much higher than reported cases because the victims are told to consider the honour of the family involved.

The shortfalls of the law lie in the conservative and feudalistic socio-cultural context in which women are still held to be blameworthy if they are raped, sexually harassed or battered. Consequently, sex workers, rather than their clients, often find themselves the targets of raids by the forces of the law.

The worrying trend of child abuse in the Eighties and Nineties has been given wide coverage by the Malaysian media. The gravity of the problem led to the introduction of the Child Protection Act 1991 in an attempt to deal with this social scourge. On 29 October 1995, a national seminar was held in Penang to help the government formulate a National Plan of Action for Children after the Government had ratified the Convention on the Rights of the Child on 17 February 1995.

It is clear that the eradication of child abuse and child labour is inextricably bound with the struggle against poverty, blind material-

ism, and the struggle to reclaim our fundamental values and the human rights of children.

Rights of Minorities

Although the Malaysian Constitution (Article 8) guarantees formal equality of all persons, the state sponsored project of differentiating "Bumiputeras" (princes of the soil) and "non-Bumiputeras" has narrowly defined the concept of indigeneity in terms of Malay linguistic, cultural and religious hegemony. This dichotomy has been the primary framework for the post-1969 New Economic Policy (NEP) and National Cultural Policy. These policies have had a diverse consequences for the rights of the non-Malay minorities. In reality, non-Malay Bumiputeras such as the Orang Asli and the other indigenous peoples are not in a position to benefit from the "Bumiputera" policies.

The political dominance of UMNO (United Malays National Organisation) in the ruling coalition has ensured the dominance of the Malay majority, who make up 60% of the population. This has meant that ethnic Malays hold the most powerful political positions in the Cabinet as well as the civil and armed forces.

The Government has justified its ethnically discriminatory policies as "affirmative action" to restructure the "ethnic imbalance" of wealth holding in Malaysian society. Thus the NEP since 1971 has instituted a whole array of preferential granting of permits, licences, shares, housing, financing, and other economic activities on the basis of "race", i.e. in favour of "Bumiputeras". This discriminatory policy is implemented in the sphere of education through a quota system that favours "Bumiputras" in enrolment into tertiary and special institutions, in the award of loans and scholarships. (See *Polarisation in Malaysia: The Root Causes* by Kua Kia Soong, K. Das Ink, Kuala Lumpur, 1987.)

Although the NEP claims to target the poorer groups regardless of ethnicity, ethnic minorities such as the Orang Asli, the other indigenous groups of Sarawak and Sabah and the ethnic Indians in the plantation sector continue to lag behind the other communities in socio-economic development.

Since the promulgation of the National Cultural Policy, the non-Malay ethnic minorities have felt their human rights violated by the lack of financial allocation and other provisions for their mother tongue education; lack of support and recognition for their languages and literary works; proscription of certain cultural practices, and inadequate access to the mass media. (See *Malaysian Cultural Policy and Democracy*, edited by Kua Kia Soong, Huazi Resource Centre, Kuala Lumpur, 1990.)

The Government uses the ISA against minority religious groups it considers spreading "deviationist Islamic teachings". This was seen during Operation Lallang in 1987. In August 1994, it banned the Al Arqam religious movement and detained some of its leaders. In 1995, the so-called "anti-Hadith" group was threatened with similar actions. In 1997, it detained at least 10 persons under the ISA for Shiite teachings.

On 6 August 1983, various non-Muslim religious groups in the country felt so disgruntled with the implementation of the Government's "Islamisation Policy" that they got together to form a "Malaysian Consultative Council of Buddhism, Christianity, Hinduism and Sikhism" (MCCBCHS). Their complaints can be seen in *Contemporary Issues in Malaysian Religions* by MCCBCHS, Pelanduk, 1984; *Why MCCBCHS Rejects the Application of the Syariah on non-Muslims*, 1989.

Among other things, Malaysia's religious minorities have protested against the discrimination in the distribution of places of worship for Non-Muslim religions. In some instances, the building of churches and temples have been stopped by intolerant authorities. (See *Malaysian Human Rights Report* by SUARAM, Petaling Jaya 1998.) During Operation Lallang in 1987, the Government detained several Christians under the ISA allegedly for carrying out missionary work among Muslims (see Kua Kia Soong 1989).

Rights of Disabled Persons

The neglect of the disabled in Malaysia by the authorities is best reflected in the fact that there are no reliable official statistics of the number of disabled persons in the country. The Malaysian Con-

federation of the Disabled estimates that some 5% of the population or around 1 million people in Malaysia have some form of disability or other. However, as at June 1996, only 57,817 persons with disabilities were registered with the Welfare department. (See SUARAM: *Malaysian Human Rights Report*, Petaling Jaya, 1998: Chapter 6.)

The struggle for the human rights of disabled Malaysians include the demand for higher budget allocations, more trained personnel, special education programmes/facilities, and specific legislation to prevent discrimination against the disabled, as well as to give equal opportunities for persons with disabilities.

SUARAM's 10 Years of Struggle for Human Rights*

In the last ten years, human rights awareness has become more widespread among Malaysians. Operation Lallang has ensured that Opposition political parties, trade unionists, educationists, religious groups, social organisations and others are now more committed in their opposition to the ISA – that Indefensible Suppression Apparatus – and other undemocratic laws.

SUARAM has played a significant role in helping to bring this awareness about. SUARAM has also coordinated the campaigns against two of the country's most destructive projects, the Bakun and Selangor dams. We see the collective rights of indigenous peoples, of women, workers, urban settlers, minorities and other oppressed groups as part and parcel of their civil and political rights.

Until the recent economic crisis, the last ten years of Mahathir rule appeared to mark the triumph of economic liberalism even as it rode roughshod over the victims of this rapacious economic policy. The rapid economic growth pursued in the last ten years has been accompanied by greater authoritarianism while it was marked by corruption, cronyism and wasteful investments. The power of the mass media, owned and controlled by the ruling elite, has systematically replaced the role of elected parliaments. We are regularly fed

* Speech delivered at the 10th Anniversary of SUARAM at the Selangor Chinese Assembly Hall on Human Rights Day, 8 December 1999.

news and comment to justify the actions of the Executive and personalities have replaced issues as the central feature of political debates.

Human rights work, unlike party politics, is rather unglamorous work. It involves a commitment which does not attract "YB wannabes". The usual farcical squabbles over candidature at every general elections has produced the cynical observation that democracy in many political parties is equivalent to "Dia Mahu Kerusi"! Thus, the fact that SUARAM has managed to sustain itself these ten years with its committed activists, volunteers and supporters is an achievement in itself.

As a testimony to this commitment, we are now consulted by both local and international news agencies regarding current affairs, human rights and environmental issues in Malaysia. In its 10 years of existence, has SUARAM made a difference to Malaysian society? We believe it has in the following ways:

1. An Activist Human Rights Organisation

We believe that to make democracy work we have to actively step up the demands from outside Putrajaya, Parliament and the Powers-that-be; to empower citizens through the process of participation, realising our rights through direct action and solidarity with other progressive organisations.

We believe that true democracy involves more than just releasing press statements and electioneering. It is about rebuilding society by developing basic values of autonomy, solidarity and responsibility for life and for future generations. We believe that our commitment to sustainable development must go beyond pious hopes that greedy developers and the State will initiate mitigative measures to unsustainable projects as can be seen at Bukit Sg Putih Forest Reserve and the S. Selangor dam. The practice of real democracy must involve full citizens' participation, including mobilising opposition to all forms of environmental destruction.

2. Monitoring and Documenting Human Rights Abuses

SUARAM records all abuses of human rights through networking with other NGOs. We specialise in documenting violations of civil

and political rights. These documents are published in periodic updates which have included the *Malaysian Human Rights Report, 1998* and the *Malaysian Civil and Political Rights Status Report, 1999* which we are launching tonight. We also make this information available in our website on the Internet.

The second human rights book we take great pleasure in launching tonight is Koh Swee Yong's recent publication in Chinese, *40 Years of the ISA*, which is being translated into Malay and English. It is the fruition of a project commissioned by SUARAM when the organisation first began. This is a valuable documentation of ISA detainees throughout the infamous career of this obnoxious Act. The third book we are launching tonight is the new edition of Kua Kia Soong's *445 Days Under Operation Lallang* which was published in the same year that SUARAM was founded, in 1989. This can be seen as a Survival Handbook for potential ISA detainees or as a tourist guide to Malaysia's world famous Kamunting Detention camp.

This monitoring and documentation found in SUARAM's publications is an important contribution to human rights education and awareness in Malaysia.

3. Support for Victims of Human Rights

The Detainees Families Support Group during Operation Lallang which went on to form SUARAM remains the model for SUARAM's support work. We actively intervene and support victims of human rights abuse, such as in cases of arbitrary arrest and detention, evictions, and abuse of police powers. We also galvanise public support for such campaigns through the release of "Urgent Appeals" and other actions.

4. Campaigns on Human Rights and Environmental Issues

Besides the on-going campaign against the ISA and other abuses of police powers, SUARAM's campaigns include international causes such as East Timor, Burma and environmental issues such as the Bakun and Sungai Selangor dams. These campaigns incorporate pickets, demonstrations as well as organising fora, seminars and fact-finding missions such as we saw in the Bakun campaign.

5. Coalition Building for Democracy and Human Rights

To date, SUARAM has facilitated some important consultations including, the Malaysian Charter on Human Rights in 1994, the Malaysian Human Rights Report in 1995, police violence and the Second Asia-Pacific Conference on East Timor in 1996, the National Human Rights Commission as well as the Peoples' Democratic Front in 1999.

SUARAM's mission is to fight for a government that would guarantee human rights, protect the rights of nature and future generations without sacrificing the right of all living humans to a decent life. In all these areas, SUARAM has attempted to defend and pursue human rights not only for Malaysians but also East Timorese, Achehnese, Burmese, Kurdish, Palestinians and other oppressed peoples of this earth.

With your continued support, we will endeavour to reclaim our rights, to strengthen all these areas of human rights work, to broaden human rights education among Malaysians and to meet the challenges of rapidly changing political and economic developments.

Death of a Forest: Bukit Sungai Putih*

The broad objective is to facilitate allocation of land to the uses that provide the greatest sustainable benefits and to promote the transition to a sustainable and integrated management of land resources. In doing so, environmental, social and economic issues should be taken into consideration. Protected areas, private property rights, the rights of indigenous peoples and their communities and other local communities and the economic role of women in agriculture and rural development, among other issues, should be taken into account.

AGENDA 21: 10.5

I. Bukit Sungai Putih Permanent Forest Reserve

The Malaysian forest is among the world's oldest rainforests and is more than 100 million years old. It is a heritage that has been recognised for its rich biodiversity and a genetic pool holding secrets for the survival of the whole human race.

This particular forest – Bukit Sungai Putih Permanent Forest Reserve – typifies the pristine Malaysian rainforest. It is only minutes from the heart of the capital city Kuala Lumpur and it is a classic example of this irreplaceable natural heritage.

Its special significance was recognised as far back as 1932 when it was gazetted under the 1921 Wild Animals and Birds Protection Enactment by the British colonial government. Today there are at

* Paper presented to the Seminar on "Managing Land Sustainably (Agenda 21)", organised by the Environmental Protection Society of Malaysia, Menara MPPJ, 19th June 1999.

least 20 species of non-commercial plants and 140 species from 38 families of commercial timber (*keruing*, *kapur* and *meranti* among others). Bird specialists have identified at least 45 species including the drongo, cuckoo, piculet, broadbill, spotted dove, green-billed malkoha, crested serpent eagle, jungle fowl, falconet, argus pheasant and scarlet-rumped trogon. The forest is known to contain the most diverse bird population in the area. Mammals such as the rare serow, slow loris, marbled cat, silver-leaf monkey, long tail macaque, right handed gibbon, Himalayan shrew, wild boar and mousedeer are also found in this forest.

These forests cover the steep slopes of the Hulu Langat mountain range, rising up to Gunung Nuang at 2,900 ft and onto the Main Range. This almost unbroken connection permits a wide variety of rare birds, mammals and reptiles to be sighted on this fringe of the nation's capital city.

The unique endowment of this forest is emphasised by the fact that the Taman Negara Wildlife Protection and Research Centre as well as the Selangor Forestry Department are located here. So is the Main Brigade of the Police Field Force and the Outward Bound Association of Malaysia which utilise the forest for their jungle training activities.

The Klang Valley desperately needs the Bukit Sungai Putih Forest in Cheras. Environmental studies testify to the deteriorating air and river water quality in the capital city of Malaysia. This forest which is merely 10 minutes from Kuala Lumpur is thus a vital green lung for city dwellers.

On this point, it is significant that the Bukit Sungai Putih Forest forms part of the watershed serving the Klang Valley. At a time of impending water crisis, it is irresponsible on the part of the authorities to violate water catchment resources such as Bukit Sungai Putih where at least two rivers, Sungai Sering and Sungai Raya run through into the Sungai langat, a major source of water supply for the Klang Valley.

It is worth pointing out that Bukit Sungai Putih is clearly marked out as a forest reserve and green lung in the Kajang Structure Plan. Its desecration by developers with the approval of the authorities can only send a signal to Malaysians that the State government is

not serious about proper land use planning and that the drafting of Structure Plans has been a massive waste of time, energy and public money.

At a time when the Prime Minister as well as the Menteri Besar of Selangor are urging all Malaysians to plant more trees, the violation of Bukit Sungai Putih Permanent Forest Reserve requires official explanation.

II. Residents' Outrage, 1996

In mid-July 1996, residents in the housing estates adjacent to this forest were appalled to find that at least a hundred acres of what they had thought was "permanent forest reserve" adjacent to Taman Awana had been cleared. Most of them had settled here primarily for the immense beauty of this forest and its wildlife.

Their own investigations revealed that two large lots and some smaller lots totalling 300 acres had been earmarked for "development". Unknown to many, in 1991 or 1992, the Selangor State Government under the then Menteri Besar Tan Sri Muhammad Taib had degazetted 69 per cent of the forest reserve. Based on records of the Department of Wildlife and National Parks, only nine per cent, or 40ha was retained as a wildlife sanctuary (Pang Hin Yue, *NST*, 8/12/98)

The licence to remove the logs from the 100 acres was given on 17 July 1996 by the forestry department to a company called SURIA MUDA, of which there is no record in the Registry of Companies. Development of this lot is under a company called JIWA MEWAH.

The clearing of the land had not followed any of the guidelines laid down for hill clearing of 20% gradient or more. These regulations clearly stipulate that silt traps and slope retention measures must be in place. None of these precautions had been taken when the residents first discovered the devastation. Neither had the guidelines relating to drainage been followed. Investigations also showed that illegal logging had been going on two or three kilometres beyond the boundaries of the site.

The second lot consists of 130 acres of pristine rainforest. It had just been surveyed and the residents feared that clearing was likely

to start at any time. The Forestry Department had this lot marked under the name Pentas Chekap. Another source revealed that it belonged to a 2 ringgit nominee company called Kemas Anggun. It has since been discovered that Kemas Anggun (re-named 'G-Two' and now 'Kemajuan Bukit Segar') is a State-owned subsidiary, which brings into focus the whole question of conflict of interest involved in the project, especially the approval of the EIA concerned.

Further investigations showed that this clearing is totally illegal because the building plan had not yet been approved by the Hulu Langat Municipal Council. There was absolutely no sign whatsoever to inform the public about the prospective development at the site. In fact, the sign designating the forest as PERMANENT FOREST RESERVE was still standing in its original position.

The residents had not been consulted regarding the proposed development, which is completely against the town planning laws of the country.

III. Residents' Action

Once they had become aware of the devastation, the residents in all the ten housing estates in the vicinity formed an Emergency Committee to Save Bukit Sungai Putih. They made phone calls, personal visits and sent letters addressing this problem to the relevant authorities including the Member of Parliament and State Assemblyman for the area, the Selangor Forestry Department, the Hulu Langat Municipal Council, the Land Office at Bangi, the Department of Environment as well as the Anti-Corruption Agency.

That the ACA had taken note of our complaint and was investigating is shown in this news report:

The ACA felt sufficiently concerned to investigate the question of land acquisition in Bukit Sungai Putih (*NST*, 7/1/97).

The Department of Environment expressed regret that nothing could be done since the cleared area was just below 50 hectares, the statutory size for which an Environment impact Assessment is obligatory. It was acknowledged that plots for development were often split up under different owners to avoid having to do an EIA.

Frustrated at the lack of response by the authorities, the Committee decided to organise a protest action to highlight the issue. This work of organising and mobilising the local residents was admirably carried out by our local youth who helped in leafleting, fly-posting and painting banners.

The Residents' Association of Taman Cuepacs Phase I, however, proved to be a disappointment – on the day before the protest action which was publicised in the press, they leafleted the estate to say that the Residents' Association had nothing to do with this protest action. It is open to conjecture whether this was motivated by fear, sabotage or ambition on the part of the association officials.

Despite this, on 29 July 1996 about 500 residents took part in a protest walk to the deforested site, observed a ceremony to mourn the forest destroyed, released a protest declaration and planted a sapling as a symbol of hope. This residents' action was widely reported in the daily newspapers as well as on the radio and television news. The press helped to highlight the serious issue involving the degazetting of Bukit Sungai Putih Forest Reserve and destruction of a priceless Malaysian heritage.

Because of the unhelpful response from official sources, the Emergency Committee decided to petition the Mentri Besar of Selangor on 10 August 1996 since he is ultimately the authority responsible for degazetting the permanent forest reserve. They took along 2,000 signatures collected from concerned residents in the ten housing estates in the area.

As a result of the peoples' protests, JIWA MEWAH was asked to stop work by the authorities. However, the developer has not been ordered to rehabilitate the forest there and the area is now an ugly scar.

IV. Residents' Constructive Proposals

The Save Bukit Sungai Putih Committee discovered very positive support for the idea of turning the remaining threatened forest into an educational and recreational park. The Malaysian Nature Society, Worldwide Fund for Nature and the Forest Research Institute of Malaysia expressed support for this proposal since this was consid-

ered a valuable example of a primary rainforest. Among the residents who live adjacent to this forest is renowned zoologist Dr Lim Boo Liat, who knows the worth of this forest only too well

The Committee organised two expeditions with bird expert Mike Chong of the Malaysian Nature Society, botanist Santha of the University of Malaya and members of the press on 4th and 11th August to show the press the rich flora and fauna of this forest. This expedition was given good coverage in the press.

V. Local Government's Negligence and Culpability

In this second expedition with the press, we discovered another less accessible area of forest just adjacent to the Police Field Force headquarters which had been cleared at least two years earlier. This confirmed the long-held suspicion that hill slope logging was the cause of extensive siltation in the water flowing down the monsoon drains in our housing estate, Taman Cuepacs. It was only during this expedition with members of the press that we realised the full extent of the destruction.

Again, the authorities expressed ignorance of this deforestation. This was astonishing since the site is clearly visible from the headquarters of the Police Field Force who are experts in jungle warfare! It needs to be pointed out that if the Government cannot monitor deforestation in a site just 10 minutes from the capital city, how can they claim to be able to monitor the deforestation in the depths of the Bornean jungle such as Bakun?

We now know that Kemas Anggun, the State Government subsidiary, is responsible for this devastated area, now part of the present 305ha development. It is clearly the erosion from this deforested slope that has contributed to the collapse of at least seven monsoon drain walls in Taman Cuepacs since they started. Rate payers may like to know that the Kajang Municipal Council pays the private contractor as much as RM50,000 to repair each of these collapsed walls.

From this, it is evident that the destruction of the Bukit Sungai Putih Forest raises more questions than that of environmental protection. Residents question the wisdom of more housing projects

in the area when the existing infrastructure is seriously inadequate and the local municipal council is incapable or unwilling to monitor such development.

Currently, ten housing estates are forced to use one narrow exit road which they also share with some 2,000 Police Field Force personnel. This already intolerable traffic congestion has worsened with the completion of the 7-block Venice Hill Condominium and the construction of the Batu 9 toll plaza. Consequently, Jalan Cheras commuters now use this same road in order to bypass the 50-sen toll. This reflects seriously on the credibility of the local Hulu Langat Municipal Council when this exit road was initially meant for the sole use of the Police Field force and all the housing estates were supposed to have their own exits to Jalan Cheras.

VI. State Government's Promises

After the new Mentri Besar, Datuk Abu Hassan was installed, he announced that:

We will no longer allow gazetted forest reserves to be opened up for housing, commercial and agricultural purposes (NST, 19/6/97).

A week later, it was further reported:

An aerial assessment of land clearance in the state concluded that land clearance in the state was generally under control, with the exception of Sungai Buaya and Bukit Sungai Putih, Cheras. State executive members, Datuk Fuad Hassan and Ch'ng Toh Eng said that the latter was an important green lung for the Klang valley and that they would soon be meeting the developer involved in land clearance there (NST, 8 March 1997).

The Hulu Langat DO, Ramlan Othman also declared in April 1997 that the State Tourism and Development Board would allocate RM3.6 million to turn Bukit Sungai Putih forest into a recreational forest to enhance the quality of life of urban residents (NST, 8 April 1997).

It has since emerged from press reports that the Kajang Municipal Council appointed MAB Environmental Consultants Sdn Bhd in December 1997 to prepare a macro EIA on the project (Pang Hin

Yue, *NST*, 8/12/98). By early May 1998, the EIA had been approved. But according to the EIA consultant, Dr M.A. Badri,

There is no indication that the developers are adhering to the conditions attached to the EIA because an environmental audit has yet to be conducted to determine their rate of compliance. Who should be responsible for overseeing the developers remains a grey area, he says, since most of the projects are within the Anjamp district, over which the coordinator, the Kajang Municipal Council, has no jurisdiction (*ibid*).

VII. Residents' Outrage 1998

Towards the end of 1998, we were shocked to discover that 305ha of Bukit Sungai Putih Forest Reserve and Wildlife Sanctuary had been earmarked for residential and commercial development by 15 companies. Two of these companies are the same ones involved in the devastation in 1996 while another is a State Government enterprise. Of the 15 plots, eight have been graded "high risk areas" because they are on steep slopes of a gradient more than 30 degrees. The macro-EIA warns that "they should be avoided as development areas, due to their proximity to the drainage divide and potential landslips and erosion." These plots belong to Pustaka Antara (16ha), Smart Mark (12ha), Project Crest (16ha), Central Team Work (12ha), Kasijaya Industries (8ha), Pelantar Segar (20ha), Segawan Emas (8ha) and Sri Seltra (40ha) (*ibid*).

The EIA also warned about the possibility of flooding resulting from land clearance of such magnitude. Flood-prone areas within the Langat river catchment include Batu 9, Batu 11, Batu 14, Kampung Seria and Pekan Ulu Langat. The effect will be worse if the hydrological equilibrium is disturbed by blockage of the drainage system within the concession area; improper culvert and monsoon drain design; sedimentation in the river systems; and non-compliance with the flood mitigation measures. (*ibid*)

Up to the end of 1998, five developers had received approval from the state authorities to proceed with projects spanning 162ha: Jiwa Mewah Sdn Bhd (40ha), Sri Seltra Sdn Bhd (40ha), Kemas Anggun Sdn Bhd (16ha), Kolektra Sdn Bhd (33.5ha), and Meseba Sdn Bhd (32.3ha). Two of these projects are located on the steep

"high risk" areas (Pang Hin Yue, *NST*, 8/12/98). Clearance had already started on five sites at the Taman Segar side. These developments had been going on behind the hills fronting Jalan Cheras and so away from sight of the public.

On hindsight, we suspect that the authorities had ordered and then approved the macro-EIA for the project as a subterfuge to lift the stop-work order imposed in 1996 after our protests. Note that the developers had ensured that each project was below the 50ha, the limit beyond which they would have to have a statutory EIA.

We further suspect the entire development in Bukit Sungai Putih is undertaken by a consortium with State Government interest.

By encroaching on this wildlife sanctuary, the Selangor State Government has flagrantly flouted the National Policy on Biological Diversity launched in April 1998. Under the Science, Technology and Environment Ministry's Assessment of the Biological Diversity in Malaysia, Bukit Sungai Putih Wildlife Reserve is listed as one of the protected areas. Earthworks had begun even before the Wildlife and National Parks Department had established the status of the sanctuary. Under the law, while the State Government can degazette a Forest reserve, they cannot degazette a wildlife sanctuary without federal approval. On 9 December 1998, the Environment Minister Datuk Law told the press that the Wildlife and National Parks Department was investigating if the Bukit Sungai Putih wildlife sanctuary had been encroached into by the projects (*NST*, 9/12/98).

A visit to the site was organised by residents and the press were invited. To their dismay, they found that the extent of the devastation stretched from the top of Taman Segar right up to Taman Awana, a huge swathe, like an airport runway. There was further cause for concern – G-Two, the new name for the company previously known as Kemas Anggun (a State-owned subsidiary) was in the process of clearing forest from hill slopes that are at least 35% gradient. The press reported this new outrage in December 1998.

On 9 December 1998, Science, Technology and Environment Minister Datuk Law Hieng Ding told reporters that the two developers – G-Two Assets Sdn Bhd and Kolektra Recreation Sdn Bhd – had not been complying with the EIA conditions. The Selangor

DOE had issued notices to the two developers directing them to submit a detailed EIA-compliance report. The DOE had inspected the site and discovered that G-Two had not constructed enough silt traps. Law said that the enforcement and monitoring should also be carried out by the local authorities since they had directed the developers to carry out the macro-EIA. When asked if the project had encroached into the wildlife sanctuary, the Minister said the matter was still being investigated (*NST*, 10/12/98).

On December 11, the Selangor State Environment Committee Chairman Ch'ng Toh Eng and Selangor DOE director Jalaluddin Ismail visited the site and the developers assured the public that they would prevent any environmental degradation ("Developers Say They Will Prevent Degradation", *NST*, 12/12/98). However, the DID director-general Keizrul Abdullah warned:

Development activities, even if they were well carried out would still affect the river system (*NST*, 11 March 1999).

DOE director-general Rosnani Ibrahim concurred that erosion would be a problem:

The slopes are very steep. When they are cut, erosion will definitely occur. Furthermore, mitigation measures will take time to be completed (*ibid*).

Soon after, the Chinese press carried the story of a group of "house buyers" protesting about "Western-influenced environmentalists who wanted to deprive them of desperately needed housing" (*Nanyang Siang Pau*, 23 December 1998).

It was thus rather late in the day and contrary to the stipulations of the Town and Country Planning Act when the Majlis Perbandaran Kajang called residents in the area for "consultation" over the development on Bukit Sungai Putih on 27 January 1999. Meanwhile, the State Government had set up a committee to "monitor and supervise the Bukit Sungai Putih projects" following the public protests. It is supposed to meet every two weeks and comprises the State Economic Planning Unit, the DOE, Forestry Dept, DID, the Kajang and Ampang Jaya Municipal Councils. This committee is headed by the Selangor Science, Technology and Environment Committee Chairman Ch'ng Toh Eng.

When we met with Mr. Ch'ng Toh Eng and 15 representatives of the local Council and our MP for the area in the Dewan Orang Ramai at Batu 9 Cheras, only Chn'g spoke, saying that this piece of land was needed for low cost houses and therefore we were wrong to criticise the right of the needy to housing. He assured us that the authorities would be monitoring the development and that we need not worry. We put our objections to him and at first, he tried to stop us from talking about anything other than monitoring the development. He failed in this attempt. The "consultation" was cut short abruptly because the evening was actually intended for a "Hari Raya Puasa" open house by the local government. We were chided for spoiling the spirit of "muhibbah" of the occasion!

On this question of low-cost housing for the needy, it needs to be pointed out that the land cleared so far has a sign board indicating very pleasant terrace and semi-detached houses are to be built there. Residents and members of the press who have visited the site are not convinced that this development is meant for low-cost housing. Even if it was so, residents are not convinced that there is a need to violate Bukit Sungai Putih Forest Reserve for several strong reasons:

- ♦ Residents and commuters along Jalan Cheras are familiar with the fact that there are already many barren hills and cleared land in the vicinity where no development is visible;
- ♦ Property development in the vicinity, for example, Venice Hill Condominium has an occupancy rate of less than 20 per cent and is clearly mainly bought by property speculators;
- ♦ Selangor has adequate vacant lowland and has the biggest number of golf courses (50) in the country and so the authorities have no credibility to claim that they need to develop permanent forest reserves because they care so much about the homeless;
- ♦ The local government has failed miserably to provide and maintain basic infrastructure in the existing housing estates in the area – roads, electricity and water supply, sewage discharge, rubbish collection, traffic congestion, playgrounds, recreational parks, etc. – and cannot claim they can provide for new housing estates.

The State and local government thought that they had done enough public relations repair work but Mother Nature had other plans....

VIII. Mother Nature Strikes Back!

On the afternoon of March 9th 1999, there was a heavy downpour for at least four hours in the area. According to a resident in Taman Cuepacs, "...it was as if a dam had burst." In a flash, torrents of muddy water and debris came hurtling down the cleared slopes of the development area. It smashed down a wall and gouged out half the road closest to the hill. Within seconds, this huge volume of muddy water had risen up out of the monsoon drain, sweeping full sized logs on to the road and surged into the homes of residents along the drain. Some homes were flooded up to the height of their windows. There was scarcely time to salvage carpets, mattresses, furniture and electrical goods. Many of the affected residents are retired government servants who had to spend the evening doing the back-breaking task of cleaning up the mess. The speed in which the flood water had risen had left them in a state of shock.

All the assurances given by the state and local authorities at the January 27 "consultation" to "meticulously monitor" the development turned out to be empty promises. They must ultimately bear the responsibility for having de-gazetted Bukit Sungai Putih in the first place and for approving the project.

The Save Bukit Sungai Putih Committee called on the Federal Cabinet to intervene, pointing out that the State Government had a conflict of interest in the projects since one of the State Government's subsidiaries – Kemas Anggun/G-Two/Kemajuan Bukit Segar – is involved. It is in fact the culprit developer responsible for the mud flood disaster! Furthermore, the Committee pointed out that the ACA was investigating the strong possibility of corrupt practices by the State Government when they de-gazetted this forest reserve in 1991. As an immediate measure, we called on the developer responsible for the disaster to compensate the victims right away and appealed to the Federal Government to re-gazette Bukit Sungai Putih as a Permanent Forest Reserve and Wildlife Sanctuary.

The developer responsible, Kemas Anggun Sdn Bhd put the blame on the rain and was ordered to stop work and given until April 14 to improve the three silt traps which had collapsed in the storm. It was also ordered to build a fourth retention pond to hold any extra surface run-off during the wet season.

On 16 March, Datuk Ch'ng blamed the developer for not carrying out land clearing in phases as recommended by the macro-EIA (*NST*, 17/3/99). According to the macro-EIA, the surface run-off should not enter the drainage system of the nearby residential areas including Taman Cuepacs. The designs for the silt traps and retention ponds had been approved by the DID and the local authorities. In this case, the silt traps and sedimentation ponds were clearly inadequate:

"They (the developers) have to always remember that the volume of water increases when hills are cut," said Ch'ng (*ibid*).

The fact that these developers need reminding about such elementary ecology does not give us much confidence in the authorities' credentials in ensuring proper land use management and planning. The Selangor DOE director Jalaluddin Ismail said the developers would have to ensure that silt at the final discharge did not exceed the 50 milligrammes per litre limit (Esther Tan, *NST*, 1 April 1999).

Regarding the demands for compensation by the victims of the mud flood, the director of operations for Kemas Anggun Sdn Bhd, Hanif Hassan said the company would liaise with the Municipal Council of Ampang Jaya on the matter (*NST*, 12/3/99). When asked if there was any guarantee that the incident would not recur, Hanif replied:

The Kampung Kerinchi landslide... was there any guarantee? (*ibid*.)

Datuk Ch'ng said the mitigative measures might minimise the problem but he could not guarantee that the mud flood would not recur. When asked about the demands by residents for compensation, Ch'ng said he would discuss the matter with Hulu Langat Assemblyman Datuk Dr Zainal Ahmad. He also said he would ask Kemas Anggun to bear the cost of cleaning up the damaged monsoon drain in Taman Cuepacs (*ibid*).

Dr M.A. Badri of MAB Environment Consultants Sdn Bhd which did the macro-EIA said the incident reflected a drainage problem:

What the authorities should do is look at it at the micro level, that is the drainage system. Water has to find its own course. In this case, the course of water has gone wrong. Therefore, the developer has to engage a hydrology engineering specialist to look into the matter (*ibid*).

On 31 March 1999, Datuk Ch'ng told reporters that Kemas Anggun had already submitted new designs and that they had been approved by the DID. All five developers were given until April 9 to engage environmental consultants to advise them on mitigative measures. Up until then, the three other developers Sri Seltra, Meseba and Jiwa Mewah had yet to submit their layout plans. Only Kemas Anggun and Kolektra Recreation had started work.

On 17 April 1999, the Save Bukit Sungai Putih Committee organised an inspection of the site by residents of the adjacent housing estates. Once again, the youth in the area did the leafleting and flyposting to mobilise residents. Although this was merely an inspection of the site, Special Branch operatives were present and made it a point to take photographs of all the residents who had come to show concern for Bukit Sungai Putih as well as concern for their homes. The silt traps were found to be unsatisfactory – the developer had failed to meet the deadline.

On the 14 May 1999, the developer Kemajuan Bukit Segar Sdn Bhd (formerly known as G-Two Assets Sdn Bhd and Kemas Anggun) was charged in the Ampang magistrate's court with failing to comply with a notice issued by the Ampang Jaya Municipal Council to restore its silt traps. The company was charged under section 70A(5) of the Street, Drainage and Building Act 1974 which is punishable with imprisonment for up to five years or a fine not exceeding RM50,000 or both. The company's operations director Mohd. Hanif Hassan pleaded not guilty and hearing has been fixed for July 23 (*NST*, 15/5/99).

Up to 16 June 1999, the victims of the March 9th mud flood disaster had still not received any compensation whatsoever from the developer responsible.

IX. Regazette Bukit Sungai Putih as a Forest Reserve and Wildlife Sanctuary

The wanton destruction of a valuable water catchment at Bukit Sungai Putih does not give any credence to the Selangor State Government's current attempts to convince rate payers that we need the Selangor River Dam at Kuala Kubu Baru. Bukit Sungai Putih

must be preserved as the permanent forest reserve and wildlife sanctuary it was valued to be 67 years ago and as the last green lung for Cheras residents.

Residents do not have faith in the credibility of the State Government and local authorities to protect Bukit Sungai Putih because of their record and patent conflict of interest. The ACA must reveal the result of their investigations into the Selangor State Government's de-gazetting of Bukit Sungai Putih Forest Reserve during the Tan Sri Muhammad Taib administration in 1991.

It is time land-use planning and management is taken seriously instead of being merely paid lip service to by the authorities, which have tended to be partial toward commercial, industrial and property developers. In many cases such as the development projects in Bukit Sungai Putih and also in the Selangor River Dam, we even find that the State Government has vested interests in these economically questionable, environmentally disastrous and socially disruptive projects. In all projects, the local population must first be consulted and their interests taken into account.

Malaysian Transport: Non-sustainable, Non-integrated*

Concerned with the worsening traffic congestion in the city, the Government has ordered relevant agencies and public transport companies to come up with solutions to the problem within 12 days.

(NST, 24/1/97)

Those twelve days have gone and like every other twelve days in the lives of long-suffering Malaysian city centre commuters, the quality of public transport has worsened as the non-accountable municipal councils, property and motor industry barons unravel the "Malaysian miracle".

When we look at Malaysia's infrastructural development, its transport system must rank among the most disappointing. From the capital city's gridlock traffic congestion to the lack of a cheap and efficient public transport system to serve the general public, the Government's biggest failure lies in not telling the people the real causes of this transport mess and the solution to this problem.

After one such traffic nightmare in the capital city in May 1997, a columnist in one of the daily newspapers wrote this widely-held response:

First, they have confirmed that all is not well with the road system in and around the city.... Next, it shows that all is also not well with the traffic management system and/or the people supposed to be manning it. Lastly, but certainly not the least, it highlights the utter failure of the public transport system and the ad-hoc manner in which remedies are worked out (*NST*, 12/5/97).

* Introduction to a forthcoming book on *Malaysian Transport*, 7 February 1998.

Just a year earlier, another columnist had pointed out what Malaysians already knew:

The cogent need to develop an efficient and safe transport network has to be seen in entirety because of interlinking services. The need becomes more transparent in the glaring absence of a national transport policy which has been talked about for years... (*NST*, 10/5/96).

But enough taxpayers' money have been expended through the years to pay for endless studies of the transport problem. When the Japanese International Cooperation Agency (Jica) was contracted to undertake the Kuala Lumpur Transport Master Plan Study in 1997, it was the EIGHTH such study since 1963! (*Sun*, 20/8/97.) The seventh had also been done by Jica in 1985. The recommendations from the first study were invariably put on hold because of financial constraints. Quoting Dr Jamilah Mohamed of the University of Malaya, Geography Department, the *Sun* reported:

This study was clearly biased towards capital intensive road building projects. Policies towards encouraging use of public transport and the restraining of private transport use during peak hours were noticeably absent (*ibid*).

Subsequent plans did call for a total transport plan including adequate public transport services but somehow, the political will was absent. In 1990, Japan's Overseas Economic Cooperation Fund (OECF) warned that Malaysia faced critical bottlenecks in its infrastructure that could have an adverse effect on foreign investment (*FEER*, 5/4/90). Through 1988, the OECF and its Asean Japan Development Fund were responsible for channelling more than US\$2.92 billion of Japan's Official Development Assistance (ODA) in loans and grants to Malaysia (*ibid*).

As late as 1997, the repeated calls for an integrated transport policy by concerned Malaysians seemed to fall on deaf ears of the authorities:

Datuk Bandar (Mayor of Kuala Lumpur) Tan Sri Kamaruzaman Sharif told the Press ... that the proposal City Hall would be presenting to the Cabinet Committee on Infrastructure and Development to ease traffic congestion would only cover the area around the Kuala Lumpur city centre and not the whole city.... But how in the name of heaven can he

improve traffic flow and public transportation around the KLCC if he does not improve them in a greater part of the city or for that matter, the whole of it? (A. Kadir Jasin, *NST*, 2/2/97.)

The transport mess and failure to provide an efficient public transport system is partly reflected in the high accident rate. Malaysia boasts one of the highest road accident rates in the world. In the first month of 1996 alone, 14,930 accident cases were recorded compared with 13,376 cases for the same period in 1995 (*NST*, 11/2/96). Malaysians are too familiar with expressions of frustration by the authorities:

Transport Minister Datuk Seri Dr Ling Liong Sik said existing campaigns carried out by his ministry were inadequate and had made it an obvious failure (*ibid*).

In fact, like other aspects of Malaysian infrastructure, this problem has been exacerbated by poor planning and shoddy management:

Six years after a plan to reduce road damage and accidents from overloaded lorries was initiated by establishing a nationwide network of 43 weighbridge stations, the project is unable to achieve its targets. The project is now one year behind the date when the stations, built at a cost of RM60 million, should have been handed over to the Road Transport Department... The delay has been blamed on shoddy construction, poor supervision and bad planning (*Star*, 2/3/96).

In the following pages, we will examine each portion of the transport sector – the highways, KTM, LRT, bus system, airport maintenance – which should enable the reader to gain a deeper insight into the causes of the transport mess today. The question of ministerial responsibility immediately springs to mind.

The writer was a Member of Parliament (representing Petaling Jaya) between 1990 to 1995. During this period, he brought up many of these issues which are reprinted in the Appendix to show that the Government had certainly been forewarned about these problems and also that much of the inside story has been hidden from the public. Corruption and the lack of accountability in the award of contracts are definitely responsible for the delays and inflated cost of many transport projects as we can see from these documents.

The overriding cause of today's transport mess must be pinned on the priorities of the Government ever since the ruling elite in UMNO targeted the National Car Project and its parallel Highways Project as their vehicles for corporate expansion. This is clear from the figures for public development expenditure for transport, roads and railways from 1981 to 1995 in Table 8.1. The growth of transport infrastructure in the roads and railway sectors for the corresponding years can be compared in Table 8.2.

Table 8.1
Total Development Allocation for Transport, 1981-95 (RM million)

<i>Sector</i>	<i>4MP 1981-85</i>	<i>5MP* 1986-90</i>	<i>6MP* 1991-95</i>
Roads and bridges	4,094.2	4,849.6	7,818.7
Railways and rapid transit	651.2	897.1	1,977.1
Ports and shipping	1,484.7	1,350.6	3,645.7
Civil aviation	921.7	2,957.7	4,932.1

Note: * Under the Fifth and Sixth Malaysia Plans, the public sector has been re-defined to include the Non-Financial Public Enterprises (NFPEs) which were previously treated as belonging to the private sector.

Source: *Fifth and Sixth Malaysia Plans*, 1986 and 1991, National Printing Department, Kuala Lumpur.

Table 8.2
Growth of Road and Railway Infrastructure, 1965-85

	<i>1965</i>	<i>1975</i>	<i>1985</i>
Length of Roads (Km)	15,356	24,037	38,973
Length of Railway Track (Km)	2,115	2,115	2,222

Source: Ministry of Transport, Malaysia, *Transport Statistics* (various issues).

One of the Government's earliest megaprojects, the National Car was promoted at the expense of public transportation. The disproportionately huge public development allocation for roads and highways paralleled the National Car Project.

By 1995, in Kuala Lumpur alone,

1.6 million motorists are caught in the daily bumper-to-bumper crawl. Given a high density of 620 vehicles per kilometre of road, the city is inching close to Bangkok's gridlock jams (Pang Hin Yue, *NST*, 19/10/95).

All these traffic jams cost the nation dearly:

Traffic congestion in the Klang Valley is expected to gobble up some RM3.6 billion in lost productivity and fuel wastage this year, said Transport Minister Datuk Seri Dr Ling Liong Sik (*NST*, 18/1/94).

Perhaps to understand why the transport mess is still with us, this note of complacency of the Transport Minister is worth noting:

The problem, he noted, is attributable to Malaysia's economic success.... It is better to have problems of success than problems of failure (*ibid*).

In Table 8.3, we find that the Klang Valley, like Bangkok, is facing severe traffic impact on the quality of its urban environment. In contrast, other Asian cities such as Singapore, Hong Kong, Tokyo and Seoul have, much earlier on, taken pre-emptive measures to control the number of cars in the city as well as emphasised improved public transport and facilities for non-motorised transport.

The efforts to solve the traffic congestion problem in the Klang valley have mainly centred on increasing the flow of traffic. (See Jamilah bte Mohamed, "Whither Transport Plans for Kuala Lumpur? Progress and Challenges in Urban Transport Planning" in Voon Phim Keong and Tunku Shamsul Bahrin (eds.): *The View from Within - Geographical Essays on Malaysia and Southeast Asia*, Kuala Lumpur, Malaysian Journal of Tropical Geography, University of Malaya, 1992.) Vehicle ownership has not been discouraged (Spencer, A.H., "Urban Transport" in T.R. Leinbach and Chia Lin Sien (eds.): *Southeast Asian Transport - Issues in Development*, 1989).

The excuse most frequently heard for not implementing area licensing and traffic restraint in the Klang Valley is that public transport must improve first. This is not convincing when we see that in

Table 8.3
Land Use and Transport Patterns in Asian Cities, 1990

	<i>Manila</i>	<i>Jakarta</i>	<i>Bangkok</i>	<i>Klang Valley</i>	<i>Seoul</i>	<i>Singapore</i>	<i>Hong Kong</i>	<i>Tokyo</i>
Urban density (persons/ha.)	198	171	149	59	245	87	301	71
Job density (jobs/ha.)	213	204	132	178	580	386	1713	547
Income (Metro. GRP per capita US\$)	1,099	1,508	3,826	4,066	5,942	12,939	14,101	36,365
Cars per 1,000 people	66	75	199	170	66	101	43	225
Motorcycles per 1,000 people	6	98	124	180	22	45	4	36
Road per capita (metres)	0.6	0.5	0.6	1.5	0.8	1.1	0.3	3.9
Non-motorised % of work trips	79*	22	10	17 [#]	20	22	17	22
Public transport % of passenger km	62	46	33	20	54	47	82	63
Public transport % of motorised work trips	59	47	33	31 [#]	74	72	89	62
Speed of public transport (km/h)	17	15	9	16	26	26	28	39
Total private vehicle use per capita (km/year)	901	1,597	3,198	4,944	1,899	3,597	1,459	3,795
Traffic intensity ('000 vehicle km per urban ha.)	229	282	494	293	489	320	473	271

Notes: All data are for 1990 except those in italics. Those marked with * are for 1980, those marked with # are for 1985.
 Source: A. Rahman Paul Barter, "Malaysian Urban Transport in an Asian and Global Context - Challenges of Car and Motorcycle Domination", Paper prepared for the Seminar on Urban Transport in Sarawak organised by the Sarawak Development Institute, 26-27 October 1997, Kuching, Sarawak, Malaysia, Table 1, p. 3.

Singapore, Hong Kong, Seoul and Tokyo, traffic restraint policies were put in place before the development of mass transit. In the case of the Klang Valley, the problem has been compounded by high levels of motorisation and a transit system that most city folk find non-affordable.

The market for public transport in the Klang Valley, as it is for Bangkok and Jakarta, has been further undermined by the high motorcycle ownership and use which has also contributed to the serious air pollution in these cities (Barter, A.R.P. 1997: 9).

Behind Malaysia's Privatisation Policy

Malaysia's privatisation policy was launched more than ten years ago as a result of the mid-Eighties recession which was worsened by the fact that we had an over-developed public sector. This had come about because of the New Economic Policy's creation of more and more Bumiputera trustee enterprises and agencies by the ruling Malay capitalist elite after 1970. At Independence, Malaysia already had the biggest civil service in relation to population in the whole region, a creation of the colonial power.

The size of the public sector in total investment was estimated at 30 per cent in 1985. The public sector development expenditure for the Fourth Malaysia Plan (1981-85) was RM80 billion. Out of this, 34.5% was accounted for by the Non-Financial Public Enterprises, which were mainly Bumiputera trustee enterprises. This was the stage of the economic control by the emergent Malay capitalist ruling elite through control of the state sector.

When the mid-Eighties recession struck and our economy was faced by the stark contradiction of an over-burdened public sector, privatisation was the chosen solution. It was not only a way out to ease the impact of the public debt on the balance of payments, it was the historic realisation of the vast private capital gains to be reaped by the new Malay capitalist class.

We have been told that privatisation has generated revenue through the sale of state assets. In truth, public revenue should have been much more than the pittance we got from the sale of these state assets. This is clear from this answer by the Government to a

question in Parliament by the writer while he was Member of Parliament in 1991:

<i>Company</i>	<i>Revenue (RM million)</i>
Telecom	525
MAS	1,200
MISC	1,330
FIMA	189
PEREMBA	170
TNB	3,100

When we consider that at the time of privatisation, Telecom had assets worth over RM5 billion; that RM9.6 billion had been allocated to Telecom under the Fifth Malaysia Plan; that Telecom's turnover was RM2 billion in 1989 and that its projected pre-tax profit was over RM900 million in 1991, the Malaysian public was certainly short-changed when Telecom was sold off to private hands for only RM525 million.

Again, when we consider the fact that one of PEREMBA's assets alone, Shangri-la was worth RM1 billion, its sale at RM170 million was more than a bargain for its private buyers. As Tengku Razaleigh Hamzah pointed out in 1991:

Every time a scheme is privatised, we hear of millions, if not hundreds of millions change hands to people who do not have a stake in the undertaking. For instance, there is the possibility of privatising the railways. According to the Prime Minister, the railways are worth twenty billion ringgit. It's going to be privatised for only 200 million ringgit. And I know who is going to get this railway. If it's not his cronies, it will be some people who have access to him. But it will be confined to that small circle of friends... (*The Rocket*, Vol. 24/2, 1991).

Most of the big privatisation projects in recent years – the North-South Highway, the National Sewerage System, the Bakun Hydro-electric Power Dam for example – were not awarded based on open tender. Instead, they have been given to specific interests on a negotiated tender basis, namely, to UEM, Indah Water and Ekran respectively. These have operated as virtual private monopolies with Malaysian consumers being their captive market.

PLUS, the concessionaire of the North-South Highway linked to UEM, holds the concession for 30 years, up to the year 2018. Between 1989 to 1995, PLUS had collected toll totalling RM1.8 billion. With traffic flow 33 per cent higher than initially forecasted, toll revenue is expected to hit RM1 billion a year by 1998. When we consider that the original cost quoted by PLUS was only RM3.42 billion, the amount of toll revenue it is going to collect until the year 2018 is staggering. And yet Malaysian consumers have to put up with ever-increasing toll charges.

Apart from the windfall gains of these private monopolies, they further enjoy subsidies provided by the taxpaying public. Again from the Parliamentary answers to questions posed by the writer while he was an MP in 1991, we discover that these concessionaires have managed to obtain soft loans from the Government instead of relying on their own financing:

<i>Company</i>	<i>Soft Loan (RM million)</i>
UEM (North-South Highway)	1,650
UEM (National Sports Complex)	131
STAR (LRT I)	150
IWK (Sewerage)	475
Renong (LRT II)	1,300

Considering such staggering amounts of public subsidies, how can the Government claim that privatisation has saved the country millions in state revenue? Besides these soft loans from Government coffers, these private monopolies have also relied on Malaysian workers' EPF (Employees Provident Fund) to finance their projects. EPF funds have been used to back such privatised projects as the IPP (Independent Power Producer) Segari power station at Lumut, Kuala Lumpur International Airport, Bakun HEP, the Sewerage project and the LRT (Light Rail Transit).

But the ultimate subsidy that taxpayers provide these privatised industries is when we have to bail out "lame duck" companies such as BMF, Perwaja, Ekran, UEM, the list goes on....

BN Cronies Running Specialised Services

Another symptom of the problems plaguing Malaysia's transport system is cronyism and corruption which have characterised the BN administration. We find that billions in taxpayers' money have been lost because suitable specialists are not in charge of these highly technical fields.

The electrification and signalling contract in KTMB was just one of these examples. The disastrous fire which destroyed the RM16 million radar system at Subang International Airport similarly brought to focus the qualifications and suitability of the DCA chief. On this, the Minister of Transport had this to say:

There is no necessity for a technical man to head the department (*NST*, 21/8/94).

It was during that disastrous fire at Subang Airport in 1994 that we realised how taxpayers' money had been abused in a different contract, namely, the questionable RM748 million GEC Marconi Martello radar system, which was part of the RM5 billion defence MOU signed between Dr Mahathir and Margaret Thatcher in 1989.

At least three years previously in 1991, the writer had raised in Parliament that this Martello radar system could not be integrated into our local system. Following the Subang Airport fire, we got a clearer picture of this dubious radar system. The Defence Minister valiantly announced on 17 August that the RMAF would make available its GEC Marconi Martello air defence radar being installed at Bukit Puteri, Besut in Trengganu while the radar control room was being installed at RMAF Kuantan. He was quoted in the *NST* on 22 August as saying:

We don't know how difficult or elaborate the work is in having radar integration.

However, as time lapsed and the public expected some help from this RM748 million radar system, it then emerged that the system had not been commissioned yet.... It was not even in the country yet!

It further emerged during this time of the Subang Airport fire crisis that the Genting Highlands radar was found to be unreliable earlier in 1992 after it was installed by GEC-Marconi in 1980 and was due for decommissioning.

Cronyism in the award of contracts is also the reason for expensive delays in the award of these contracts. The LRT and the KTM commuter service are glaring examples of this syndrome. Through the years, the writer is aware that fully-integrated transport plans incorporating the bus service have been submitted to the relevant authorities by contractors to solve the urban traffic problem but these have been sidelined. The contracts have invariably been given to "favoured contractors" based on negotiated tender and in the case of the LRT, delayed by up to seven years, adding more cost to be borne by consumers.

Local Government and City Centre Traffic Nightmare

The non-accountable local governments must share the responsibility for city centre traffic mess in Kuala Lumpur, Petaling Jaya and other city centres in the country. The problems in many of these areas were well known at least twenty years ago but local authorities have not only failed to plan ahead, they have exacerbated the problem by ignoring guidelines for environmental planning and approved construction projects which are not sustainable. There have been numerous cases of high-rise blocks being approved (for example, the Uptown Project in Damansara Utama, PJ, and the Jaya Supermarket building in Section 12, PJ) without consideration for the impact on traffic in the area.

Many of these cases must be investigated by the Anti-Corruption Agency for it is difficult to imagine how these local authorities could have allowed the questionable projects to proceed. These cases have been amply highlighted by the local press throughout these many years.

Much of the urban development conceived by Municipal Councils in Malaysia is geared toward providing generous access for private vehicles. Besides being an eyesore, these tend to greatly inconvenience pedestrians and users of public transport.

Empowering Malaysian Consumers

How can an efficient, affordable and sustainable transport system come about in Malaysia and how can long-suffering Malaysian consumers be empowered?

To achieve this, the federal and local governments must reconsider their attitude toward car use in the urban environment. They must promote efficient and affordable public transport systems and encourage cycling and walking to create livable cities. To this end, the Government must lay down the guidelines, planning laws and provide appropriate incentives in order to bring about this intended change.

Privatisation should only be in the public interest, to ensure that the people get the best and most economic services. Contracts must not be given out through cronyism and corruption and consumers held to ransom by private monopolies. Businesses should be given the chance to compete on a fair and equal basis. Important centres of economic power must be wrested from large private interests and brought under democratic ownership and control. In important public services such as transportation, we need state support, regulation and intervention for markets to operate efficiently and fairly – markets alone cannot provide for basic social needs.

- All privatisation contracts must be awarded through open tender;
- Prices of privatised industries must be controlled by parliament;
- A tax on utilities where there is excessive profits;
- Malaysian workers' pension fund (EPF) should not be allowed to be squandered by businessmen who have failed to obtain financing from banks;
- More state intervention and spending on public transport and infrastructure;
- Power should be devolved to regional transport authorities and all rail, bus and transit systems co-ordinated;
- No toll within city limits as well as on all upgraded roads;
- Concessions on highway tolls will be subject to corrections in the interest of consumers;
- The establishment of a Utilities Commission to ensure that tariffs imposed by privately-owned utilities on their services are justified;
- The Utilities Commission must be empowered to carry out enquiries, advise the Government and set maximum prices on behalf of consumers.

Economic Crisis: The Fundamentals that Matter*

In Malaysia, the phrase "economic fundamentals", like "national security" has become part of the official doublespeak. In other words, under the standard claim by the Government that "the country's economic fundamentals are strong", it has become as elusive for ordinary Malaysians to get to the truth as it is for investors to obtain information about any project. Government officials continue to cite the country's "economic fundamentals" like a mantra even during the current economic crisis.

Take the Bakun Hydroelectric project for example. Just weeks ago, the Government was insisting that it was "vital for Malaysia's energy needs" – the country's economic fundamentals required it. The last ten years of impressive growth justified it! And the nation's economists concurred....

Now, after the latest economic disaster and the forced scrapping of the objectionable mega projects, the same economists have come out to hail the move as "most appropriate". The Energy Minister now says the deferring of the Bakun dam project will not, (repeat) will not affect Malaysia's future energy needs! Tell that to the ten thousand indigenous peoples whose lives have been in turmoil ever since the project started.

Malaysia's present economic problems (in 1997) include the large current account deficit, which is 5.5% of the gross national product, and the property glut among others. Kuala Lumpur's retail outlets are already suffering a surfeit but office space in the Malaysian

* Published in *Aliran Monthly*, December 1997.

capital is expected to double in the next two years from 40 million square feet at the moment to 80 million square feet by 2000.

This over-investment in non-productive assets – condominiums, golf courses, securities speculation – is the real cause of the present current account deficit. The last decade of profligate abundance led to a delusion of grandeur that could not see that every prestige project consumed more of the industrialised countries' goods and services than we exported. This was certainly the case in the construction of the world's tallest twin towers as it would have been in the case of Southeast Asia's largest Bakun Dam and the world's longest submarine high-voltage cables.

But while foreign investors may act now like they know about Malaysia's fundamentals, we know that throughout the last decade of excess liquidity they were throwing money into this "economic miracle" and (wittingly or unwittingly) allowing the local elite to use this hot money to stoke up the stock market and to feather their political nests. Then when this global liquidity finally dried up, the stocks of unproductive assets became difficult to finance, exposing this fragile nature of Malaysia's "economic fundamentals".

These economic problems have been compounded by serious environmental crises, air and water pollution, frequent power failure and traffic congestion. Indeed, the economic fundamentals can only be understood within the environmental, social and political context.

Despite plenty of rhetoric, the Mahathir Government has in the past approved other projects besides the Bakun dam which have been disastrous to the environment – the Pulau Redang Golf Resort, the Highlands Highway, the Linear City and many others which have defiled hills, forests and water catchments. These have adversely affected the quality of life of Malaysians because of traffic congestion, flashfloods, air and water pollution.

One of the earliest mega projects, the national car, was promoted at the expense of public transportation, the small and medium industries (SMI) and agriculture. The consequences include the large import bill and the traffic and environmental havoc we confront today. A great deal of public spending was diverted into heavy industry and the building of highways when development of our indigenous small and medium industries could have contributed to

import substitution and a healthier balance of payments. An integrated public transport system should have been planned at least twenty years ago if not earlier, and that would have avoided the present smog and traffic mess.

The predominantly non-Malay-operated SMIs were not targeted as the chosen development path principally because they were not part of the social base of the ascendant Malay elite in UMNO. Neither were the rural Malay farmers who were rapidly being transformed into workers for the Free Trade Zones and urban sector. It is now clear to all that the current huge food import bill (estimated at RM9 billion) is the result of the fact that agriculture has been grossly neglected under the New Economic Policy.

During the Seventies and early Eighties, the ascendant Malay elite held Bumiputera capital "in trust". The latter-day dominant Malay elite have used privatisation to transfer Bumiputera capital into their private hands. It is therefore not surprising that it was not the loss-making public agencies but the choice profitable ones such as Telecoms which were the first to be privatised.

What was accomplished under the New Economic Policy in the name of affirmative action served the agenda of this new Malay elite in UMNO and their social base of the new Malay middle class. However, it did not do any good to the country's economic fundamentals because it did not promote the cutting edge competitiveness needed to perform in today's cut-throat capitalism. The reality behind the much vaunted affirmative action has been cronyism, non-accountability and corruption, only recently acknowledged as a dire problem.

It is disingenuous to justify this sort of affirmative action for any ethnic community which has undergone such extensive class differentiation, whose elite already occupy the commanding heights of the economy as well as political power. By the same token, affirmative action for communities which have not undergone such marked differentiation, such as the Orang Asli (the original peoples of Malaysia) could be justified. It also makes sense that uplifting the socio-economic status of any ethnic community should be based on social class or sector, NEVER on "race".

The "negotiated" North-South Highway tender awarded to the

UMNO-linked company PLUS in 1986 became the favoured style of privatisation, at double the unit price of normal tenders. But it says something about the country's fundamentals when, with a privatised monopoly of the North-South Highway, the concessionaire is losing money!

Other privatised infrastructural projects, especially those in energy production, took the cue and dispensed with the need for open tender. The award of the Pergau dam project to Balfour Beatty and the Bakun dam project to Ekran are two well-known examples. Public criticism of the lack of safeguards to consumers and the allegations of cronyism were met with the Government response that the negotiated tender was not necessarily inferior to the open tender. Consequently, Malaysian privatisation projects have resulted in new large payments by consumers for projects that are not viable by virtue of the excessive loading on the original project costs.

The Minister for Works, who was himself at the centre of questionable contracts when he was in charge of the Energy portfolio has now executed a volte face and recently called for government contracts to be awarded through open tender. This, he now says, will ensure that costs are kept down and the economic fundamentals protected! Bravo!

The key fundamental that is in the public interest is full disclosure and transparency but the Malaysian Government has never made the need for information and transparency part and parcel of its economic fundamentals. It has chosen instead to protect itself with the Official Secrets Act and the Internal Security Act. The market expressed its disapproval loudly and clearly when necessary information regarding the Bakun project was not forthcoming and the Ekran IPO turned out to be a fiasco.

Multi-billion defence contracts are a further dimension of government spending which have dispensed with public accountability and have led to allegations of corruption. The one billion pound sterling arms deal signed by the Mahathir Administration with the Thatcher Government in the Eighties is a stunning example of such non-accountable contracts.

A grave consequence of the New Economic Policy has been the massive brain drain of non-Bumiputera skilled human resources ever

since the Seventies, a major factor contributing to the present desperate need for technology and skilled workers. The cost of this is incalculable for this has simultaneously advantaged our competitors in the global market. Despite this costly brain drain, the same "ethnic cleansing" continues in government departments and public agencies to replace experienced Non-Bumiputera professionals and scientists by Bumiputeras.

In the rest of the economy, the Government has been relying on a quick fix of cheap foreign labour instead of planning for upgrading technology and raising productivity. It is estimated that 20 to 27 per cent of the Malaysian labour force of 8.7 million is made up of immigrant labour.

Finally, the following example should illustrate quite succinctly the sorry state of the energy and transportation sectors and the nature of Malaysia's economic fundamentals:

⇒ A few months ago, when the Government was trying its best to convince the Malaysian public of the need for the Bakun HEP project, it claimed that the foreign contractors employed in the project would be training local engineers to build power stations. This may sound laudable to those who do not know the Malaysian energy industry. The fact is, Malaysia's own engineers in the National Electricity Board had been building our own power stations at Pasir Gudang and Perai in the Seventies and they were highly commended for their work throughout the region! Alas, many of these local engineers, disgusted with the scandalous mismanagement in TNB, have since left to work in India and elsewhere.

Thus, unless and until Malaysia confronts these fundamentals that really matter and emerge from this "golden age of mediocrity", we are in danger of being left behind by even the tiger cubs in the region whom our leaders have tried to tutor.

Reform, Not Rhetoric*

In the current economic downturn, the recipe beloved of politicians in Indonesia and Malaysia is reminiscent of Germany in the Thirties.

* Published in *Aliran Monthly*, 7 March 1998.

In our case, reinventing scapegoats in the form of Soros and the international Jewish conspiracy just didn't work. Then instead of taking firm action to restructure the economy, we have seen the jingoism of "Buy Malaysian" while the very politicians who are mouthing this – from the Prime Minister to the Leader of the Opposition – drive around in their Mercedes Benzes!

The point about this pseudo-nationalism is that for politicians to call on Malaysians to "Love Our Country" by "Buying Malaysian" and "Bringing Home Your Foreign Wealth" is hypocritical and a diversion. As one of our local newspapers rightly pointed out, it is problematic to try to pinpoint what are in fact "Malaysian" goods, and this includes our "National Car"!

As for Malaysian food, the Malaysian Government must bear full responsibility for the lack of a credible National Agricultural Policy and the neglect of the rural sector while it has pumped much of the national wealth into the National Car and highway projects. Much of our choice local food produce is exported to countries such as Singapore and Japan. What's left is inferior-quality local food or increasingly exorbitant imported products. We hear of wise intentions – after the event – by the corporate bosses in UMNO Youth to "go down to the countryside" while the most productive rice growers in the country at Sekinchan are told their land is to be acquired for a non-productive Government project!

Two years ago, alarm bells warned of the impending downturn and that unless the respective Governments of the region controlled credit and wasteful projects, they would not be able to avoid an economic collapse. Even the IMF, which had got their sums wrong, were ultimately sending muted signals of needed change. But somehow, it was assumed that the investors – both Western and Asian – who had been responsible for funding the growth, would condone the indiscriminate use of their investment dollars to support uneconomic projects such as the Bakun Dam and others.

What is interesting is that, apart from the local Malaysian NGOs, only a handful of experts in the global economy foresaw the looming economic crisis. The supposedly visionary politicians scoffed at their critics while greedy bankers were falling over to ingratiate themselves to Government leaders. Meanwhile, the foreign fund managers

investing in Asia thought they had a handle on the situation since they had direct access to the leadership.

The management gurus, securities experts and empiricist academics who had got it wrong in their own countries began offering snake oil elixirs to cash in on the same politicians who apparently lack the Asian code of honour by not accepting their mistakes and resigning.

Confidence and Trust

The most important fundamental is confidence. Does the Malaysian Government exude this? The claims to transparency ring hollow when the Official Secrets Act and the Internal Security Act are still enforced to deter the revelation of vital information on the companies which are heading for a crash and the true status of the economy. We were told only recently that every financial institution in the country was fine but now the taxpayers will have to bail out Bank Bumiputra yet again, among others.

What is the National Economic Action Council really doing? Are they providing affirmative action for the poor victims of the crisis and reforming the economy or are they busy trying to save companies that have squandered so much of the national wealth?

The Government says we have a high savings ratio. Now, that is a good fundamental. But what good is a high savings ratio when funds from the Employees Provident Fund are burnt in the stock market and in non-accountable investments – leaving us with just 6.7 per cent dividends for 1997? And why do we buy equipment at double the market price? This has been the usual procedure in infrastructure development until this downturn.

There have been massive investments in water systems and yet we have frequent breakdowns and a water crisis looming. There is also a dearth of confidence in the administration of local government which allows polluting industries into water catchment areas. Investments in electricity generating equipment have been even more substantial and yet there are frequent blackouts and brownouts. The list goes on.... Privatisation of public services was meant to be cost efficient but all the Government seems to have done is to sell the family silver.

Investors in the pension and other funds are ignored when their funds are spent on certain individuals and cronies. The interests of minority shareholders were likewise compromised in the recent Renong/UEM deal in which the authorities displayed a peculiar understanding of economic justification, return on investment and shareholder value by "buying high and selling low"! In this way, our EPF has apparently lost more than RM20 billion. So much for our high savings ratio!

And when we look at the highway projects, investors expect these to be awarded to the most cost-effective tenderer selected on merit and who submits a comprehensive proposal before evaluation by the Authorities. But invariably we find that in all these toll road projects, the rates are decided after the highways are built. So how did these gentlemen organise the financing for the projects when they had not determined the revenues in the first place? How did the Government arrive at the decision that these respective concessionaires were the best?

In fact, Renong's failure to secure several overseas projects was not surprising. They were rejected by the Chinese authorities for both the highway and power projects for which they bid. According to reports from foreign experts who evaluated the projects for the Chinese, the offers required high subsidies from the Chinese and Malaysian authorities in their financial package. Having failed, Renong's answer was to inform the international press that the Chinese were corrupt. So much for the Prime Minister having opened the Chinese market for them!

In the case of India, the rate of toll agreed to by their Parliament was 40 paise or 0.4 rupee/km. But in Malaysia the UEM rate is 10 sen/km, which is to be raised by 15 sen/km. So how do Malaysian companies expect to successfully secure Indian road projects?

The Malaysian Government's *modus operandus* is to first secure such projects on a Government-to-Government basis and then subsidize the projects for the favoured Malaysian contractors. Is there transparency in the selection of contractors eligible for these contracts and in purveying information on them?

Nor are investors happy with the use of Government agencies to issue bonds to guarantee local borrowing. As long as the Govern-

ment continues to pursue this policy of supporting crony businessmen, the crisis will get worse.

Fundamental Reforms and Restructuring

It has been pointed out by a number of Malaysian officials that this economic crisis provides an opportunity for us to rethink our priorities. However, their call for the public to tighten their belts without demanding fundamental reform and restructuring of the political economic system is fatally flawed.

At the technical level, the criteria for strengthening the economy must include:

- effective management of the economy;
- provision of timely and accurate information;
- strong cash flow; and,
- a level of debt finance allowable by the economic rate of return.

It is clear that a country's "economic fundamentals" encapsulate more than sound economic policy. They demand transparent procedures, an accountable political system and a free flow of information.

Last but not least, instead of pandering to jingoistic rhetoric, the politicians should ensure that "Love Our People" policies are implemented. As usual, in every economic downturn the victims who must bear the brunt of the crisis are retrenched workers and the poorer classes who will have to suffer the effects of inflation and the tight market. This is the time for a responsible Government not to let them down by making cutbacks in essential public services but for more public spending on job creation, retraining, restructuring and cushioning the effects of inflation.

Lessons from the Haze*

If the ecological disasters of recent years have failed to shake Malaysians out of their complacency, the recent haze crisis will have succeeded in forcing them to take environmental protection seriously. While the authorities may try to put the blame totally on the Indonesian forest fires, we should be more concerned about the invisible gases created by industrial and vehicular pollution which are trapped in the smog.

At last, we hope that Malaysians have begun to realise that it is pointless pursuing growth per se when it is the "quality of growth" which should be our concern. Malaysian environmentalists have warned the nation of this crisis for years, only to be derided by the authorities time and again for being "anti-development" and "stooges of the West".

Negligence through Vested Interests

The negligence on the part of the authorities is beyond question when we recall the past record. The problem of air pollution in Malaysian cities already existed in the Sixties, but the Government did not take it seriously. In the early Eighties, especially in 1982 and 1983, the problem worsened and an "Action Plan" was mooted in 1984. But as soon as the haze cleared, the Government reverted to "business as usual".

At the time, the Environment Ministry admitted that local industrial pollution, vehicular emissions and open burning were

* Talk on the Malaysian Environment at New Era College, 1 October 1997.

contributing to the problem. In the early Nineties, Kuala Lumpur already stood at 14th among the most polluted cities in the world. Our reputation further suffered when Emperor Hirohito could not fly to Ipoh during his scheduled visit to the country in 1991.

It was in 1991, described as "the worst haze problem in Malaysian history", that a National Committee on Haze was set up. The Environment Ministry announced "short and long-term awareness programmes" to prevent a recurrence of the problem. However, few if any measures were adopted as the Mahathir Government pursued its "economic miracle" of untrammelled growth.

Then in 1993, a Clean Air Action Plan was submitted to the Cabinet. Its recommendations were based on a commissioned study by the Japanese International Co-operation Agency (JICA) costing RM10 million and co-ordinated by the Department of Environment. The details of this Plan have not been made public but it is known that among other recommendations, it called for:

- industry to switch to using natural gas;
- siting new factories in non-residential areas;
- vehicle manufacturers to meet emission standards by mandatory installation of catalytic converters.

This JICA study warned that air pollution in the Klang Valley would reach a critical level by 2005 if serious steps were not taken. Unfortunately for Malaysians, the Cabinet decided to shelve this Clean Air Action Plan. Going by local newspaper reports, it was clear that the Cabinet had given in to the powerful vested interests, the trade associations and motor industry barons who were against the measures which would have increased their costs.

It is hypocritical that the same people who can accept a better quality car for the foreign markets are prepared to settle for internationally sub-standard and polluting cars in the local market! And it is the same Ministers who shot down the Clean Air Action Plan in 1993 who are today joining the breast beating about the haze.

The haze problem in 1994 was even worse than that of 1991 when the air pollutants reached the "unhealthy" level of 185 micrograms per cubic metre. There were more reports by the

Department of Environment (DOE) in 1995 and 1996 on the problem and the need for "immediate action".

Besides the RM10 million study by JICA, other expensive studies have been carried out, one by the University of Malaya, another by Australian consultants and yet another by the Danes. On 28 July 1997, the DOE was reported to have said that "a proposed two-year study by the DOE to tackle the haze by pinpointing its specific causes has yet to begin despite being mooted almost a year ago."

Lack of Enforcement of Laws

Government inaction against industrial polluters has been evident in the lack of enforcement of environmental protection laws even during the thick of the 1997 haze crisis. And when the air pollutant index (API) had breached the "hazardous" 300 level, the authorities decided to change the "emergency" level to 500. One can only assume that this was to protect the vested interests in industry who would have had to cease all air polluting operations if an emergency had been declared.

It is time for the Government to lay down truly effective environment protection laws and to ensure that there is stringent enforcement of such laws. The call by environmentalists for the setting up of a National Environment Council with the inclusion of NGOs should be taken seriously.

ASEAN Should Have an Environment Agenda

All peoples in the ASEAN region must learn the lesson from this haze crisis. The obsession with the pursuit of untrammelled economic growth to the neglect of the environment and human rights has been shown to be short-sighted and disastrous for all ASEAN peoples.

Even after the forest fires in Indonesia had started a few months before the crisis, no coordinated action was taken because powerful ASEAN industrial and plantation interests were involved in the forest clearing. That is why the indignation expressed by ASEAN governments only after the problem had got out of hand rang hollow.

As was also seen in Bakun, the official media tried unsuccessfully to put the blame on small farmers and "shifting cultivators". The "43 Malaysian plantation companies" involved in the forest clearing in Indonesia were only exposed when the Government had to divert the peoples' wrath away from itself and to make these companies bear the cost of putting out the fires.

Misinformation and Lack of Information

Misinformation by the authorities was seen in the encouragement of the public to wear ineffectual styrofoam masks and in conflicting claims about the slight effect of the haze on public health. The haze crisis further demonstrated that we are rather backward as far as collection of medical data is concerned and that we have yet some way to go to join the ranks of developed countries.

Costly Neglect of Public Transport System

ASEAN governments should prioritise public transport systems if they really care for the environment and the needs of the vast majority of their peoples instead of pandering to the interests of the car industry barons. Again, this has been the long-standing call by environmentalists and concerned Malaysians while the Government doggedly spent millions on the national car project and highways.

The recent case in France is instructive – when air pollution had reached a critical point, swift action included making public transport free of charge to Parisians and this succeeded in clearing air pollution in the city at a stroke.

Short and long-term measures need to be worked out by the authorities and adhered to. The Government should not procrastinate every time the "hazardous" level is reached – the health of the people cannot be compromised by the attempt to attain high economic growth for its own sake. When the hazardous level of air pollution has been reached, all polluting vehicles and industries must cease operation.

It is high time ASEAN peoples started making their governments accountable for their environment and human rights and not wait for disasters to strike time and time again.

Labour Reforms and Political Rights*

We have just gone through a second economic crisis since the mid-eighties. The financial crisis, like that of ten years ago, is the result of government policy that left unregulated market forces in the financial market. The capital controls now are like closing the stable doors after the horses have bolted.

As usual, Malaysian workers have been asked to make sacrifices. Living standards have dropped sharply with the decline of the ringgit and inflation, bonuses, salaries and allowances have been cut and retrenchments have hit the working class as well as professionals. Food prices have been rising, caused not only by the financial crisis but in the case of the Nipah virus, by Government negligence.

Yet, when the country was enjoying economic growth averaging 8 per cent in the last 10 years – when we built the world's tallest twin towers and planned to build the world's longest "linear city", the longest LRT and the biggest dam in Southeast Asia – did the Government or employers reward Malaysian workers accordingly? As usual, they did not... but now, we have been told to make sacrifices again, to tighten our belts.

Today, the plight of plantation workers, steel workers, manufacturing workers and workers in other sectors remain unresolved. Electronics workers are still denied the right to form a national union. Plantation workers are among the poorest paid workers in Malaysia. They are still living in sub-standard housing and being evicted without fair and adequate compensation. When estates are closed

* May Day message on behalf of SUARAM, 2000.

for industrial or commercial development, neither the government nor employers provide retraining opportunities for these workers.

Their particular position is the clearest indication of the failure of the NEP to identify a sector or class for positive action. Instead, the Government has chosen to ethnicise the problem of poverty.

Instead of upgrading, restructuring Malaysian industry by retraining workers and raising their standard of living as in other newly industrialising countries, the Malaysian government continues to rely on cheap foreign labour. Today, foreign workers are the most exploited of workers in Malaysia. They suffer the highest level of human rights abuse with restrictions on movement, organisation, unsafe working conditions and discrimination.

Although the country has experienced high economic growth since the eighties, UN figures show that the inequality of distribution of national income in Malaysia is the highest in Asia. The increasing inequality is linked to the privatisation of public services and the monopoly by cronies of the ruling elite. During the years of economic growth, public expenditure was not used wisely to provide basic needs for the people such as proper public housing, transport, health, education and social services but wasted on prestige projects.

The EPF has been squandered by so-called entrepreneurs who cannot manage to raise financing from the banks and used by the Government to bail out lame duck cronies hit by the financial crisis.

To stifle criticism of the Government, undemocratic laws such as the ISA, OSA, Printing Presses and Publications Act, UUCA and other acts are used to deal with dissidents. Our freedom of speech, assembly and association do not meet international standards of human rights and that is why the Government is reluctant to ratify the International Covenants on civil, political, economic, social and cultural rights. Workers' right to organise, to bargain collectively and to strike is restricted by the Trade Union Act.

Thus, it is not surprising that the economic crisis has been accompanied by one of the most serious political crisis ever faced by the Barisan Nasional. Through the power struggle between different factions of the ruling party, the Mahathir administration has resorted to means which have degraded the democratic institu-

tions in the country, especially the rule of law and have led to the 'Reformasi' movement.

It is time for Malaysian workers to demand fundamental labour and political reforms in the new millennium, to be endorsed by all political parties which claim to support the interests of workers. These should include:

- A progressive guaranteed national minimum wage;
- A national retrenchment benefit scheme;
- Legislation to provide for satisfactory compensation for workers displaced and obligations of developers to provide alternative housing compensation;
- Retraining schemes by the public and private sectors in the event of lay-offs;
- Improve pension benefits;
- Freedom of speech, assembly and association guaranteed in law;
- Amend all laws which violate these freedoms, e.g. Trade Union Act, Police Act, Societies Act, OSA, Sedition Act, the Printing Presses and Publication Act, UUCA;
- Abolish the ISA and all laws allowing detention without trial;
- Equal opportunities for women at the workplace;
- Introduce legislation to outlaw sexual harassment;
- Protect the human rights of foreign workers;
- Facilitate the unionisation of workers and recognise their right to form national or regional organisations;
- No privatisation of basic social amenities, such as public health service;
- All privatisation contracts must be awarded through open tender;
- Increase public spending for health, housing, transport, education and social services;
- Establish a utilities board to regulate water, electricity and other utility rates;
- No toll within city limits and on upgraded roads;
- Ensure that workers' interests are safeguarded in the EPF Board;
- Workers' representatives must be represented in economic and social policy formulation and legislation;
- Ensure that public money is not used to bail out failed businessmen;

- Public accountability and democratic control over the privatised industries and free flow of information;
- Planned trade instead of the blind reliance on exports and the suppression of wage levels in order to attract foreign investors;
- The tax burden on workers and the lower paid must be lessened by a more progressive tax policy.

Vision Schools: Who Is Blurring the Issue*

The Vision School issue seems set to become yet another episode in the protean saga of the Chinese schools of Malaysia. These episodes have the uncanny knack of exploding on the Malaysian politico-educational arena every time UMNO faces an internal crisis. The issue of unqualified administrators for the Chinese schools during the Semangat 46 split in 1987 and which led to Operation Lallang is a recent example. There have been others during the 181 years of the existence of the Chinese schools in Malaysia. (See Kua Kia Soong, *A Protean Saga: The Chinese Schools of Malaysia*, DJZ, 1999.)

For the uninitiated, we suggest that the recent media blitz in the English and Malay-language press by the government on this issue be subject to the usual critical visi-section (pardon the pun)....

When Dong Jiao Zong (DJZ) said they supported the encouragement of integrative activities between pupils of the various races, the Government leaders maintained that DJZ had already accepted the Vision School concept. Then when Dong Jiao Zong (DJZ) said they disagreed with the concept of the Vision School, DJZ was accused of not wanting integration between pupils of various races. Furthermore, on 6 November 2000, the Prime Minister Dr Mahathir was widely quoted as saying that:

What Dong Jiao Zong want is education as in China, everything must be Chinese... (Bernama, 6/11/2000).

* Published in *Malaysiakini*, 8 November 2000.

Violating the Constitutional Spirit

Dr Mahathir's statement has contradicted all the assurances given by the Education Ministry that the Vision Schools will not alter the character of the Chinese and Tamil schools. It has also exposed the hidden agenda of the Vision School concept for the PM is actually negating the existence of the Chinese (and Tamil) schools in this country.

Chinese and Tamil schools (where Chinese and Tamil are the main media of instruction) have been a part of the National Education System since Independence. Their status is entrenched in the Malaysian Constitution and Barisan Nasional leaders have always pledged their support for these schools especially during general elections. It has been accepted all along that mother tongue education of non-Malay minorities in Malaysia is part and parcel of Malaysia's pluralist culture. And the Chinese schools have survived to this day mainly through the efforts of Dong Jiao Zong and the support of the community. This fact has been widely acknowledged.

The PM's latest statement is akin to saying that the Chinese schools or rather, SJK schools in this country are not Malaysian but modelled after China. It's as good as admitting that the hidden agenda of the Vision Schools is to realise UMNO's "ultimate objective", which is to make all schools in the country into mono-lingual Malay schools. In fact, this objective has already been realised in Section 17 of the new Education Act 1996.

Vision Schools a *Fait Accompli*

It is very clear that despite the efforts of the Government to try to portray an impression of trying to consult with the parties concerned, the Vision Schools are a *fait accompli*. Thus, even when the Education Ministry was telling the public that the guidelines for the schools were under discussion, the construction of the seven Vision Schools was already half-completed. Some Chinese schools in the Vision Schools programme were merely told orally, they were not given any written documents never mind consulted over the programme.

Vision Schools Are Not New Chinese or Tamil Schools

At the beginning, the Government gave us the impression that Vision Schools would be *additional* Chinese and Tamil schools. Remember that although the population of Malaysian Chinese has doubled since Independence, the number of Chinese primary schools has actually decreased from 1342 in 1957 to 1283 today. The attitude of some in the community then was that although the government refuses to build new Chinese schools, at least the Vision Schools would be additional schools however imperfect they may be.

It has now emerged very clearly, that the seven Vision Schools proposed so far are not additional Chinese or Tamil schools. They are first and foremost new Malay-language schools but their Chinese and Tamil component schools are relocated existing Chinese and Tamil schools. Consider these concrete cases:

Case 1: SJK © Central Site, Segamat

This existing school wanted to move to a new housing estate but the State education department insisted that they moved to the proposed Vision School instead.

Case 2: SJK © Ladang Hillside, Seremban

The estate land on which this school stands has been sold to a developer and the school has been asked to move out. The Education department has insisted that they can only shift to the proposed Vision School there.

Case 3: SJK © Wai Sin, Parit Buntar

This school is five miles from Parit Buntar and the community around where the school stands (Jalan Baru town) is not in favour of moving to the proposed Vision School which is another bus ride from Parit Buntar town.

It can be seen that the five Chinese schools which have been included in the Vision Schools programme were not properly consulted beforehand.

Promoting Meaningful Integration

After the failure of the likewise controversial Integrated Schools Project in 1985, DJZ held consultations with the Education Ministry and agreed to the "Programme to Integrate Pupils toward Unity" in 1986. This involved various activities to promote interaction between different schools. After a promising start, the Education Ministry decided to halt this programme. DJZ stands committed to this programme which we believe is a more meaningful means of promoting integration and inter-cultural understanding.

We do not believe (and the situation in existing National Secondary schools and universities prove this) that putting pupils of different language streams under one roof necessarily leads to unity. Try putting all your relatives under one roof for a start!

The School Committees Are Crucial to the Chinese Schools

The Chinese schools of Malaysia have been commended by many including Government leaders for their management and community involvement. This has been credited to the existence of their respective school committees which collectively form state-level and national-level school committees associations (Dong Zong).

It is obvious that the school committee of the Vision Chinese School will no longer be able to play its traditional effective role in the management and development of the school.

Is the Government Really Serious About Integration?

DJZ strongly upholds the right to defend our mother tongue education system because we believe that the mother tongue is the most effective way for the child to be educated and we believe that our respective ethnic languages (our roots) must be promoted for the propagation of Malaysian cultures.

Nevertheless, we strongly believe that there must be ample opportunities for inter-cultural interaction in the educational, sport, cultural, economic and political spheres. Before the Government points any accusing finger at DJZ, it should justify these incongruities of Malaysian reality first:

- We see no justification for mono-ethnic political parties. UMNO, MCA, MIC and other racially-based parties have no credibility to talk about national integration until they disband and reform in a "Vision Party";
- We see no justification for new towns which encourage habitation by one race;
- We cannot accept educational institutions such as UTM, Residential Schools and other schools which are reserved for Bumiputeras only.

May we remind the Government that Chinese-medium schools do not discriminate on the basis of race. In fact, there are more than 65,000 non-Chinese pupils in Chinese primary schools today.

Malaysia's Sedition Law: Contempt for the Mind*

Malaysia's Sedition Act 1948 has been used recently against three members of the Opposition, Karpal Singh, Marina Yusof and Zulkifli Sulong. It has not escaped the notice of many that the Mahathir Administration has now chosen not to use the insidious Internal Security Act (ISA) which allows detention without trial, preferring instead, to use the Sedition Act, the Printing Presses and Publications Act and other laws to snipe at the Opposition and other dissidents. If found guilty, they are liable to a maximum fine of RM5,000 or three years' jail, or both which will disqualify them from standing for elections for at least five years.

Like the ISA, the Sedition Act is a convenient catch-all so that the most innocuous or mind-provoking statement can be construed by the State as "undermining national security" or "provoking racial discord". This Act can be used in ways quite similar to the McCarthy witch hunt during the Fifties in the US, in which the burden of proof rests with the accuse.

When I was detained under the ISA during Operation Lallang in 1987, one of the "allegations of fact" against me was that I had "called on the audience at a forum to support mother tongue education"! That was enough for me to be considered a threat to national security.

Truly democratic countries have long recognised the devious nature of such laws to silence critics. As long as there is no brazen incitement to overthrow the government or revolt by violent means,

* Published in *Malaysiakini*, 13 February 2000.

all citizens in a democracy have the human right to question the actions and motives of the government-of-the-day. After all, Malaysia has more than adequate libel and slander laws to deal with politicians who make reckless accusations against the Government. The sedition charge brought against Karpal Singh is for words he has been alleged to have said in court during the Anwar trial. The action by the authorities can itself be interpreted as a contempt of court.

But what every thinking Malaysian should be particularly concerned about is the contempt for the mind posed by the current use of the Sedition Act. While we all know that the history of May 13 has not yet been written, Marina Yusuf has been charged for comments she made during the last election campaign about the role of the ruling party UMNO in the racial riots of 1969. This is apparently contrary to the official account of Malaysian history.

The Yet Unwritten History of May 13, 1969

Every historian worth his or her salt will attest to the fact that the Tunku's *May 13: Before and After* and the Government White paper on the incident fall far short of a full and wide-ranging report that is required to satisfy the enquiring mind. Government White Papers are notorious for their half-truths, evasions and distortions as those who were detained under Operation Lallang in 1987 know only too well. The White Paper to justify detaining without trial some 106 members of the Malaysian public then similarly tried to link "racial riots" with "threat to national security". The Tunku's comments on that White Paper are worth noting:

For the Prime Minister (Dr Mahathir) to repeat (the story of) the violence of the May 13 Affair as a warning of what would have happened if the Government had not taken appropriate action immediately is like telling ghost stories to our children to prevent them from being naughty. This is not a childish matter but a matter of national importance. The tale should not be repeated because it shows us to be politically immature.

(Suaram and K. Das, *The White paper on the October Affair and the Why? Papers*, 1989: 5)

In 1977, Malaysian journalist Subky Latiff, writing in the academic journal *Southeast Asian Affairs* had this to say about May 13:

The May 13 Incident did not occur spontaneously. It was planned quickly and purposefully. The identity of the planners of the incident cannot be stated with accuracy. But whatever it was that happened, the May 13 Incident was a form of coup d'état directed against Tunku Abdul Rahman. The Tunku's power in fact ended from then onwards. Although he continued to be Prime Minister and president of UMNO, he was no more than a figurehead (*ibid*, p. 6).

Most Malaysians who were aware of the events of May 13, 1969 certainly do not buy the version that it was the ordinary Chinese or Malays who spontaneously started the riots in a combustion of frustrations.

Official Whitewash

The White Paper on the October Affair of 1987 gives one a closer look at the way the Malaysian Government has whitewashed historical events and shows complete contempt for the mind. The Tunku put it very bluntly in 1988:

UMNO was facing a break-up. The Prime Minister, Dr Mahathir's hold on the party appeared critical when election rigging was alleged to have given him a very narrow victory against Tunku Razaleigh. The case alleging irregularities brought by UMNO members was pending in court. If the judgement went against him he would have no choice but to step down. So he had to find a way out of his predicament. A national crisis had to be created to bring UMNO together as a united force to fight a common enemy – and the imaginary enemy in this case was the Chinese community (*ibid*, p. 10).

This White Paper on the October 1987 Affair actually demonstrates the Malaysian Government's double standards in the way it interprets the Sedition Act. In it, this "official" account of the events leading to the ISA crackdown actually reveals some very disturbing racist actions by the Youth Wing of the ruling party UMNO thus:

UMNO Youth organised a mammoth Malay rally at the Jalan Raja Muda Stadium, Kuala Lumpur on 17 October 1987.... At the rally, banners

bearing strong words were displayed. Among them were: ...*May 13 Has Begun ... Soak It (the Malay dagger) With Chinese Blood...*" (Ministry of Home Affairs, *The Government White Paper*, Kuala Lumpur, 14 March 1988).

Those who spoke at that rally included top UMNO leaders who are Ministers in the present government. But while 106 innocent citizens were arrested and detained without trial, none of these who flagrantly displayed such racist and fascist sentiments were charged under the Sedition Act.

Need for Race Relations Legislation

Such blatant examples of racism and communalism noted above should be dealt with by some form of race relations legislation and not by the sort of "catch-all" Sedition Act we have in Malaysia, to be used at the convenience of the government-of-the-day. A race relations court will be able to determine and define the legality or illegality of any action deemed racist or racially discriminatory. At the same time, a Commission for Racial Equality can work toward elimination of racial discrimination; promote equality of opportunities and see to the workings of the Act. It should also be vested with powers to conduct formal investigations and to serve notices to furnish information or documents in order to enforce the law.

Such a race relations law should ensure that the implementation of government policies are scrupulously delineated and that the Malaysian public is not treated to racist and fascist garbage once and for all.

Mad Cows, Sad Pigs, Bad Politicians*

There are some commonalities in the outbreaks of the BSE (Bovine Spongiform Encephalopathy or "Mad Cow Disease") in the UK in 1996 and the recent Nipah viral epidemic in Malaysia which should teach us to be more vigilant in the future and to be more proactive in taking the necessary emergency measures to protect human lives and the health of consumers.

In the case of BSE, the British official preoccupation was with restoring confidence in the UK farming industry. Their authorities did not take all the necessary measures to verify the origins of the disease. They merely targeted one suspected cause, the 'cannibalistic' cattle feed (55% of the concentrate added to the cereals for cattle feed was of cattle origin), and gave the impression that the ill animals were the only ones infected. This prevented people from knowing that there were likely to be many more animals infected than they actually knew about. If the British authorities seriously wanted to know how many animals were infected but not ill, they could have carried out a sample test and would then have found out the true scale of the problem. This they refused to do.

In the Malaysian case, the length of time it took the Malaysian Health Ministry to take emergency measures – some SIX MONTHS! – was sheer negligence. There was a vain attempt not only to restore confidence in the pig farming industry but also to shore up confidence in the local tourist industry and to protect "Malaysia's image". When there should have been emergency measures taken,

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government and opposition politicians alike were outdoing each other gorging themselves silly in public with roast pork and *bak kut teh*. The Health Minister banned medical officers from giving information on the disease and even accused the press of amplifying the issue. The Negri Sembilan government ordered a media blackout on the epidemic in the state in order not to put off tourists.

The Malaysian health authorities, as in the British case of BSE, appeared not to have considered other possible alternatives other than "Japanese Encephalitis" (JE, a mosquito-borne disease) being the cause of the pig and human casualties even though the symptoms were pointing to some other causes, viz:

- JE usually affects pre-teen children;
- The fatalities were concentrated in pig-rearing areas, especially among pig handlers when it would have spread more widely if mosquito-borne;
- Some virus victims had been vaccinated against JE;
- JE is not fatal to adult hogs which were also dying in the recent epidemic.

Through mid-March 1999, the Malaysian authorities discounted suggestions that a new virus was at work and only invited the U.S. Centre for Diseases Control on March 19th. By the time the culling of pigs had begun, 53 Malaysians had died. Despite acknowledging that a new virus had been discovered, Malaysian officials continued to refer to the outbreak as "JE". A "national emergency" was only declared on March 24th. The vaccination of pigs with the JE vaccine finally stopped when it was realised that the needles could be inadvertently spreading the culprit Nipah virus through contact.

The two important questions which should have been asked are:

- i) What caused the infection among the cattle/ pigs?
- ii) Is there a risk of the disease being transmitted to humans?

If there is a risk, which in both cases there was, then the task should have been to make a complete break between the infected animals and the human food chain. There would be no other choice if we are seriously concerned to protect consumers' health. The normal

procedure to eradicate a serious infection is to cull, quarantine and to stop movements of animals.

There must always be an assumption in the procedures taken – unless proven otherwise – that there is a risk of infection to humans. In the case of the Nipah virus which first broke out in Perak, this safety procedure was not followed and infected pigs were allowed to be moved to Bukit Pelanduk in Negri Sembilan. The culling of pigs should have been effected much sooner. This was clear negligence on the part of the authorities. The *siu yok* and *bak kut teh* gorging spectacles by Chinese politicians on both sides of the political fence have not helped to educate the public on what had to be done. In the process, more pig handlers died from the disease.

In the British BSE outbreak, it was revealed that scientists could be manipulated since these scientists made their judgements based on information from the Ministry. In the Malaysian case, the official scientists were clearly not thinking “outside the box” despite the fact that “changing one’s mind set” is probably the most over-used cliché in official circles today. Malaysians are even less likely to be creative when the authorities were making it very clear that they were not prepared to entertain any divergence from the official line on the “JE” outbreak. We now know that some concerned experts did post their own views on the nature of the disease on the internet but these constructive perspectives were not taken up seriously by the authorities.

Finally, whereas British and European farmers are substantially aided by their respective governments, the recent disaster has seen our Malaysian pig farmers having to rely on charity from the public instead of being given material support by the authorities. Is this the tribute we pay to such hardworking Malaysians who have helped the Malaysian economy develop a 1.6 billion ringgit industry practically without any government subsidies at all?

Local Elections: A Timely Call*

Your Editorial's call for local ratepayers to "Elect Responsible Officers" (*Malaysian Business*, Sept 1) must be congratulated. MB is probably the first among the Malaysian mass media to come out with such a forthright call for local councillors to be elected.

It shows that you have grasped correctly the mood of the people who have felt so frustrated with the performance of their local authorities all these years. Our daily newspapers abound with complaints about the many aspects of local councils' irresponsibility and questionable activities.

To change managers, the inertia and non-accountability of local councils have resulted in bottlenecks, discontentment and environmental disasters which are holding back our development. When we realise that many local councils are being upgraded into municipalities, this is a daunting prospect given their inability to find twenty first century solutions to waste and infrastructural management; to efficiently plan, maintain and monitor projects, and to mobilise participation of ratepayers.

Looking at examples of successful councils in the developed countries, we find that their most distinguishing features are the fact that they are elected; council meetings are open and transparent; accountability is demanded; there is participation by ratepayers, and there are established mechanisms to manage change.

One recalls the Prime Minister's speech on his Vision 2020 vision:

* Winning Letter in *Malaysian Business*, 15 September 2000.

The challenge of fostering and developing a mature democratic society, practicing a form of mature consensual, community-oriented democracy....

To assume as some have done, that elected local government is only a futuristic hope is to forget our history and to undermine our democratic heritage. In fact, the Kuala Lumpur Municipal Elections of 1952 was the first step we took on the way to self-government. At Independence, we continued this commitment to local government elections because appointments to political office were seen as a colonial practice.

However, local elections were suspended in 1965 during the Confrontation crisis with the assurance that they would be restored as soon as peace was declared and the Emergency regulations were withdrawn. The Royal Commission which was formed to report on the local governments recommended that while the management of local authorities needed reform, the elective principle should be retained and restored.

It is clear that the democratic trend in Malaysia even during those early Independence years forty years ago was toward decentralisation and devolution. As our society becomes more mature, one would expect democratic principles of accountability at the local community level to be even more necessary.

In the democratic tradition, taxation cannot be justified without representation. Ratepayers must be represented on the governing body which determines how that money should be spent. This is a fundamental precept of parliamentary government which is equally applicable at local-level government. It is to satisfy the requirement in a democratic society for greater pluralism, participation and responsiveness.

Today, we find that Malaysians are no longer prepared to put up with negligence or irresponsibility. Residents are demanding that their voices be heard at the local council. In this sense we can see why local authorities are considered the primary units of government.

Many services including education, housing, health and transportation require local knowledge and can be better coordinated and more efficiently implemented through the local authority. Few Malaysians have noticed, for example, that the all-important role

of local education authorities in the Education Act 1961 is no longer mentioned in the new Education Act 1996. Local education authorities serve to allocate funds and other facilities to needy sectors and can serve to dissipate politicisation of education.

Finally, we find that in the modern state, many social groups such as women and manual workers are grossly under-represented and local government can provide them with the channels to air their concerns. Generally speaking, at this local level it is easier for voters to influence decisions. This dispersal of political power is therefore a concrete way to realise the civil society that the Deputy Prime Minister has repeatedly called for.

Democracy for Dummies*

Democracy ranks among the most important of humankind's innovations this millennium. Yet, as we prepare to move into the new millennium, we still hear full-grown men and women arguing about whether Kit Siang should stay on at the top leadership of the DAP as if they didn't understand the ABC of democracy!

This is a response to the DAP's appeal for public opinion on whether Kit Siang should step down from the party leadership after the party's drastic defeat at the recent general elections, including Kit Siang's loss of his parliamentary and state seats. This message spells out three key principles of democracy that Malaysians, whether they be in government or non-governmental organisations, ought to live by for genuine democracy in the new millennium.

The historical pattern relating to Kit Siang's "offers to resign" is not promising. In my 1995 article "Inside the DAP", I narrated how after the DAP's worst defeat in 1995, and despite public expectation that Kit Siang would be resigning, he made it clear to DAP leaders (Lee Ban Chen, Sim Kwang Yang, Liew Ah Kim and myself) soon after that he would NOT be resigning. However, at the party's Central Executive Committee's meeting a few days later, Kit Siang went through the familiar charade of "offering to resign", the DAP leaders refused to accept his resignation, the rest is familiar history....

A. Democracy Is About Taking Responsibility

The DAP stands for "Democratic Action Party". Its leaders and activists have a responsibility toward not only basic liberal democracy

* Published in *Malaysiakini*, 26 December 1999.

but also toward "democratic socialism... motivated by humanist values, social scientific analyses..." (the DAP's *Tanjong Declaration* 1992). In other words, one expects DAP leaders to be consistent and one step ahead of the masses as far as democracy is concerned.

I have argued in my 1995 article why it was in the interest of elementary democracy that Kit Siang should have accepted leadership responsibility for the electoral debacle by resigning from the DAP leadership.

How often have we heard in the last 30 years demands by DAP leaders, such as Kit Siang for Ministers to take responsibility for failures by resigning. Taking responsibility for a debacle is the expected response of political leaders. Accountability applies equally to any office, be it in the government, the Opposition or an NGO.

Thus, when the British Labour Party lost to the Conservative Party by 11.8 per cent in the British General Elections of 1987, the Labour Party leader Neil Kinnock felt obliged to resign to take responsibility for the party's defeat. The British Labour Party happens to be the DAP's "brother party" in the Socialist International, from which the DAP receives its inspiration if not its ideological leadership. But while on the one hand, the DAP has modelled itself on the cosmetic repackaging of Labour under Tony Blair, as far as democratic principles within the party go, it has miserably failed to do so.

The DAP conveniently ignored this very basic principle of leadership responsibility when the DAP suffered its biggest defeat at the 1995 general elections. The DAP won only 9 parliamentary seats and 11 state seats compared to 20 parliamentary and 46 state seats it had won in the 1990 general elections. This was in spite of the fact that the number of parliamentary seats had been increased from 180 to 192. The party suffered a drop of 31.3 per cent in the total number of votes secured. The historic swing among the urban voters away from the DAP was indisputable.

Now that the DAP has suffered another catastrophic defeat in the 1999 general election including Kit Siang's personal defeat, he has not stepped down but is treating us to the same familiar charade. The rest of the DAP leaders do not seem to be interested in their own dignity nor reconstructing the "New DAP" but continue to

purvey the same Jurassic fare, arguing that "we still need HIM", "he can still contribute", *ad nauseum*.

Democracy is about taking responsibility. Whether a leader can "still contribute" is subsidiary. When Neil Kinnock resigned in 1987, it wasn't because the Labour Party believed he had no more to contribute. It was simply expected that he took responsibility for the defeat as leader of the party.

B. The Myth of Indispensability

I can still hear Karpal's crystal clear message when Lee Lam Thye resigned in 1990: "Nobody is indispensable." He did not make any qualifications to that statement. How true, I remember appreciating this simple fact of political life. And yet, when it comes to Kit Siang taking responsibility for the political defeat of the DAP, we hear the long-drawn chorus from the DAP cadres: "We still need HIM! He can still contribute..."

If such extraneous reasons for holding onto office can have currency, then Ministers do not need to resign over any political failures if their party members believe that they "still have much to contribute", do they?

The spirit of democracy is to generate capable citizens, and the more capable citizens (i.e. the greater the proportion of the inhabitants who are political equals), the better. This is what empowerment of the people is all about. Empowerment of citizens – men and women – must be given the highest priority. A democratic society is not one in which the leaders are considered the only competent people but rather, one in which they are simply the representative of other competent men and women.

If DAP leaders continue to argue the indispensability of their "Great Leader", it is a burlesque admission of their own lack of dignity, if not ability. And if Kit Siang does not have confidence that there is someone capable to be National Chairman of the party after 30 years' stewardship, it represents a grotesque failure of a social democratic leader to empower others! I would strongly recommend "The Emperor's New Clothes" as compulsory reading for all DAP leaders.

C. Democracy Is About Rotation in Office

In a democracy, there ought to be constitutional mechanisms designed to prevent the growth of caesarism. This is the essence of participation, another democratic principle we often hear DAP leaders spouting. Thus, we have seen it in the recent election manifesto of the Barisan Alternatif which specifies a fixed two-term office. It is well-known that the American presidency also has a fixed term of office. Even the constitutions of NGOs and Chinese Associations in this country have stipulated terms of office to ensure rotation. The Green Parties in many European countries have already instituted this rule for its office bearers and officials.

The principle of rotation in office is intended to protect ourselves against the monopolization or corruption of office. The term of office ought not to be so short as to prevent holders of office from being accountable to their constituents. However, limiting the holding of office to two terms is to prevent Michels' "Iron law of Oligarchy" from developing, to ensure officeholders do not develop a sense of proprietorship over their office, this sense of oneness with the job (e.g. "The DAP is Lim Kit Siang, Lim Kit Siang is the DAP").

In my 1995 article, I analysed how Kit Siang controls a patronage system of candidate selection in the party which is ultimately, the source of his authority in the party. Any serious reform of the DAP must democratise this method of candidate selection. It will automatically demystify the "indispensability" of the Secretary General of the DAP.

Conclusion: The Reform that Never Came

On 26/27 October 1991, not long after the general elections, the DAP held a leadership conference in Port Dickson to discuss reforms in the party ("Reform or Die" was the catch phrase at the time). Almost ten years later, we have not heard about substantive and structural reforms of the party.

The fact that Kit Siang has been the Great Helmsman of the DAP for 30 years is not a democratic feat but a failure of democracy in the DAP. One would expect the Democratic Action Party of Malaysia to be the paragon of active democracy in this country!

Coalition Politics for Dummies*

The recent tantrum by DAP over PAS' Islamic State ideology leaves one bewildered at the banality of Opposition politics at the moment. No wonder the BN has managed to cling to power for so long!

DAP's capriciousness is nothing new – it pulled out of Gagasan Rakyat in 1995 when PAS was then seen as the main stumbling block to DAP's Chinese votes. As I have pointed out in my 1996 publication *Inside the DAP*, DAP's position *vis-à-vis* the Opposition Front is not so much the product of political economic analysis as motivated by the needs of opportunistic politics.

What is incredible is the demands DAP has been making lately on its Barisan Alternatif partners:

A. Dictating Who Can Join Keadilan

Not long ago, we saw the spectacle of DAP dictating who could or could not join Party Keadilan. It was considered an "unfriendly act" for Keadilan to accept former DAP "trouble makers". The fact that Keadilan acceded to these ludicrous demands is even more remarkable.

The lack of clear principles on such a membership policy was lost on the coalition: How do you define "former DAP trouble makers"? Was there a black list of these "former DAP members"? If so, how far back in history does it go? For example, would I also be considered a "former DAP trouble maker" if I had chosen to join Parti Keadilan?

* *Malaysiakini*, 10 August 2001.

Clearly, the first principle of coalition politics is:

MIND YOUR OWN MEMBERS!

B. Demanding PAS Abandons Its Islamic State Ideology

Pas has made its commitment to the Islamic State clear to everyone as long ago as 1986. It is the DAP's capricious behaviour that is the problem.

The very existence of different political parties is because of their espousal of different ideologies. Thus, Parti Sosialis Malaysia is committed to its Socialist ideology just as PAS is committed to its Islamic ideology. It is ludicrous for DAP to demand that its coalition partners give up their ideologies.

Opposition coalition politics is premised upon coalition partners honouring their partners' ideologies while agreeing on a minimum programme to fight the ruling coalition.

Perhaps the DAP should make up its mind about what ideology it espouses. I think its leaders are confused about whether its ideology is "Malaysian Malaysia" or "Democratic Socialism".

I would think that "Malaysian Malaysia" hardly qualifies as an ideology otherwise you would find Gerakan and perhaps a whole lot of multi-racialists sharing that commonality.

How committed then is the DAP to "Democratic Socialism"? While Tony Blair is riding high in Britain today, the DAP is pretty gung-ho about the blurry "Third Way". But I remember how, when the British Labour Party was in the political doldrums in the early Nineties and the DAP's Socialist Youth were all still in nappies, the DAP Central Executive Committee was considering pulling out of the Socialist International.

In all the five years I was in the DAP, democratic socialism was not once discussed in the CEC. I remember when the Tanjung Declaration that I had helped to draft was carried without discussion at the Special Congress in 1991.

I smirked when I recently witnessed the spectacle of a lone DAP youth leader declaring the DAP's commitment to democratic socialism, quoting Marx out of context and at the same time (opportunistically trying to outflank Keadilan) saying that the DAP

does not believe in street demonstrations as a political method. That was obviously because it saw the Reformasi phenomenon as predominantly involving the Malay community. However, soon after, when the Chinese community demonstrated against the MCA's takeover of *Nanyang Siangpau*, the DAP quickly forgot about their disapproval of street demonstrations!

Anyone who does not support the legitimate right to demonstrations could not qualify as a Marxist – he is not even a democrat!

Thus, the second principle of opposition coalition politics is:

MIND YOUR OWN IDEOLOGY

C. Deciding Who Your Main Enemy Is

As in 1995, when it is under the pressure of BN media onslaught, the DAP tends to forget who is the main enemy of the Opposition Coalition and the party mission in the first place. In my 1996 book, I revealed how a CEC leader of the DAP had actually analysed that “in the eyes of the Chinese voters... PAS is the main enemy”! Notice that he did not base that analysis on his own political economic analysis but rather, it was “the eyes of the Chinese voters”.

This mode of analysis, namely, sensing how the voters think (“That’s why we’re in politics, dammit!”) is typical of DAP leaders. Unfortunately, it is not the analysis required of a democratic socialist who has to analyse who is the main oppressor of the Malaysian people and the political economic forces keeping us unfree.

Finally, the third principle of opposition coalition politics is clearly:

MIND YOUR OWN ANALYSIS, or...

IF YOU AIN'T IN, YOU'RE OUT!

