



# MALAYSIAN POLITICAL REALITIES

**Kua Kia Soong**

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*"A most insidious form of fear is that which masquerades as commonsense or even wisdom, condemning as foolish, reckless, insignificant or futile the small daily acts of courage which help to preserve self-respect and inherent human dignity."*

*Aung San Suu Kyi*

Aung San Suu Kyi is winner of the 1991 Nobel Peace Prize as well as the Sakharov Prize for Freedom of Thought. Her name means "a bright collection of strange victories". More than a year since her party won 82 per cent of the seats in Burma (Myanmar), Aung San Suu Kyi is still under house arrest, the third year of her political detention. This book is dedicated to her struggle for human rights and democracy, and toward her freedom and that of all political detainees.

## ABOUT THE AUTHOR:

**D**r. Kua Kia Soong is today DAP Member of Parliament for Petaling Jaya. He joined the Democratic Action Party on 18 August 1990. From 1985 to 1990, he was Director of the Resource & Research Centre at the Selangor Chinese Assembly Hall. A founder member of the Civil Rights Committee, he is also an adviser to the Chinese Schools of Malaysia. After obtaining his masters, he taught sociology at the Universities of Manchester and Singapore.

His other titles include *445 Days Behind the Wire: An account of the October 1987 ISA Detentions; Malaysian Political Myths; A Protean Saga: The Chinese Schools of Malaysia; 25 Years of Struggle: Milestones in DAP History.*

He has also edited *Polarisation in Malaysia: The Root Causes; Mediawatch: The Use and Abuse of the Malaysian Press; Malaysian Cultural Policy and Democracy; Defining Malaysian Culture; Reviewing Malaysian Education; An Alternative Malaysian Economic Policy.*

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# INTRODUCTION

by

Lim Kit Siang

*Leader of the Opposition in the  
Malaysian Parliament*

Dr. Kua Kia Soong has aptly chosen the title *Malaysian Political Realities* for his writings from 1986-1990. In Malaysia, there is not only an industry to rewrite history but a very high-powered conspiracy to daily distort and suppress reality through the government monopoly and control of the electronic and printed mass media.

Astute observers of the Malaysian media scene would have realised that one of the most important functions of the mass media owned and controlled by the government and the ruling political parties is not to report and reflect but to suppress and distort the Malaysian realities, whether in politics or other aspects of nation-building.

The communist regime of Soviet Union has collapsed 74 years after the 1917 Revolution. During those seven decades, people who ran afoul of the Soviet Union communist authorities became 'non-persons'.

Malaysia professes parliamentary democracy, but through the government monopoly and control of the mass media, events which run afoul of the Barisan Nasional authorities become 'non-events'!

Outsiders will never understand the complexities of Malaysian politics if they depend solely on the printed



and electronic media to learn about the political realities in Malaysia. Even Malaysians can be grossly misled about what is happening in their own country if they have to depend on the 'official' media for their information about the political, economic, educational, cultural, social and nation-building processes in Malaysia.

The 'free press' which the Prime Minister, Datuk Seri Dr. Mahathir Mohamed, claims in international forums that Malaysia enjoys, is a press which is only 'free' to distort and suppress political realities in Malaysia.

Under this conspiracy, Malaysians sometimes learn about 'political realities' by sheer accident. For instance, the English-speaking public may have wondered why "the DAP has become so silent" in the past year since the October 1990 General Elections.

It was in early September this year that the English-reading public realised that the DAP had not gone into hibernation after the 1990 general elections, when the Star reported the MCA President, Datuk Seri Dr. Ling Liong Sik (when launching an MCA 'political offensive' against the DAP) as saying that the DAP makes an average of 16 press statements a day!

Malaysians who rely on RTM, TV3, The Star or New Straits Times will never know that the DAP issues an average of 16 press statements a day if not for the inadvertent revelation by Ling Liong Sik.

The majority of Malaysians will be surprised by what they read in this book for they will come across many political events, scenarios, thoughts and arguments for the first time, which have been part and parcel of Malaysian "political realities".

This testifies to the power and reach of the national conspiracy to keep the people of Malaysia in political ignorance and subjection through the distortion and suppression of political realities by the official media in the country, which is virtually the sole media for the English-educated in Malaysia.

*Malaysian Political Realities* is therefore an important contribution to expose this national conspiracy and to liberate Malaysian minds from the fetters of those who want to have only One Voice, One View and One Thought in Malaysia.

*Lim Kit Siang*  
5.11.1991



## Chapter 1

# HISTORY AND THE PRIBUMI: Fruitless Quest For The Unholy Grail

*(Comment on the rather contrived controversy  
between UMNO and MCA during October 1986)*

**T**he controversy between Umno and MCA over the issue of the status of 'pribumi' and 'immigrant' should not be allowed to divert the attention of the people from the serious issues confronting the whole country at the moment. These issues include the economic policies being pursued by the government which have serious repercussions on the living standards of Malaysians.

The issue of whether any community is genuinely 'pribumi' or 'immigrant' has absolutely no significance to the question of peoples' rights. In the modern world community, only one culprit - South Africa - openly practices policies to deprive other communities of their basic civil rights. In the days before the United Nations, we saw the likes of Nazism, fascism and other adherents

basic civil rights. In the days before the United Nations, we saw the likes of Nazism, fascism and other adherents of "great power chauvinism" practising their racist doctrines with contemptible regard for human rights.

This simple point regarding basic civil equality has been lost on politicians, elderly statesmen and academicians alike in their haste to please the powers-that-be. Some academicians, instead of helping to educate Malaysians regarding their just political rights, have chosen to pander to "bumiputraisim". One such academician has even rather presumptuously suggested:

"Malaysian Chinese are still considered 'immigrants' but can become Pribumis (indigenous people) if they are able to assimilate Malay customs and religion (Islam) ".

Such a view by one of our supposedly "eminent" historians merely exposes the fact that history has nothing to do in the least with the 'pribumi' status as is often claimed. Our noted academician seems to have overlooked an elementary logical inconsistency, viz. how could a 'non-pribumi' become a 'pribumi' simply by assimilating when the latter is a historical category? He has, however, unwittingly exposed the fact the 'pribumi/non-pribumi' distinction is rooted in political consideration and has nothing to do with historical justification.

It is bad enough when the serious discipline of his-

were here first". But when academicians and elderly statesmen join this questionable quest, it is time for Malaysians to awaken their better senses.

The latest furore is not the first time that there is a need for clarification and objectivity in looking at our history. The most recent case concerned the fictitious "social contract" raised by Datuk Abdullah Ahmad. Then at every Merdeka celebration, we are treated to a version of the anti-colonial struggle that attributes all the glory to Umno and the anti-Malayan Union veterans. Any serious scholar of Malaysian history knows that such an "official" version of the nationalist movement suffers from omissions and distortions of major proportions. No history of the anti-colonial struggle is complete without crediting the labour movement, the students' movement, the Pan-Malayan Council of Joint Action and Pusat Tenaga Rakyat as well as the anti-Japanese struggle.

The pursuit for truth and historical objectivity is important not only as a necessary component of moral rectitude but also vital for our national spirit. We have also had controversies before regarding the fact that our official historians have disregarded the contributions by non-Malays in the development of our country. Aside from the ethnic sensitivities, there is a responsibility to truth and rationality that true Malaysians must despatch, for a national spirit built on racist myths and half-truths will meet the fate of the Nazis and fascists during the last war. The deleterious effect such racist myths have

will meet the fate of the Nazis and fascists during the last war. The deleterious effect such racist myths have on the collective conscience will take generations to live down. Besides, in multi-ethnic societies like ours, there are other economic effects through which we will all emerge losers.

The rumpus which has erupted over the Selangor MCA's resolution involves two things, viz. (i) the historical evidence relating to the first peoples in Malaysia (ii) whether such distinction of "pribumi" and "non-pribumi" have any relevance at all with regards the rights of citizens of any country.

The first problem is not a question involving epistemology, or the way we conceptualize history, whether there are "laws of history", the like. We are merely dealing with the facts and theories of what actually took place. The honest historian with accepted standards can easily attest to the quality of the relevant pieces of historical material using documentation and tests of accuracy.

No one can deny that the "original people" in many lands are the aborigines in those lands and if there should be any special status conferred on that privilege, they would have run away with the prizes at the outset. Alas, history has been cruel to such "original people", who perhaps wish they had never been born. The latest outrage is the assertion that there must be a distinction between "original inhabitants" and "an indigenous peo-

ple with its own civilization" in order to justify "pribumi" status. This is no different from the old imperialist justification for domination and it is shocking that any one in the Third World should make such assertions. It vividly explains why the Orang Asli have met their present-day fate.

Our communalist politicians may like to know that their obsession with "race" has little use in anthropological and sociological disciplines not to speak of human rights in the international community. From the point of view of anthropology, a race is a biological group based on a community of physical characters. Where a group is characterised by a linguistic unity, it is termed "stock"; and where it is characterised by culture, historical or political unity, it is termed a "nation".

As pointed out by Dato Sir Roland Braddel, former President of the Council of the Malayan Branch of the Royal Asiatic Society and once legal adviser to Umno: "There is, strictly speaking, no such thing as the Malay race; there are the Malay people, the Malay culture and the Malay language, etc." (*The Study of Ancient Times in the Malay Peninsula and Straits of Malacca*, MBRAS, 1980:3).

Serious scholars of history, anthropology and ethnography are not concerned with the chauvinist question of "who was here first" in order to please racists and communalists. They are more concerned with the enquiring and open attitude. Roland Braddell's is an



example:

"The Malay peninsula abounds in evidence of the diffusion of cultures but so far no analysis of this evidence has been made in the light of present-day theory and admittedly the difficulty of doing so is very great but some attempt should at least be made..."

The French philologist Rivet has found a linguistic unity amongst various stocks including Australians, Polynesians, Indonesians and this does not correspond with the anthropologic and ethnographic unity. The ancient Chinese also found a linguistic, if not also a cultural unity running from IndoChina, round the Gulf of Thailand, down the Malay Peninsula into Indonesia. Scholars have attributed this to the fact that human waves issued from the region or from contiguous ones in ancient times.

R.O.Winstedt (Malaya, 1923:86) states the theory by Kern that the home of the Malay is Champa, Cochin China and Cambodia. Braddell confirms this from pre-historical research.

If one is concerned with the strict definition of "race", Elliot Smith (Human History, 1930) differentiates strongly between Indonesians and Malays racially: Malays and the Jakuns are generally considered to be of the Mongoloid Race, while Indonesians and Polynesians belong to the Mediterranean Race. But if one is talking about Malay culture, then the country where the earliest

written specimen of the Malay language has been found, is Sumatra. Another well-known American anthropologist, Professor Roland Dixon sums up the racial history of the Malay peninsula thus:

"The oldest stratum of population was the Negrito Palae-Alpine, which survives to-day in comparative purity only among the Andamanese. With this was later blended a taller Negroid people, of mixed Proto-Australoid and Proto-Negroid types, to form the Semang. This Negroid population is still represented among some of the hill-folk in Burma, such as the Chin, is more strongly present in Assam, and dominant in the greater part of India. Subsequently to the formation of the Semang a strong immigration came into the peninsula from the north, off the normal Palae-O-Alpine type, of which perhaps some of the Karen may be regarded as the last survivors. From the fusion of these with the older Semang was derived the Sakai and some, perhaps, of the Jakun, the later and less modified portions of this wave forming the older Malay groups of to-day. Finally, in recent times, came the Menangkabau Malays from Sumatra, who have overlain the earlier groups through the south."

Forgive the lengthy quotation which is intended to convey not the historical state of play but more so to show that even these theories by renowned scholars are by no means conclusive because of the lack of data, inadequate anthropological and ethnographic studies. But such is the stuff that whets the enquiring appetite of hon-

est scholars which should put to shame the obscurantist assertions of chauvinists and racists.

As we well know, the concept of race used by geneticists and the like has no relevance to the political differences between people. This was established in an authoritative way by a consensus of world experts called by UNESCO after the Second World War. There is no concept of dominance/subordination as far as the rights of citizens are concerned in any country in the world that claims to practise democracy. Except perhaps, South Africa, in all democratic countries, EVERY CITIZEN IS EQUAL BEFORE THE LAW.

In fact, when one confronts the fact if a non-Malay who is the product of several-generation Malaysians is categorised as a 'non-pribumi' while an Indonesian of a few years' residence can be considered a 'pribumi', clearly a political consideration has coloured the distinction. The employment of history to justify the discrimination is superfluous.

History has been employed further to show that Malay kingdoms already existed at the time the Chinese and Indians emigrated to the peninsula. Therefore, the logic goes, the Malays are the indigenous people even if they are not the original inhabitants. But how this fact affects the rights of other Malaysian citizens in our democratic system has not been faced up to. Such "nation-ism" belong to the dark era of "great power chauvinism" which no longer has credibility in today's world community. If

it did, we would have 'Anglo-Saxons', 'Han Chinese', the like claiming special status in their respective countries with the attendant social and political problems.

Apart from the scholars, if we were to refer to the earlier Census authorities, this is the official view of C.A.Vlieland who compiled the 1931 Census:

"Only a negligible fraction of the Malay population consists of descendants of pre-19th century immigrants... more than half of it has less than 50 years' prescriptive right to the title 'owners of the soil'. The Malays are in fact merely immigrants of generally longer standing than the other migrant races represented in the peninsula and are in no sense an autochthonous population". (C.A.Vlieland, 'A Report on the 1931 Census')

Among other things, our communalist politicians and foolish academicians seem to have overlooked one glaring question. What does this so-called "historical fact" hold for our East Malaysian brothers and sisters, Kadazans, Bidayuhs and the rest? Are they also to forfeit their rights because they did not have a great civilisation or fabulous kingdoms?

As the poet John Betjeman put it:

"History must not be written with bias, both sides should be given, even if there is only one side..."

(6 November 1986)



## Chapter 2

# THE QUALITY AND EQUALITY OF MERCY

*(Paper presented at the Bar Council Seminar on  
Human Rights on 20 July 1986)*

**T**he hangings of Barlow and Chambers following on so soon after the national and international outcry over that of Sim Kie Chon may have beefed up the Macho image of the country but not its soul. Although the offences in these cases were dissimilar, the human values involved were the same, namely, the quality of mercy and the equality of mercy.

The government's response to foreign criticism reveals ever more strikingly that, apart from the other crises facing the country, there is a crisis of rationality. While the prime minister's point about the double standards of the Western countries in not condemning death sentences elsewhere was well-taken, he chose to take up

the untenable and regressive position of justifying the Malaysian government's actions by saying:

"I don't accept all this accusation of being barbaric of otherwise. We learned all this from them (Westerners)."

## **The Triumph of Humanism**

In truth, no civilisation has a monopoly of barbarism. Every feudal and prefeudal social system - Chinese, Malay, Indian, Dayak, Arab or European - has had penal systems involving the grossest cruelty imaginable. Punishment is an ancient response to wrongdoing. Throughout history, both the forms of punishment and the rationale for using it have changed markedly. Sociological studies have shown that penal systems everywhere are largely based on tradition, untested assumption, and inferences based on inadequate data.

The English penal system is usually cited for obvious reasons. During 18th Century England, death was decreed for several hundred specific offences, particularly for those against property, including shooting a rabbit, stealing a handkerchief, damaging a public building. From the outset therefore, the law incorporated class and political ramifications. Comparative studies have shown that historically, the penalty as a judicial punishment has been seen to bear unequally and unjustly on the poor, on minorities and on oppressed groups in

the society.

Progressively, the impetus for change was provided by the humanitarian and working class movements. The 18th century Enlightenment thinkers like Montesquieu and Voltaire provided the philosophical basis for reforms. There soon developed a more humanitarian outlook and the emergence of the secular viewpoint in human affairs, with new concepts of man and society. The more rational and benign approach led to a concern for rehabilitation of deviants based on the personal worth of each individual. In the modern state, the judicial systems is intended to protect the individual against the state.

Consequently, in 1908, hanging was abolished for children under 16 years of age. Today, most countries forbid its use on offenders under 18. Capital punishment for murder offences has been abolished in Britain since November 1965. Although the issue has been brought up periodically, the fifth and last time the motion to bring back hanging was convincingly defeated in the House of Commons was in 1983. Other countries have followed Britain's example and today most of Europe has abolished the death penalty.

In the US, the death penalty was stopped by the Supreme Court in 1972 but was reintroduced in 1977. The statistics from the US would seem to confirm the observation that the death penalty discriminated unfairly against minorities and the poor: In 1984, 42 percent of



people on Death Row were black. This is against a 12 percent black population in the U.S. as a whole.

By the 1970s, capital punishment had been eliminated as a statutory punishment in about one-fourth of the world's nations. Although it exists in the U.S., it is seldom invoked.

It is against this background of the ascendancy of humanistic, strictly non-theistic values that has led to the official position of the U.N. General Assembly being, that it is desirable to abolish the death penalty in all countries and that the crimes to which it applies should be progressively reduced. The 1948 Universal Declaration on Human Right prohibits all forms of "cruel inhuman or degrading treatment or punishment".

Therefore, the defence of the death penalty on the grounds that we learned it from the West is untenable. But even if it were the case that the West hangs more people than we do there is no reason for us to follow suit. For is it not the frequently expounded claim by many Third World leaders that they are more moral than the West?

The callous statement by the Deputy Home Minister quoted in Time Magazine on 5 August 1985 further soiled the image of Malaysians abroad when he said:

"The problem with the hanging process is that we've got to go through the ritual of appeal. That can

take two years. I wish the Pardons Board would make faster decisions so that we can start hanging them...We plan to hang a person every week."

The Attorney-General's Chamber had also urged the mass media to "play up executions" as a deterrent. (*Malay Mail*, 18-8-83)

The only absolute that can be drawn from most religions from Judaeo-Christianity to Buddhism is that all killing is wrong. If it is a natural law that all killing is wrong, that law cannot be waived to permit judicial killing.

The judicial taking of life has been described as "the most pre-meditated and most diabolical of murders. It is basically a relic of the primitive drive for revenge, and it merely passes the responsibility to the judge or jury who are supposed to be acting on our behalf. It is indicative of the primitive psyche that we are not content that criminals be safely put away in prison, we demand their death!"

Executions dehumanize society and undermine the common values upon which the full and free development of human society is based in all cultures. The value of human life is lessened once a state, in avowing the defence of its citizens and itself, resorts to inhuman and degrading methods of punishment.

Perhaps the most popular misconception is that capi-

tal punishment acts as a deterrent to crime. There is little evidence however, as to the effect of capital punishment on criminal statistics.

Consideration of the British statistics on this particular question is appropriate because they are not only broken down into various categories but there are points of comparison between the period when capital punishment was in force (before August 1964) and the twenty years when it was abolished.

According to the British Home Office Research Unit study, over the last decade the increase in murders in the various categories has been insignificant. This is despite the fact that there was a war on in the North of Ireland. It is therefore not inappropriate for Malaysia to at least temporarily suspend the death penalty in the various categories of crime to see if it makes any appreciable impact on the criminal statistics.

Another strong argument against capital punishment is that it entails irrevocable miscarriages of justice. This was borne out in the British case. If the law on hanging had not been changed in 1964, at least SIX men would have been hanged for offences they did not commit.

This was accounted for by the fact that no legal system is infallible. Moreover, miscarriages of justice usually take time to surface as was proven in these six cases. They ranged from five to twelve years before coming to light. Repeated appeals had failed to establish

their innocence.

The vulnerability of all criminal justice systems to discrimination and error must be taken into account. There are also human factors involved, particularly political expediency, discretion and public opinion especially in the granting of clemency. The ability to obtain good legal representation also becomes an important factor in determining the outcome of a case.

The world-wide comparative studies undertaken by Amnesty International have shown that the wealthy, the politically well-connected and members of the dominant racial and religious groups are far less likely to be sentenced to death than the poor, supporters of the opposition, and members of minority groups. Furthermore, access of the defendant to impartial and professional psychiatric and medical services in pertinent cases varies from individual to individual, depending on means.

Now, if under "normal" legal procedures, such unfortunate cases of wrong convictions can come about (as in the six British cases cited), one can only baulk at the thought of the many cases tried under the "special procedures" of ESCAR - Malaysia's Essential (Security Cases) Regulations.

Under ESCAR, all the checks and safeguards of a fair and just trial are overridden: hearsay evidence is admissible; evidence by prosecution witnesses is allowed

to be given in camera in the absence of the accused and his counsel; the judge in an ESCAR trial sits alone and is compelled by the regulations to impose, upon conviction, the mandatory death sentence.

The International Commission of Jurists has described ESCAR as "going beyond what is strictly required for being in power". Amnesty International has likewise recommended that the ISA and ESCAR be repealed. The dogmatic belief in laws which are universal, permanent and divine is one of the most dangerous states of mind.

To conclude the case against the death penalty, this poser by Lord Morris of Borth-Gest, a British High Court judge in the sixties, perhaps sums it up best:

"Can we be sure that the utter and irrevocable finality of the death sentence can always be matched by positive certainty of guilt? In no country, with the fairest system of law, with the most humane and conscientious judiciary do I feel that we can be satisfied of that."

## **The Pardons Board**

When we bear in mind the humanist trend in the international community, even while the death penalty still exists there is no reason why it should not only be invoked on the rarest occasion and tempered with mercy. It is indeed disturbing the manner in which the Pardons

Board exercises its prerogative and the question of clemency is treated as an absolute and refused as in the recent cases of Sim Kie Chon and Barlow & Chambers on the grounds that it is "*not justiciable*". The undue haste to execute in the recent cases were unnecessary. In both cases of Sim Kie Chon and Barlow & Chambers, there were complaints that all legal avenues to save their lives had not been full exhausted.

Even so, as the Bar Council's Vice President observed in the cases of Sim Kie Chon and Mokhtar Hashim, "... the Pardons Board's prerogatives must be exercised with the same uniform guidelines, if not principles". The equality of all persons before the law provided in Article 8(1) of the Federal Constitution must be observed. Therefore, the criterion by which persons are to be hanged under the Internal Security Act (Increased Penalties) Act or the Arms Act (Revised) must be clearly spelled out.

The present Pardons Board as stipulated under Article 42(5) of the Federal Constitution comprises the Attorney-General (AG), the Prime Minister or Chief Minister, and three other members appointed by the Ruler or Yang Di-Pertua Negeri. It tenders advice to the Yang Di-Pertuan Agung who acts on the advice to commute or not to commute the death sentence. Although the trial judge can make a recommendation for clemency to the Pardons Board having himself passed the mandatory death sentence, according to the International Mission of Lawyers,

"We were unable to ascertain how frequently such recommendations were made, but the impression we gained from Tun Suffian, the Lord President of the Federal Court, was that in cases tried under the ESCAR procedures, these were extremely rare, if indeed they have ever been made."

The Pardons Board also considers the quality of the evidence adduced at the trial and the safeness of the conviction. The AG is then required to give his assesment of the case. This, opines the International Mission of Lawyers,

"...only highlights the manifestly unsafe and unsatisfactory nature of the ESCAR procedures. If the proceedings themselves were safe, it would be unnecessary for the Pardons Board to consider the weight and quality of the evidence given at the trial."

The incongruity of the fate of Mokthar Hashim and that of Sim Kie Chon especially has led to demands by the public for the criteria by which the Attorney-General recommends commutation of the death sentence or otherwise. Although the Pardon Board's momentous decisions cannot be challenged in a court of law, it has at least to maintain the aura of impartiality.

Consequently, the desirability of the AG's presence in the pardons Board must be questioned, as it already has. It has been argued that the Board would find it difficult to arrive at an impartial assessment of a case when

one of its members, viz. the AG, had himself instituted the prosecution and sought the death sentence in the first place.

If would be preferable for the Pardons Board to be composed of members who are seen to be independent and impartial, made up of the widest possible cross-section of society and representative of all classes and ethnic communities. Its composition should be larger and a sizeable majority needed if the death sentence is to upheld.

While such institution is reminiscent of the jury system, the usual arguments against it which question the competence of its members do not really hold because the Pardons Board would not so much be interpreting the law as deliberating the capacity for mercy.

Finally, the present state of affairs in which the condemned person cannot plead his case before the Board for consideration are allegations contained in special Branch files. The defendant should at least be given the right to answer such allegations. Apart from all these considerations of material evidence, ample humanism should be afforded to consider the mitigating circumstances surrounding the defendant - his or her socio-economic background, age and the like.



## **Postscript: Putting Law "above" Politics**

Whether law and politics are in fact separate and distinct is more than an academic point. Cynics have suggested that we should give up the pretence that it is and that decisions by the judiciary have shown that the law is not "above" politics. If the judiciary makes what are seen as political decisions there would be outrage and cries of injustice.

Does the law serve to sustain political power or does politics provide the context within which the law operates? Obviously, these are questions which cannot be solved in this paper although we can suggest some proposals to try to create the necessary conditions for a better judicial system.

One way to harmonise 'law' and 'politics' is to enact 'political' rights dealing with freedom of speech, assembly, organisation, a fair trial, and other basic civil liberties as part of our own law, i.e. as Bill of Rights. ASEAN, if it is truly committed to human rights, could set up an equivalent of the European Convention on Human Rights. This treaty adopted by some 20 European countries has a Commission and a Court to adjudicate on petitions against breach of the Convention by member states. Citizens' rights could be safeguarded against political judgements regarding censorship, the "limits of democracy", unjust laws and regulations.

The UK, for example, has been brought before the Europe Commission and Court on several occasions and has been found to be in breach in several cases.

Whether such a move will actually come about in time, one must note that up to now, Malaysia is still not a party to any of the major international human rights conventions, such as the International Covenant on Civil and Political Rights. It has been pointed out, for example, that the Emergency Trial Procedures under ESCAR 1975 and detention without trial under ISA 1960 raise questions under the most fundamental provisions of the 1948 Universal Declaration of Human Rights.

(20 July 1986, This paper was subsequently published in the Bar Council's journal "INSAF".)



## Chapter 3

# THE PROBLEM WITH MALAYSIAN STATISTICS

*(Launching the Resource Centre's "Statistics"  
column in the Chinese-language press)*

**T**he first thing to note about Malaysian statistics is that although the authorities have the raw data from the Census and other sources, some relating to ethnic composition and differentiation are not available to the public.

Sometimes even the non-Bumiputera Deputy Ministers are not in a position to obtain them. I remember when a Deputy Minister also confessed to being unable to obtain the statistics relating to the number of Malaysians with 'stateless' status.

Here we see not only the great necessity for an 'Access to Information Act' which will make it obligatory for the authorities concerned to divulge such information

which have nothing at all to do with national security.

Regarding other social statistics, there are problems posed by the irregular surveys carried out. For example, household surveys are only carried out in 10-year intervals and the results usually take at least two or three years or more to be published.

Then when we look at the contentious statistics such as those relating to the New Economic Policy, we will realise the full problem with Malaysian statistics. For a start it is impossible to verify the governments' statistics relating to share of equity and poverty incidence by ethnicity because the raw data used to calculate these are not made available. The Far Eastern Economic Review has reported "... suspicions that somehow these figures are doctored to suit political ends is heightened by the fact that all compilation is under-taken by the EPU, which is staffed at the senior level almost exclusively by Malays".

It is shocking that in the politics of the NEP, poverty itself has been politicised as some government leaders identify poverty only with the Malay community. Until recently, the government used to measure wealth on a narrow cash-income basis without taking into account land ownership, scholarships, services and subsidies, the like. This therefore threw up large disparities between the incidence of poverty among the Malays, being more rural-based, and the more urban-based Chinese.

It has further been pointed out that statistics on household income must also take into account the proportion of household members participating in economic activity. If the statistics show that there are more economically-active members in the Chinese household, then this will invariably inflate their household incomes in comparison to other communities.

It must also be clear to all that average income figures for an entire community will only hide the true picture of poverty within the community.

The other controversial statistics relating to the NEP are of course the figures for the proportion of equity capital held by the different ethnic communities. As we know, the latest official estimates put the "bumiputra" stake at 17.8% and the "non-bumiputras" at 56.7%. Many quarters cast doubt on these estimates because the government lumps even holdings by bumiputra and government agencies in nominee and locally-controlled companies under "other Malaysian residents". This accounts for at least 12 percentage points. It therefore inflates the "non-bumiputra" stake to 56.7% while that of "bumiputras" in these nominee companies is excluded.

Statistics pertaining to the NEP are the most problematic. For example when the Report of Survey of the Klang Structure Plan was released, there were gross inconsistencies discovered. There was a negative growth rate projected for the Chinese population based on un-

specified assumptions. Then two different tables on ethnic composition of projected population did not tally. Perhaps the most blatant discrepancy was the statistics which showed 100% Chinese employment in banking, finance and insurance. However, a quick survey soon showed that this was completely without basis. For a start, the local branch of Bank Bumiputra already had 80% of bumiputra employees and others like UMBC, MayBank, Perwira Habib had no less than 40% of bumiputra employees.

## **The Problem with Statistics in General**

The above discussion on the problems of Malaysian official statistics demonstrates an important social truth - that statistics are not merely 'technical' matter untainted by social values or ideology. 'Data' in Latin means "given things". Not surprisingly, statistical data is frequently portrayed as such, as "the facts" which are presumed to be unquestionable.

A whole range of technical and conceptual instruments is used to collect, process, assess and present data: theory of probability, models of frequency distribution, sampling techniques; analytical methods for processing data, e.g. regression techniques, test of significance, and factor analysis; sophisticated ways of presenting data, e.g. pie charts, histograms, cross-tabulation; etc. These are depicted as constituting a "science" and this quantitative knowledge held to be "objective"

However, unemployment figures and those on inflation are the most questionable depending on the conceptual and technical instrument used. The inflation rate can be manipulated simply by reducing or not levying taxes on items in the Retail Price Index. Unemployment among women and rural dwellers are officially invisible. Official statistics also tend to give a picture of society in which some features are out of focus, e.g. there is little information on industrial and environmental-related diseases; tax evasion by the super-rich; poverty among urban dwellers; etc.

In many cases, official statistics are taken by ideologists to put a scientific gloss on conservative political convictions. It is no wonder that statistics are given a privileged role in empiricist and positivist philosophies. In these philosophies, it is assumed that knowledge can be assembled and tested by use of data free of theoretical concepts. Thus positivists attempt to explain the social world in terms of operation of laws, with statistical techniques being called into play to show law-like regularities.

Much of the social sciences are concerned with this sort of activity, the construction of statistics and conclusions drawn from correlation and other regularities. Many racist approaches to "intelligence testing" rely on a statistical basis. Thus in the early days, statistics in the U.S. used to show low I.Q. ranking of Asians vis-a-vis whites. These statistics have since had to be revised.



There are other "common sense" conclusions which claim legitimacy from statistics, including, "people who achieve power and dominance are the most able"; or, "wage demands by workers inexorably lead to inflation". You would be surprised how many other such "social truths" are the work of social science academics, sociologists, political scientists, economists, anthropologists and psychologists.

All too often, such data are derived from the same conceptual framework as that which informs so-called "common sense" views of the world. Given that "common sense" is usually little more than a rationalisation of the ideology of the status quo, then statistical data can and often do serve to reinforce such uncritical accepted tenets of everyday life. Other examples will show social theory and statistics are often used to preserve social practices, to show the biological determinism of women's roles as housewives and mothers.

All data, whether produced in academic research or by the state bureaucracy, are structured by the conceptual framework that is applied as well as by the technical instruments used in their production. It is these practical and theoretical commitments that need investigation.

Critical scientific knowledge needs to be more than "common sense". Knowledge is fundamentally a social and historical product. To take again the example of sexism. The truth is that sex is an organising principle in social structure and it does play an important part in

shaping one's temperament and determining social roles. But historical and cross-cultural studies will show that women did not and do not, in fact, play the role allotted to them now in any culture. The most obvious case is in times of war when all the images of women as passive, stereotype housewives are non-existent.

It is therefore an urgent task for intellectuals to help to produce counter-information for the people, information to counter and expose political positions embedded in supposedly factual and technical arguments. At the same time, it is vital that we should all demand information which the people are entitled to. This can only be possible in the form of an 'Access to Information Act.'

In this task, we should not regard statistics as inherently suspect. Statistics data and techniques can be valuable resources despite their limitations. To totally reject all statistics as suspect is also one-sided.

(24 November 1986, *Nanyang Siang Pau*)



## Chapter 4

### AMERICAN INDIANS, BLACKS AND CIVIL RIGHTS

*(Comment on the view by a local "scholar" in the Chinese press that the Chinese in Malaysia should learn from the American Blacks - "who assimilated" - and not from the American Indians)*

**T**he American Indians and the Blacks are two distinct groups of people that were exploited by the white settlers who went to North America. As the white settlers of the 18th and 19th centuries took over more and more of the land for their agriculture and settlements, they saw the native American Indians as an obstruction who had to be got rid of, physically.

From early on, the settlers had begun to import African slaves to work and develop the land for them. Once slavery was under way, racist ideas and attitudes that were applied to the slaves were also applied with more and more intensity to the native Americans. They

too came to be seen as inferior because of their "race"

Contrary to what we were shown in Hollywood movies, it was the British government which established the custom of scalping: "For every scalp of a male Indian brought in as evidence of their being killed...forty pounds". This was a Royal Proclamation by King George III in 1775. Hollywood instead chose to portray American Indians as savages who scalped white folk as a blood-thirsty ritual.

When North America won its Independence from Britain, it brought no freedom or relief to the American Indians. Treaty after treaty was made and broken by the white settlers to deprive them of their land. Hunger and European diseases (hitherto unknown to the American Indians) wiped out countless numbers of them. Settled communities - many Indian nations lived in their own large villages and towns - were uprooted and destroyed. By the beginning of the 20th century, all that remained of these once proud and independent people were herded into "reservations", miserable and barren areas of land, controlled entirely by the whites.

Today, the American Indians are still fighting legal battles to gain compensation for the land that was stolen from them and for some control over the land that is supposed to belong to them. Since the 1960s, the 'American Indian Movement' (AIM) has fought for the recognition of the sovereignty of the Indian nations. In 1973, the Pine Ridge Reservation in Dakota was

occupied on a mass scale by people from a number of Indian nations. They demanded that the government enforced their land rights and that the US Bureau of Indian Affairs be the subject of an independent investigation. After 71 days, the occupation of Pine Ridge was violently broken up by state troops and the FBI as they fought to re-establish government control. Two Indians were killed and in the years that followed, activists and sympathisers of the AIM on the Pine Ridge reservation were hounded - 24 were killed in 1974 alone.

Although the land originally allowed to the American Indians was the poorest and most barren, it has now been discovered that it contains rich mineral resources, including uranium. Part of the Pine Ridge Reservation has already been illegally handed over for uranium mining. There were also plans to turn the sacred lands of Dakota - the Black Hills of Dakota - into a huge nuclear power complex and to carry out mining there.

These facts about the plight of the American Indians should be a sobering thought to those who make it seem as if the Indians had a choice. It is not a case of the Indians stubbornly wanting to fight a suicidal battle against overwhelming odds. Like every ethnic culture with rights to preserve what is legitimately theirs, they are merely fighting for those rights and every honest human being must support their just cause and not distort their intent.

The situation confronting the American Indians is in

fact not too distant for us to comprehend. In our own country, the plight of many native people especially in Sabah and Sarawak is by the day highlighted by so-called "development" project by the government as well as by private logging operators. Such operations are endangering the traditional lands and means of livelihood of the Penans, Bidayuhs, Kelabits and many other native peoples. The Batang Ai dam led to the flooding of 21,000 acres of land and the resettlement of 3,000 natives. The Bakun project would flood an area the size of Singapore and displace 5,000 natives. Other projects would displace a further 15,000 natives. To make way for the dams, the natives would have to surrender their customary rights to land and move from their forests, which are their natural mode of existence.

When we talk about the "loss of culture", we must not forget that to many native peoples like the American Indians, the Orang Asli, Ibans, etc, culture and religion are an inseparable part of their material existence. Thus, their animist beliefs, traditions, songs and poetry, festivals, are part and parcel of their social organisation built around their agricultural and hunting activities. When you displace them from their traditional habitat or deprive them of their forests and means of existence, you have as much as killed their culture and social organisation.

Contrary to what many government spokesmen and "development specialists" say, the natives have not been adequately consulted on policies and laws which affect

jects, according to the Lahmeyer International Report, "no information is available on the wishes of the communities" which will be affected by the dams, the prospects of resettlement; the loss of their lands and crops; and the like. Natives are not aware of the consequences of the market economy on their way of life and culture. This is ultimately the most powerful and disruptive force on their way of life. They are not sufficiently trained or prepared to protect their interests. They should certainly be consulted first and given an informed choice and allowed to decide what they want for themselves. Most important of all, they must be given the chance to participate in the decisions affecting their lives and the right to maintain their cultural identity.

In this situation, enlightened people should stand up to defend these civil rights of native peoples instead of coming out with callous, unfounded and baseless statements about segregationists who are "loathe to participate in national development efforts"

## **Black People**

The Africans were, as we know, brought to North American as slaves. Slaves were used in all states and performed a wide variety of tasks, but it was in the South that they were used in massive numbers to work the huge plantations of tobacco, rice, indigo and cotton. The economy of the North, on the other hand, was more varied, based on trade, commerce and mixed farming



varied, based on trade, commerce and mixed farming and it did not have the large plantations typical of the South. Although slaves were also a useful source of cheap labour in the North, slavery was not intensely profitable there as it was in the South.

Throughout the period of slavery, and despite the harsh laws which were meant to control the slaves - the Slave Codes - slaves rebelled, escaped, organised revolts, fought and campaigned continually for freedom.

The American Civil War (1860-65) was mainly a struggle for economic mastery between the North and South. Underlying the movement to abolish slavery was the need of the rapidly expanding economy of the North to secure control over the wealth and resources of the South. Thus while 'King Cotton' still reigned in the South, by the 1840s the Northern states had begun to industrialise.

Since capitalism relies on "free" labour, the North could then draw on workers from the Southern plantations whenever it was necessary. For a start, slaves needed constant and brutal supervision to keep them at work whereas the use of "free" workers, who are paid a regular wage, does away with such needs as well as the need for maintaining them when economic conditions were slack. This economic reality must be borne in mind whenever we look at the development of capitalism and the liberal philosophies of "freedom", "democracy" and the like.

Furthermore, slaves have no purchasing power and cannot provide the market to buy up the products of capitalist industry. Because modern machinery made it possible to produce goods much faster and in greater quantities than ever before, the factory owners could afford to pay their workers wages and still make great profits. Thus, the development of capitalism and modern industries simultaneously saw the rise of wage labour which inevitably superseded slave labour. The emancipation of the black slaves was therefore economically necessary in the development of the USA.

The abolition of slavery however, did not bring much relief to black people there. The Southern whites refused to regard them as equals - they were only second-class citizens entitled to second-class wages. The Southern states passed laws to segregate black people and keep them from having such basic civil rights as the right to vote. In this racist climate, the atrocities committed by groups like the Ku Klux Klan are well-known.

In the North, although there were no such racist laws as such, racial prejudice made sure that they were given only the worst jobs, the worst houses, worst schools and they were paid the lowest wages. The change from slave labour to wage labour was therefore merely a transition from one sort of exploitation to another. Thus blacks soon found themselves clustered in decaying ghettos in the Northern cities.

Consequently, in the first two decades of the 20th

century, so-called race riots broke out all over the USA. In 1919 alone, there were 25 such riots. During this period black people formed themselves into organisations to fight for equal rights and a better life; black trade unions, etc. The 'Universal Negro Improvement Association' of Marcus Garvey praised the virtues of Africa and the spirit of black people, thus returning self-esteem and dignity to black people.

In the years after the Second World War, the struggle for black rights took on a new force. Especially from the sixties on, the principle of equality before the law for all was laid down as was the principle of equality of opportunity. Many workers and fighters for the black cause have lost their lives. Malcolm X, who was one of the first to develop the call for black power - that is for black people to have power and control over their own lives, to develop their own resources and talents and to value their own culture and achievements - was assassinated in 1965. Martin Luther King was assassinated in 1968 as he was about to head a Poor Peoples' March on Washington. Many others have been imprisoned, like University teacher Angela Davis. The murders go on and the KKK still go on their murderous racist rampage. In 1980, five anti-racist demonstrators were gunned down in broad daylight in Greensboro, North Carolina.

Despite it all, the influence of the Black Power Movement since the sixties has been and continues to be immense. It has shown the way to similar movements among the Chicanos (Mexican Americans) and Puerto

Ricans in the USA, who have suffered similarly from racism and poverty, as well as giving fresh impetus to the American Indians in their unceasing campaigns for regaining their lands and their civil rights. It has inspired black people elsewhere and movements of oppressed peoples all over the world.

The common theme in these demands for civil rights and consciousness-raising among their respective communities is also the rejection of such assimilationist tendencies seen in the "melting pot" thesis of the dominant culture and education policy. The blacks in the West would be insulted if they heard anyone say that they had "chosen to assimilate" or that "unlike the American Indians, they had chosen to take part in the national effort"

It is an insult to them because all peoples demanding civil rights are basically demanding rights to equal opportunity and civil equality since they have been denied the opportunity to participate in the national effort. It is no different in our own case.

On the question of assimilation, the case of the American blacks is quite unique. One could say that American blacks were assimilated the very moment they were brought over as slaves. For a start, there were/are literally thousands of African tribes and cultures on the African continent. Slaves were abducted at many different points in Africa so that in any one place where slaves were used in North America, there was little or no

chance for blacks to communicate with each other in their native tongue let alone develop their own language and culture. Consequently, there was no other means of communication except through English.

However, with the Black Power Movement since the sixties, it fired a deep desire to recover their long-lost roots. The most inspiring example of this quest was of course Alex Haley's 12-year research into his own personal ROOTS, which culminated in his world famous epic drama that was also made into a television serial. In every black community in the West today, we see this attempt at recovering and developing their African mother culture

Our case is certainly different from that of the black slaves for, from the beginning, Chinese communities in Malaya, through their schools and other cultural organisations, preserved, practised and carried on their culture. Their right to do so and especially to be considered in the mainstream of national development has been a question that situates their demands in the same struggle of the American Indians, Blacks, and other peoples in the world - the demand for civil rights and democracy.

(3 March 1987, *Nanyang Siang Pau*)

## Chapter 5

# THE LABOUR MOVEMENT AND THE RESPONSE TO THE CRISIS

*(May Day Message for the Malaysian Trade Union Congress' paper Suara Buruh, 1987)*

**M**ay Day is the commemoration of the common weal and destiny of labouring people all over the world and a reminder to society that the relative progress that we have gone through has been contributed by the toil of workers. It is also an appropriate time for workers in every country to take stock of their current situation and to forge a way forward based on their respective conditions.

### Malaysian Workers and the Current Crisis

The challenges before the Malaysian labour movement are indeed serious. The current crisis our nation faces is not only an economic crisis but also a social and political one. Living standards are dropping and this has

affected not only workers, farmers, fisherfolk, hawkers but also many in the middle class. The latest government decision to cut overtime rates and retrenchment benefits is as much an attack on workers' living standards as it is an indication of the slighting of the labour representatives in the National Labour Advisory Council.

According to the MTUC, 130,000 workers were retrenched between late 1984 and mid-1986 (*Star*, 20-1-87). The unemployment figures are already hovering around the unacceptable figure of 10 per cent. Compared to developed countries, it must be borne in mind that in societies like ours with a sizeable rural sector, the unemployment figures do not take into account the substantial "hidden unemployment" that exists. Since 1983, our unemployment rate has been consistently the worst in ASEAN (*Economic Report*, 1986/87).

Between 1981 and 1986, 13,400 workers in the tin mining industry were retrenched. The plight of retrenched workers were similarly highlighted when employees of Atlas Electronics Sdn Bhd and other firms demonstrated their anger at employers who had retrenched them without good reason. In the estates, the scandal of Selanchar Empat, retrenched workers and the import of cheap immigrant labour mirrored clearly the priorities of the government and the vested plantation interests.

The militancy of civil servants when they took to the streets over their wage demands in 1986 also pointed to

the pressure on living standards of public sector workers. The plight of unemployed graduates is a pointer to the waste of human resources and talents in our present society. In 1986, the Education Minister said that there would be 35,000 unemployed graduates in the country by July 1987 (*Star*, 25-12-86).

Unemployment is not just a problem of the unemployed. It is a threat to job security of everyone, undermines effective trade union organisation and weakens labour's bargaining strength. Unemployment is an instrument of social regulation - it strengthens the operation of market forces in the labour market at the expense of the workers. The toleration of illegal immigrants in this country is testimony to this fact. The Government has gone out of its way to help the plantation interests by signing a labour accord to import cheap Indonesian labour into this country. The MTUC reckons there are 1.5 million illegal immigrants in the country while the government acknowledges 150,000 (*Star*, 31-8-86). At a time of unemployment, the government rhetoric plays on the argument that people must accept wage cuts in order to "price themselves into jobs". The hope is that blame for unemployment itself will be shifted to workers and trade unions.

30 The above are indicators which are by no means adequate to measure the gravity of the problem faced by Malaysian workers. Besides the erosion of democratic rights exemplified clearly by the introduction of the Amendments to the OSA in 1986, the constraining la-



bour laws still prevail to inhibit effective trade unionism. Among these is the provision for the Registrar of Trade Unions to deregister any union or disqualify any new union at his discretion.

The problem of unionisation is a serious one. In 1986, only 8.7 per cent of the workforce or 5.9 million were unionised (*FEER*, 3-4-86). The figure is dropping because of an aging and largely male union membership. The labour movement has had to put up with government policy that prohibits workers in Free Trade Zones from joining unions in order to satisfy foreign investors. Thus in industries where employment is substantial like electronics and construction, unionisation is grossly lacking.

Perhaps the greatest threat faced by the labour movement is that of deliberate division imposed from without. This appraisal by 'Malaysian Business' speaks for itself:

"...labour leaders are fuming over what they perceive as 'divide-and-rule' tactics on the basis of race, practised by the government. They point to a meeting convened at the behest of the deputy labour minister to meet leading Malay union leaders. According to an informed source, at the meeting held in Pulau Pinang some four months back, the deputy minister (allegedly) urged the unionists to assert leadership over unions to restore Malay control over unions long dominated by Indians". (*Malaysian Business*, 1-1-85)

The Far Eastern Economic Review had quoted the MTUC Secretary-General, Dr.V.David who criticised Deputy Labour Minister Datuk Zakaria Abdul Rahman of "trying to split the labour movement by urging Malays to form their own exclusive unions" (*FEER*, 2-8-84).

Such attempts are perhaps the most insidious and should alert all Malaysians to be vigilant if they are concerned about our most dire problem of communal polarisation. But there are other attempts at division: that of public sector workers from private sector workers as was blatant during the civil servants' wage demands; professional and technical workers from unskilled workers perpetuated by the "elite ideology" and pay scales; discrimination based on race and gender; employment of contract non-unionised labour, eg. in land development schemes and construction sites. In-house unions - a corollary of the 'Look East Policy' - are another threat to the labour movement. In-house unions make up almost half of all unions. They make for a tamer workforce but there is no evidence that they are quicker at resolving their workers' grievances. They certainly predate the Look East Policy, having been in existence at various large firms like Rothmans.

To eradicate such divisions, the unions themselves must ensure that inequalities do not exist in the labour movement. For example, they must avail of equal opportunities for women in leadership positions for while women comprise 27.4 per cent of total union member-

ship, only 33 out of 819 key union officials were women at the end of 1983 (*FEER*, 3-4-86). The role played by women unionists during the recent struggles against re-trenchments in the electronics factories was certainly exemplary.

For all its anti-West posturing, the government has been easily converted by the missionaries of Reagonomics and their preaching of monetarism (or "sado-monetarism" to the poor and disprivileged). Part of this package has included the spate of privatisation exercises that we saw at Telecoms and other former public enterprises. A fundamental implication of privatisation is that such major industries like Telecoms are removed from democratic control and public accountability since the accounts of private enterprises need not be tabled in Parliament. The consequence is that people in general will have even less influence over economic and industrial policy and profitable public assets will have become private property.

The effect on the labour movement is just as serious. Public sector unions are inevitably fragmented and workers will have decreasing measure of control over their work and bargaining power. When broad sectoral negotiations give way to local accounting and negotiations, unions will be made to accept local losses in negotiations. Management will no longer be pushing national proposals but rather local ones. Workers' organisations become splintered when different areas demand different bonus schemes and increased

productivity is demanded in a single section, etc. The threat of such competition and accelerated job losses will further destroy workers' solidarity. Thus it is well to bear in mind that in every crisis, the strategy to restructure industry and relations between management and labour has the effect of undermining the organisation and bargaining strength of the labour movement.

## **Response to the Crisis**

These issues brought up by the current crisis need to be thoroughly debated and an alternative posed by the labour movement before the country. The crisis has shown up the flimsiness of our economic system so far - our reliance on primary commodity exports and unfettered investments by footloose Multinational firms 30 years after Independence; the formulation of economic policies that have included HICOM, Dayabumi, the Penang Bridge while the agricultural sector and small-scale industries remain largely undeveloped and the national debt accumulates.

The international recession is not wholly to blame for our present woes. This much is clear when we compare the state of our economy with that of other countries in the region. The deep slump in our construction industry at present is the result of government policy that had left unregulated the operation of market forces in the financial market. This is the essence of the so-called "property boom" a few years ago. Recent

scandals involving corporate fraud and other carryings-on have blown the cover of the "fabulous rich" and such other erstwhile "captains of industry" and community champions. It is a vain attempt when workers and workers' organisations are held responsible for the crisis instead.

It is time the very premise of production itself is questioned by the labour movement so that we will not be continually at the mercy of fluctuating commodity prices, footloose MNCs and the argument that "the country cannot afford wage rises". Throughout the seventies when the oil money was bubbling over or even at any other time when they could afford, did the government or the big employers hand out corresponding wage rises?

It is time we got out of the syndrome that accompanies each crisis of international capitalism, when wages are forced down and the labour movement is weakened. It is time the labour movement addresses itself to the democratic control over investment, production, pricing and employment decisions, which today lie in the hands of the few. Unfettered operation of the market offers only hardship and wasted resources as the current crisis has shown up.

The labour movement must set about the task of proposing a programme that is a better alternative to the present, that will achieve far greater social control over production. The basic concerns must be full employ-

ment, job security, a better standard of living, better housing for all, better pensions and child benefits, improved social services.

An alternative must aim at planned reflation of the economy, planned controls on foreign trade and capital movements to protect the balance of payments and prevent flight of capital.

Workers' representatives must demand participation in economic policy formulation and in legislation. Within the trade unions themselves, democratic rules must exist to ensure that trade union leaders do not succumb to blandishments of personal privilege and "institutionalisation" and become coopted.

In an alternative policy, unused resources must be brought into production to provide employment and higher levels of output. The **quality** of economic growth must be questioned. We must address ourselves to the question of production for social need and not production based on producing commodities for private profitability. As such, the specific allocation of public spending is important to ensure that it provides jobs and other useful social benefits to the masses and it is not squandered on prestige projects and others of dubious worth. Easing the tax burden on the lower paid will not only help the poor but it can lead to reflation of demand.

A system of industrial planning must be established and in the short term, public sector demand can be di-

rected to those areas which can be most easily expanded. Such public planning is important as a challenge to the market, a challenge to the determination of priorities by the dictates of private profitability. Workers must have greater control both at the point of production and within the wider democratic process of arriving at economic and social goals.

There is a case for planned trade for we must question whether exports are in our interests if wages have to be kept low in order to attract foreign investors and we can never guarantee any commitment to our national economic development or even employment security. Unplanned production for the sake of exports is questionable under the looming threat of trade wars in the international scene. The consequence of our entanglement in the international capitalist order (as a dependent appendage at that) is the periodic instability created and hardship for labouring people as in the present crisis. A policy of planned trade entails measures concerning trade, capital movements, currency and a clear policy on the MNCs.

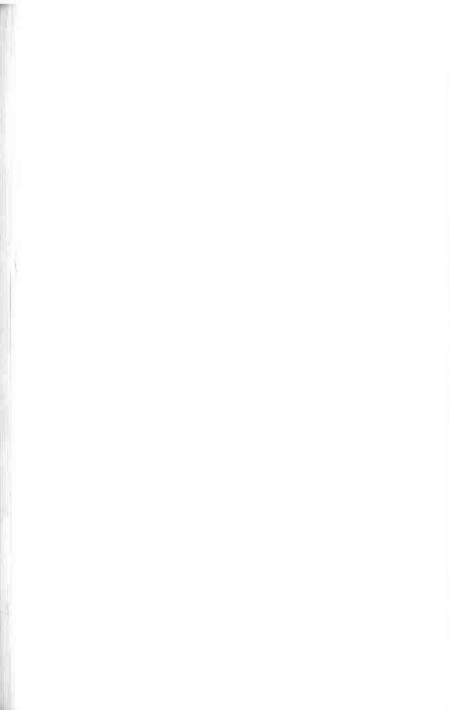
To conclude, the above is merely a sketchy pointer to the long overdue task for the labour movement to pose a better alternative to the current crisis in Malaysian society, particularly the economy. It would moreover be naive for anyone to assume that such an alternative will not meet with political opposition from the vested interests. The most important challenge before the labour movement - and for all concerned Malaysians - is

to first debate, discuss and formulate this alternative and to mobilize support among the broad sections of the Malaysian people. In the process, the Malaysian masses of all ethnic communities will hopefully understand the underlying unity of interests between the fights over pay and against retrenchments; against discrimination based on race and gender; against undemocratic laws like the Trade Union Act, the OSA, ISA, UUCA.

Solidarity forever.

(25 April 1987)





## THE NEW ECONOMIC POLICY: Nemesis of Communalism

**M**alaysia's New Economic Policy (NEP) was presented as a *fait accompli* after the fateful May 13 riots of 1969 by the dominant United Malays National Organisation (UMNO) in the ruling Barisan Nasional coalition. Among the causes of dissatisfaction, it was purported that "imbalance in wealth holding between the races" was a major factor. It was held out that "non-Malays" (predominantly Chinese) dominated the economy while "Malays" dominated the poverty sector. Therefore, with the stated objective of fostering national unity, a two-pronged strategy was laid out to restructure the economy so as to eliminate the identification of race with economic function; and to eradicate poverty regardless of race.

With the benefit of hindsight, the effects of such a policy are anything but beneficial to fostering national unity. Malaysians are divided into "bumiputras" (literally, princes of the soil) and "non-bumiputras" and all state policies flow from this dichotomy. While technically, "bumiputra" status should be conferred also on the Orang Asli (aborigines), Kadazans, Ibans and a host of other indigenous peoples in Sarawak and Sabah, bumiputraisim in Malaysian politics has come to be equated with Malay-centrism.

Apart from the consequences of the NEP on the economy as a whole - through the years it has been a damper on investments by the private sector - the more serious is its exacerbation of a worsening trend of communal polarisation of Malaysian society. A rational non-communalist strategy to unite the nation and at the same time eradicate poverty should have been to identify the poverty sectors in the urban and rural areas, irrespective of ethnicity, and to give these the appropriate policy treatment. The non-Malays would have had little to complain about if such policies were implemented on the basis of sector or even class.

It could only have been a calculated political motive behind the Malay elite's decision to communalise the problem into one affecting the entire "Malay race". Seventeen years on, it is clear who has reaped the fruits of the economic restructurement. The latest official figures show that bumiputra individuals and trust agencies own 17.8 per cent of the total equity capital (from around 1%

in 1970), while other Malaysians own 56.7 per cent and foreign residents account for the remaining 25.5 per cent.

It has been pointed out by various observers (eg. *Far Eastern Economic Review*, 25-9-86) that the figure for bumiputra equity ownership is almost certainly understated because of the inclusion of Malay nominee companies under "other Malaysians". All the same, it is clear that the non-Malay corporate class has not done badly either through the NEP, which explains the elite cohesion which has held the "multi-racial" Barisan National coalition government together through the post-Independence years. The Barisan also comprises the Malaysian Chinese Association, the Malaysian Indian Congress and several other parties led by the elite of the respective ethnic communities.

The evidence shows that the NEP has mainly resulted in increased wealth concentration in all three main Malay, Chinese and Indian communities. For a start, the corporate elite not only represents a tiny fraction of the total numbers of those who own stocks, but stockowners themselves are a small percentage of the total population. A 1983 study (by Prof. Ozay Mehmet) found that the top 40 shareholders owned 62.98 per cent of the total number of shares in the equity market.

Through the NEP, much of the wealth creation has been effected through mobilizing national savings and forced savings as in the case of Amanah Saham Na-

sional, the investment trust fund for bumiputras, and the Employees Provident Fund. The statistics also show that the top 4.4 per cent of ASN investors account for 70 per cent of ASN's total investments. The flouting of public accountability has been partly caused by the separation of control of funds by NEP trustees from nominal ownership by bumiputras. With ineffectual or non-existent checks and balances, the scandals of recent years have revealed corruption, mismanagement, manipulation of resource allocation, the like. The Bank Rakyat scandal of the mid-seventies and the Bank Bumiputra Finance scandal of the eighties have involved breach of trust, embezzlement of public funds and other irregular management practices.

Bumiputra elites who have benefited from NEP trusteeship are small, powerful and influential people who gain through collusion, transaction costs and other forms of non-competitive gains. Needless to say, they are the ones in the best position of access to vital information regarding contracts, tenders and other investment opportunities.

Such a system of cronyism is unlikely to satisfy all parties within the bumiputra elite as the recent open challenge to the UMNO leadership of Dr.Mahathir has shown. The stakes are now exceedingly high as the 2.5 billion dollar BMF scandal exposed, so high that even "UMNO has broken with tradition", as the media portrayed the challenge to Dr.Mahathir.

The Malay elite can be found in the military, religious, aristocratic, bureaucratic and political spheres, with overlapping membership. They are not the only beneficiaries of the NEP. Besides the non-Malay elite, multinational and other foreign interests have profited also from the government's projects in tele-communications, construction, heavy industries and others. Japanese capital has of course been the direct beneficiary of Dr. Mahathir's "Look East Policy". And while foreign and multinational interests still have investment opportunities in Malaysia, it is not surprising that none has criticised the Malaysian government's racially discriminatory policies. For example, Amanah Saham Nasional, which is ultimately secured by all Malaysian taxpayers, is open for investment only to "bumiputras". Other racially discriminatory stipulations relate to loans, end-financing and the like and these are openly advertised in the media. Newspapers advertise houses for bumiputras - irrespective of class or means - at a price at least 5 per cent below that offered to other Malaysians.

Bumiputraism has not been effected without its costs. The recent unprecedented challenge to the UMNO leadership within the Malay ranks is perhaps a major consequence as "Malay unity" was the dominant theme in the Malay-language media. The NEP has also produced the largest civil service of all countries in the region, a grave liability at a time of scarce funds. There are now at least 40 public enterprises and about 900 off-budget agencies, many of which have suffered unaccountable losses. The former Auditor-General has

commented that:

"A great number of the estimated 900 companies set up by statutory bodies and government agencies should be liquidated, as to continue with them will flush good money down the drain. These companies have no hope of ever making profits, let alone repay the huge loans they have taken from the government, but continue to exist through short-term advances from their parent companies or political patronage".

Last year's wage demands by public sector unions saw Malay unionists waving placards which suggested that "bumiputra" policies do not necessarily benefit the bumiputra masses.

As for eradicating poverty in the bumiputra community itself, the efficacy of the NEP's methods is also questionable. Agronomists have time and again stressed that the main cause of poverty and backwardness lies in the unequal access of small farmers to farm inputs, especially land, credit and other factors of production. Land reform has been consistently recommended by experts since colonial times but this has not been followed because of political connections of the landed interests in UMNO.

The government has instead opted for the hugely expensive land development schemes, which continue to drain the public coffers. The development and resettlement cost per settler family based on an average 10-acre

plot increased from M\$37,000 in 1980 to M\$51,000 in 1983. Accessible prime agricultural land is becoming scarce and unit cost of such land schemes is getting more expensive by the year, not to mention the incalculable cost to the natural rain forest environment.

Apart from the NEP's failure to solve the fundamental causes of rural poverty is the alarming tendency to associate poverty only with "Malay" poverty. This official attitude has led to widespread resentment among non-Malays and the disaffection with the ruling coalition among the urban electorate at last year's general elections was a clear indication of this feeling.

At the recent UMNO general assemblies, the top Malay leaders did not stop pandering to communalist politics. Dr. Mahathir's protege Anwar Ibrahim said:

"We will like to remind (critics of the NEP) that efforts to eradicate poverty among rural Malays should be continued because they are relatively far poorer than the urban population".

Such a cursory attitude toward poverty in the non-Malay sectors defies common morality when only recently slave-labour conditions were discovered among Tamil estate workers at Selanchar Empat. In the plantation sector, one in five Tamil pupils drops out before completing primary education. While plantation owners have reaped handsome profits over the years, wages and conditions of estate workers have remained appalling.



Among the Chinese, the problem of poverty in some New Villages (into which predominantly Chinese Malaysians were herded during the 1948-60 war against communist guerrillas) is likewise sidelined on the grounds that, according to the UMNO leaders:

"We do not deny the need to develop New Villages but what we would like to correct is the misconception that these villages are backward and neglected".

In fact, a survey conducted by Universiti Teknologi Malaysia in 1984 found that more than two-thirds of the households in Hilir Perak New Village earned less than M\$500 monthly. This is less than the M\$550 rural mean income for Peninsula Malaysia and excludes the fact that the average New Village has double the household size than the national average. These poverty incidences in the New Villages are confirmed by several surveys done by the government's own research bodies.

There is a stark incongruity in government expenditure. Between 1970 to 1985, the development allocation for New Villages totalled only M\$61 million for a total New Village population of 1.6 million (1.3 million of which are Chinese). This is seen against federal government development expenditure of M\$198 million in 1970 alone and M\$7,991 million for 1981-85 on agriculture and rural development in which Malays predominate. For the same period 1981-85, the Fourth Malaysia Plan allocation for New Villages was M\$20.5 million.

Thus when the NEP is reviewed, it is surprising that the basic premise of "racial imbalance of wealth holding" could have been accepted at all. How could a unifying economic policy ever have been justified on the basis of "race" when each ethnic community in Malaysia had its own elite class and poorer majority in the first place? It was a foregone conclusion that the so-called "restructuring of the economy" would only be an instrument of greater wealth creation by those in power.

Besides the effects of the NEP on class polarisation, the other alarming cost is its disastrous effect on ethnic relations in general. Meanwhile, the Mahathir administration seems set on extending the NEP beyond the 1990 deadline. The vested interests have enumerated the benefits, critics of the NEP have counted the costs, but as always, it is the ordinary folk of all ethnic communities who pay the price.

(6 May 1987)



## Chapter 7

# A PORTRAIT OF THE INTELLIGENTSIA AS AN ASPIRING CLASS

*(This article, which appeared in the Nanyang Siang Pau during the Gopeng Byelections, launched a heated debate in the Chinese-language press lasting more than a year)*

**T**he current attempt by some Chinese intellectuals to salvage the MCA from its battered image and the mutual advantage each draws from the other provides an amusing scenario for the political observer. The middle class (or "petite bourgeoisie" in European sociology) is certainly the most problematic and contradiction-ridden.

The rise of fascism in Europe before World War II provided the most significant opportunity for political sociological study of the class nature of the middle class and "petty bourgeois" ideology. Then, we saw a bour-

geoisie in decline obtain the support of this "middle" class. It was from this latter class that political personnel were recruited for the top ranks of the state apparatus. This middle class became the "class in charge" of the fascist state in Germany and Italy. It was a situation in which big capital and the petty bourgeoisie grew closer by stages.

Certainly we are nowhere like the fascist state of pre-war Europe although the irrationalism and denial of democracy in official spheres bear certain comparisons. Our Chinese Malaysian intellectuals are also unlikely to be able to gain control of the state apparatus. They may be able to become Ministers or Deputy Ministers in lesser portfolios and that is all. When we bear in mind that the Umno leaders do not care that much about the representatives of Chinese big capital in the government, what makes our intellectuals think that they would be able to achieve any more? Do you really think the Mahathir administration worships PhDs like some in the Chinese community?

Middle class ideology provides an amusing - if exasperating - object of study. Its ideology is the product of the influence of the dominant ideology on the former's own aspirations. This middle class is thus in an ambiguous class position - it aspires to join the upper class and this aspect often takes elitist forms. It is an attitude that is widespread among some intellectuals as we see them yearn for their PhDs, LLBs and such other academic titles in the way to demand unjustified privilege and status in the

community.

While some of these intellectuals have "made it" in the existing political parties, others have chosen the alternative stepping stone for their ambitions - the Chinese Guilds and Associations - by the publicity which these command in the Chinese community. This latter breed are fortunate only because of the present discredited image of the MCA. In better times, the MCA would not have been that desperate to choose "compromise" candidates.

In the Chinese community, this aspiration of the intellectual is not that difficult to quench when the representatives of big Chinese capital in the government are seen as inadequate. This is therefore a glorious opportunity for them after the Pan-El and Cooperatives scandals when the Chinese public have become free of the traditional emotional attachment to the MCA. The cooperatives scandal hit them where it hurts most - the pocket. All this has fed the middle class ideology of the social ladder and social mobility.

However, we find many from the middle class borrow from working class ideology and deflects and adapts it to the former's own aspirations. This is seen in the necessity for the aspiring intellectual to appeal to his "working class" or such humble origins in order to win popular support. Thus we see how candidates in a Ne Village constituency would advertise that they were the same boat with the poor and the wretched. They

not of course stress their present well-being, that they own a nice house and drive a nice car or that others who would not dare to claim such humble origins do not own a house.

That these intellectuals feel the need to borrow from working class ideology is also seen in the way some mouth "socialist" slogans and quote socialist philosophers out of context to justify their politics. We even see some advertise their past glories in the former Labour Party to support the ruling Barisan Nasional. The worst of all was during the 1982 general elections when some supporters of the BN advertised the fact that they were former political detainees. The devotees of these intellectuals naturally lap up the half-baked philosophy since it provides them comfort in their secure middle class niche and steadies their conscience as supporters of an undemocratic government.

The delusion that these middle class intellectuals suffer from is that they can be the "arbitrators" of society, that they are a "neutral" class. The other delusion they suffer from when they desperately try to claim working class origin is that class nature is not solely an economic conception. This is demonstrated most clearly in the phenomenon of the "labour aristocracy" or working class leaders who sell out the workers. What is more relevant in defining "class nature" is rather, ideological and political relations.

Thus, through history and in every society, there

are always also intellectuals who are clear about their political and ideological orientation, who preserve their moral integrity, who do not sell their principles in the struggle for human and democratic rights, who are determined to serve the people and not their private ambitions.

Talking about human rights and democracy brings us to the Joint Declaration of the Chinese Guilds and Associations. It is gratifying to see people during the Gopeng byelection invoking the Joint Declaration. But before this historic and meaningful document is tossed around by democrats and non-democrats alike, let us remind the political parties of its essence.

The Joint Declaration 1985 represents a consistent commitment to democracy. It does not only demand "Chinese rights" as many in the communalist parties seem to misunderstand. It calls for the defence of the human and democratic rights of all Malaysians regardless of ethnicity and gender and demands some positive sign that the political parties will not fail the people. The recent failure by the Chinese-based BN parties to defend Malaysian democracy (what's left of it) by opposing the OSA Amendments is one example of those who demean the value of the Joint Declaration. Therefore, unless our new reforming or reformist intellectuals tell the people in concrete terms how they will act when the next undemocratic Bill comes through Parliament, the people should not be fooled by such useless evocation of the Joint Declaration.



The other important principle, in fact the very first clause in the Joint Declaration, is the deep concern for the resolution of communal polarisation in Malaysian society. Intellectuals who can reconcile their principles and rationality to support monoethnic political parties betray their moral and intellectual integrity.

My advice to aspiring intellectuals is this: Don't mystify knowledge even if you do not see the truth. You do not need to be a PhD or to know three languages in order to vote against the OSA for a start. To the non-aspiring intellectuals: Do not despair. Continue to defend democracy, to serve the people and the community for the truth will always prevail and the people will win.

(7 April 1987)

## Chapter 8

# HUMAN RIGHTS AND THE PROTECTION OF MINORITIES

*(A Submission to the 10th Lawasia Conference in  
response to Dr. Chandra Muzaffar's paper)*

**W**hile we may agree with a few observations made by Dr. Chandra in his paper (Human Rights No.7), we feel that his presentation has tended toward a sociology of majority-minority relations in Malaysia. The consequence of his approach has meant the failure to elucidate the legitimate grievances of minorities in Malaysia. At the most fundamental level, he does not point out whether, based on international conventions regarding the protection of the rights of minorities, there are breaches of their human rights in Malaysia.

### **The Concept of Minority**

Despite the relativity of the notions of minority and

majority especially in the varying contexts of power relations, the concept adopted by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities is acceptable in our case:

"...it is possible to draw up a tentative definition of the term 'minority' solely with the application of article 27 (of the International Covenant on Civil and Political Rights) in mind. In that precise context, the term 'minority' may be taken to refer to: a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members - being nationals of the State - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language".

On this point it is also worth noting the principles set out in article 27 of the International Covenant on Civil and Political Rights:

"In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language".

## The Erosion of Minorities' Rights in Malaysia

Dr.Chandra Muzaffar takes for granted the Malaysian Government's definition and division of the people into "bumiputra" and "non-bumiputra". This dichotomy is strictly a racial criterion which should not be accorded undue legitimacy. It is surprising that Dr.Chandra should have decided to "prefer the bumiputra/non-bumiputra categorization". His classification is based on:

"Bumiputras (indigenous peoples) and non-bumiputras (non-indigenous peoples) ...then the minorities would be Malaysians of Chinese, Indians and other such ethnic origins - that is, those who are descended from immigrants who came to the Malay world in the latter part of the 19th and early 20th centuries " (pp.1,2).

It is precisely because the problems confronting minorities spring from this dichotomy of "bumiputras" and "non-bumiputras" that we should not take it for granted or as "given". The rights of the minorities in Malaysia have been eroded through the years through the bumiputraist policies of the government. These rights cannot be compromised by the sentiment in much of Dr.Chandra's paper that somehow things are "not that bad" (own emphasis), such as when he says:

"...it would be wrong nonetheless to exaggerate the gravity of the present situation. Non-Muslims are not be

ing persecuted. Non-Muslims are not oppressed..." (p.9)

"... there is no denying that some of the non-bumi-putra grievances about their languages are unjustified..." (p.10)

It is important to challenge such questionable premises because we are all too familiar with the attempts by many undemocratic governments to legitimize their actions by pointing out worse breaches by other regimes. True, we have not reached the point of degradation and barbarism. At the same time, the riots of 13 May 1969 are a reminder of the depths that can befall our nation. The riots surely feature among the worst communal violence in recent world history and demonstrate that injustices and discrimination against minorities can have dreadful consequences. The economic, social and political costs are even more incalculable.

The grievances of religious minorities in this country are serious enough for all these religious organisations to form a 'Consultative Committee of Buddhist, Christian, Hindu and Sikh Religions of Malaysia'. Their complaints against the "Islamization" policy of the Malaysian can be gleaned in 'Contemporary Issues on Malaysian Religions' (Pelanduk, 1984). Grievances pertaining to the government's economic, social, political and cultural policies can be seen in 'Joint Declaration 1985' by the Major Organisations of the Chinese Guilds and Associations in Malaysia; 'Defining Malaysian Culture' (K.Das/Resource & Research Centre, 1987);

'Malaysian Cultural Policy and Democracy' (Selangor Chinese Assembly Hall, 1990); 'Polarisation in Malaysia: The Root Causes' (K.Das/Resource & Research Centre, 1987).

Allow us to list a few examples of the legitimate grievances of the non-Malays in Malaysia:

- 1) The Government's 'National Culture Policy' - defined officially as having to be based on "the indigenous culture", Islam principally - has had discriminatory effects on the non-Malay communities. Consequently, there has been a conspicuous lack of official support for the cultural activities of the non-Malays.
- 2) In recent years, the implementation of the National Culture Policy has seen such injustices as stipulated cultural items in school programmes which exclude non-Malay cultural items; proscription of Chinese characters in signing cheques and signboards. At Setapak, Kuala Lumpur in 1983, Chinese signboards were demolished and trodden on by Municipal enforcement officers. As recently as August 1987, this proscription of Chinese signboards was a major issue at the Seafood Carnival in Johore Bahru, which led to anger and loathing among the Chinese participants (*NST*, 25-8-87).
- 3) Some non-Malay cultural performances have

been refused police permits for unspecified reasons. There is discrimination in the sponsorship of cultural activities by the government; grossly inadequate media space and time allotted for the non-Malay cultures. The Government has even repudiated the contributions by non-Malay Malaysians in the country's history by renaming roads (eg. those around Titiwangsa) formerly bearing non-Malay names. New buildings and roads are rarely given non-Malay names.

- 4) The National Culture Policy considers only Malay literature as "national literature" and the Government does not provide strong and material support to Malaysian literature of the other Malaysian languages. For a start, awards for literature are unlikely to be given to works written in Tamil or Chinese since the judges cannot read these languages.
- 5) The various representatives of the religious orders in Malaysia - Buddhism, Hinduism, Christianity, Sikhism - have enumerated their grievances over the Government's policy and implementation. Among these, mosques and suraus are being built everywhere by the Government while bureaucrats make it difficult for non-Muslims to build their own temples and churches; burial grounds are not provided for non-Muslims.

- 6) Islam is being taught during school hours to Muslim pupils but there is no opportunity given to the teaching of other religions to non-Malays. Furthermore, only Islamic civilisation is taught to trainees in Teacher Training Colleges "so that they will understand Muslim students". However, other Malaysian religions are not taught to students so that they may understand non-Muslim pupils.
- 7) The freedom of worship was eroded when there was objection by the Municipal Council to the construction of the \$1.2 million Kuan Yin statue at the Kek Lok Si Pagoda Temple in Ayer Hitam, Penang. There were also objections to the construction of churches like the Sacred Heart Cathedral in Kota Kinabalu, Sabah; the \$2.5 million Buddhist Temple in Kampong Tanah Merah, Sandakan; the \$400,000 Sikh Temple at Mosque Road, Kuching ( See Lim Kit Siang, 'Malaysia: Crisis of Identity', 1986, pp.40-44; See also Appendix IV by the Malaysian Buddhist Youth Association in 'The Joint Memorandum on National Culture' submitted by the Major Chinese organisations in Malaysia; The Memorandum on National Culture by the 10 Major Indian Associations of Malaysia).
- 8) In the economic sphere, the implementation of the Government's New Economic Policy has seen many instances of discrimination against



"non-bumiputras". The MCA, one of the components of the ruling Barisan Nasional coalition, is currently compiling all these grievances. In some cases, non-bumiputra-owned businesses have been terminated and given to bumiputra businessmen, eg. the Boon Brothers' petrol station at Sitiawan (See Lim Kit Siang, 1986:394).

- 9) The discriminatory practices in the civil service are shown in the facts and figures available. The promotional prospects of non-Malay civil servants are dim. In the last two decades, there has been not a single non-Malay Vice Chancellor in any of our universities although there is no lack of amply qualified candidates. In the many civil service departments, bumiputras monopolise most of the top posts at federal, state as well as district levels.
- 10) The preferential granting of permits, licences, allocation of housing, and the like are made on the basis of "race" (ie. one has to be a "bumiputra") and this has led to many grievances among deserving non-bumiputras. In cases like FELDA schemes, less than 5% of settlers are non-bumiputras. The recent Trade and Industry Ministry guideline that 51% of new shares offered in public issues must be reserved for bumiputras is also blatantly discriminatory. In 1985, new property assessment rates decided by the Batu Pahat Town Council stipulated one rate for bu-

miputras , who were allowed up to 50% discount, and another rate for non-bumiputras (See *The Star*, 6-11-85). The Amanah Saham Nasional, which is ultimately secured by all Malaysian taxpayers, is open for investment only by "bumiputras". Bumiputras are publicly offered houses and loans at a rate which is lower than that offered non-bumiputras. All these are instances of blatant racially discriminatory policies and practices against the non-bumiputras in the country.

- 11) There are stark incongruities in government expenditure directed at the different sectors. For example, between 1970-85, the development plan allocations for New Villages ( 1.3 out of 1.6 million New Villagers are Chinese) totalled only \$61 million. On the other hand, federal government development expenditure on agriculture and rural development (predominantly Malay preserves) was \$198 million in 1970 alone and \$7,991 million for 1981-85. In the same period 1981-85, the Fourth Malaysia Plan allocation for New Villages was \$20.5 million.
- 12) The implementation of the New Economic Policy in Education has given rise to great dissatisfaction among the non-bumiputras. The quota system for enrolment is a source of much loathing. From 1970-83, enrolment of bumiputra students in the domestic tertiary institutions

funded by the Government increased from 53.7% (or 6,106) to 73% (40,193). On the other hand, enrolment of non-bumiputra students declined from 46.3% to 27% (calculated from the *Fourth Malaysia Plan*). In 1983, 69.4% of university students were bumiputras, while 30.6% were non-bumiputras (NST, 8-7-85). In 1985, 94.5% of students in diploma courses in local institutions of higher learning were bumiputra (*Fifth Malaysia Plan*, p.552). In 1980, only 1% of students in Mara Junior Science College were non-bumiputras. In 1982, even this 1% intake of non-Malays was done away with (See *The Star*, 20-4-85). Like the rest of the New Economic Policy, the quota system is based on "race" instead of socio-economic status, which is the main reason for the revulsion by the non-bumiputras. Applications for admission into matriculation courses in local universities are invited from bumiputras only. Such advertisements are found in local newspapers. As for the availability of scholarships for non-bumiputras, exact figures are hard to come by, but these are rare and far between. This discrimination is reflected in the figures of non-bumiputra Malaysians studying overseas: There are 61,000 Malaysian students (the majority of whom are non-Malays) abroad, the highest ratio of students abroad to population anywhere in the world.

- 13) Apart from the effects of the New Economic Policy in education, the Government's education policy has been unjust to mother tongue education of the non-Malays. In 1961, the Education Act at a stroke did away with the hitherto State-supported secondary schools using Chinese as the medium of instruction. From then on, Chinese secondary schools could no longer qualify for state financial assistance. In 1981, the application by the Chinese community to set up 'Merdeka University' was quashed by the Government. Today (August 1987, 30 years after Independence), the Government is in the process of reviewing the Education Act and has been hinting for more than a year that the "National Education System" would only be in one main language stream, ie. Malay. The non-Malays rightly feel that they have been culturally oppressed since before Independence the Chinese Malaysians had an entire education system right up to University level. Now even their primary schools are under threat.
- 14) The Government's allocation of funds to the different streams of primary schools show a distinct discrimination against the non-Malay streams. Official figures are particularly difficult to obtain in these areas but where it was possible, in 1983, it was found that Chinese primary schools only received 3.4% of the total allocation of funds for primary schools.

- 15) Within the State education institutions, non-Malays have many grievances. Recently, there was a further outcry over the necessity for non-Muslims to wear the Malay 'songkok' and 'tudung' at the university convocation ceremony (*NST*, 25-8-87).

The instances enumerated above are by no means exhaustive. Many occurrences and injustices against non-Malays are not documented for the simple reason that they fail to be reported in the press, which tends to be more responsive to the sensitivities of the Government than to the discriminated Malaysians. The fact that the non-Malays in the country have not resorted to untoward responses should not be taken to mean that things are "not that bad", as Dr.Chandra seems to imply. Many non-Malays from the professional and middle classes have chosen to "vote with their feet" by migrating to other countries. We certainly regret their decision to do so but the responsibility for this must lie squarely on the Government. Despite the absence of any major incidents of the proportion of the 1969 riots, it is the widespread consensus that communal polarisation is one of the most serious problems in Malaysian society today. Therefore, although our country has not declined to the standards of barbarism practised in some other countries, we should judge the situation here based on internationally recognised standards of democracy, human rights and natural justice.

Regrettably, Dr.Chandra's equivocal stand merely

gives legitimacy and justification to the government's actions. This is further seen when he says:

"...many non-Muslims have chosen to ignore the role and position of Islam in the historical and political development of the country. Islam is, after all, the religion most intimately linked to the history and culture of this region. It was the basis of law and State organisation before the advent of colonial rule. Besides, Islam provides tremendous social cohesion to the Malay community. The non-Muslim minorities must try to understand this..."

As with his presentation of the language problem, Dr.Chandra has confounded the issue with some red herrings. His quote immediately above has first to be backed up by concrete evidence of how, if any, "many non-Muslims have chosen to ignore the role and position of Islam in the country". Unless he can do that, it is an unjustified blunting of the legitimate grievances of the minorities for it appears to be a plea for "understanding" the government's actions.

## **The Minorities' Grievances in Language and Education**

It is important that we clarify the grievances of the non-Malay minorities regarding language and education since Dr.Chandra has misunderstood and misrepresented their case. He coaxes the government thus:

"By encouraging Chinese or Tamil as subjects within a Malay language-based school curriculum, there is no danger at all of any other language displacing Malay " (p.10)

At the present, the main apprehension in the Chinese and Tamil communities is the possible review of the 1961 Education Act in such a way that might mean the demise of Chinese and Tamil-medium primary schools in Malaysia. In other words, they are opposed to the attempts to change the character of mother-tongue education which has existed since pre-colonial times.

Their grievances are justified for not only is the right to mother-tongue medium of instruction grounded in the Federal Constitution and the 1957 Education Ordinance, it is endorsed by many international conventions. Besides article 27 of the International Covenant on Civil and Political Rights, this right is conferred in article 2.2 of the International Covenant on Economic, Social and Cultural Rights as well as various recommendations of UN Commissions and Sub-Commissions, including the World Conference on Cultural Policies, 1982.

Dr.Chandra misrepresents the cause of the non-Malay minorities when he confuses their demand for cultural democracy - e.g. the right to use, sustain and promote their mother-tongue languages and cultures - as a challenge to the status of Malay as the national language and lingua franca of Malaysia:

"Given this (historical) background, it is not right for non-Bumiputras to demand that their languages be accorded the same status as Malay . To regard all Malaysian languages as equal and on par is to degrade the Malay language since it would tantamount to a repudiation of its unique significance". (p.10)

As with the previous mention of the religious issue, Dr.Chandra has failed to point out to the concrete instances when the non-Malays have challenged this status of the Malay language. This is most unfortunate for the cause of the minorities. We would like to further point out that while the demand by the non-Malays for the acceptance of their languages as "official languages" of this country was a demand of yesteryears, we fail to understand how any democrat could possibly see this as illegitimate.

Why is it inconceivable to have a national and common language in a country which at the same time has several official languages? Countries such as Singapore, Switzerland, Canada have been practising such a policy with no undue social or political problems. It is somehow unconvincing that the history of Malaysia or its composition of indigenous and non-indigenous peoples is so unique that the demand for cultural democracy by the non-Malay minorities has to be subsumed.

Even in the past, the Chinese and Tamil communities in this country have never ever doubted or challenged the status of Malay as the undisputed national



## History and the Indigene

One can grasp the reason why Dr.Chandra considers that the non-Malays should compromise their legitimate rights to equality for he asks:

"Why is it that the minorities do not understand the historical background of the country which in turn affects their perception of politics, the economy, language and religion?"(p.13)

He answers thus:

"Part of the explanation lies in history itself. The non-bumiputra minorities were not part of that history. Being `outside' that history, they do not see why it must condition the present or influence the future" (p.13).

This justification for compromising the rights of minorities is most dubious and is perhaps best arbitrated by an outside, more impartial body like Lawasia or other international human rights organisations. From our knowledge (and we stand to be corrected), there is no precedent in international conventions on the protection of minorities and prevention of discrimination. It is pre-

cisely on this dubious justification based on "history" that the Malaysian government bases its refusal to grant civil equality and cultural democracy to the non-Malays.

The fact remains that, whatever the history of any country, in international law and other conventions, there is no justification for discriminating against "non-indigenes" who are nationals of a country. Such a differentiation of citizenship has failed to gain any legitimacy in the modern world community because it is universally accepted that it is every citizen's human right to enjoy equality of status. Citizenship, once conferred, is intended to be enjoyed equally by all who have made the country their own, irrespective of whether a citizen claims centuries old lineage or is merely a first-generation immigrant.

The justification for differentiating "bumiputras" from "non-bumiputras" based on "history" can be easily discredited when we expose the "racialist" basis of the differentiation. For example, what value is put on the status of non-Malays whose fore-fathers settled in the country centuries ago? And what of the Indonesians and other immigrants of recent origin who now also claim "bumiputra" status? The Minangkabau and the Bugis, for example, are relatively recent immigrants. The Malayan Census Report of 1931 pointed out that:

"Only a negligible fraction of Malay population consists of descendants of the pre-19th century immigrants...more than half of it has less than 50 years'

prescriptive right to the title 'owners of the soil'. The Malays are in fact merely immigrants of generally longer standing than the other migrant races represented in the peninsula and are in no sense an autochthonous population" (C.A.Vlieland, 'The population of the Malay peninsula').

Any nation that aspires toward unity and integration should steer clear away from notions of dominance or predominance of a "race" over others. Justifications of this sort based on "history" is reminiscent of the many historical cases of "great power chauvinism". It is a worthwhile reminder that it was precisely the exercise of such "great power chauvinists" before the First World War and the consequent plight of minorities that led to the first international effort to establish safeguards for the protection of minorities and against discrimination.

There is a further diversion from the crucial question when Dr.Chandra introduces the element of vested interests in the non-bumiputra communities:

"But more than a mere lack of understanding of history, there are vested interests in the political, economic and cultural life of the non-bumiputra communities which have a stake in perpetuating a sectarian, communal approach to various issues, whether ethnic or not. It is essential to the communal approach to repudiate the historical background of the country" (p.13).

Such vested interests in all the ethnic communities

in the country are indisputable but they do not detract from the fundamental questions involved in the protection of the rights of minorities and the prevention of discrimination. Is the legitimacy and justice of the demands by the minorities in any way depreciated by the mere fact that there are vested interests within the minority communities? Do the majority of the less well-off in these minority communities have to suffer simply because there are vested interests within their own communities?

We do not think so, and international safeguards of the rights of minorities bear this out.

### **The Poverty of Sociologism**

Dr.Chandra's sociologism fails to clarify the objective plight and situation that confront the ethnic minorities in Malaysia. Such a subjectivist approach toward "Malay perceptions" do not help to clarify the injustice of policies directed at the minority communities:

"Since 'national identity' was in a sense compromised, the Malay community has become very conscious about defending its own ethnic identity. This is what it has been doing through politics, the economy, language and now religion. The identity it seeks to protect, preserve and perpetuate could be either a Bumiputra or a Malay or an Islamic identity depending upon situation

and circumstance. But what is important to understand is that this articulation of identity - if our interpretation is correct - is essentially a defensive rather than an aggressive stance. It emerges from a sense of insecurity as a consequence of that political development we have already described - a sense of insecurity underscored... by the economic vulnerability of the community and, we should add, its narrow numerical majority. For these reasons then, the majority community is afraid to embrace the minorities fully, to accommodate them totally. It is afraid of granting complete equality to the minorities - lest it is overwhelmed". (p.14)

We certainly do not deny that the Malay community has every right to protect, preserve and promote their ethnic identity and culture but we certainly question the legitimacy - based on a subjectivist explanation - of denying equality to the minorities as a result. If such a sociologicistic (subjectivist) rendition is used as a justification for withholding minority rights, then so would a similar subjectivist analysis of "German fears of the Jews" gain unwarranted respectability for what the Nazis did in Germany before and during the last war.

It is typical of the sociologicistic method to abstain from making a judgement of the objective reality. Dr.Chandra's detached position gives cold comfort to the ethnic minorities. He asks:

"What then is the solution? There is no easy, ready-made solution. Perhaps the solution lies with the

majority community. If the majority community, or at least a significant segment of it, develops a sense of confidence about its own identity, its own role, then genuine integration of the minorities may be possible..."

The minorities cannot surely be asked to endure the injustices meanwhile, hoping for this "identity crisis" of the majority community to sort itself out. Besides, Dr. Chandra seems to take too much for granted when he seems to overlook the fact that there are vested interests in the majority community which are most intent to perpetuate the unjust policies and therefore in the process perpetuate this "identity crisis". Every Malaysian is aware of the fact that "bumiputrahism" is a most active, pervasive and dominant ideology in the majority community.

Reason and rationality seem to have reached a point where outside arbitration on these critical issues is necessary. A just solution to the problem of communal polarisation in Malaysian society is every concerned Malaysian's ardent hope.

(17 August 1987)



## Chapter 9

# SENTENCING RAPISTS: Aims and Assumptions

**T**here has rightly been anger and indignation at the almost daily reports of increasing incidence of rape, murder or other forms of violence against women and children. Although the crime statistics relating to rape are notoriously the most understated because of the reluctance of women to report them for various reasons, nobody could have missed the alarming increase of rape cases reported in the local press of late.

Through this outrage, the most common response has been to demand tougher rape sentencing policy. There has even been a demand in some quarters to hang the rapists. While many women's groups have demanded that the law should take a tougher line against rape, such as a minimum sentence, none has demanded the death penalty. This is simply because this is inconsistent with



declared international standards which consider capital punishment as a form of inhuman punishment and absolutely unacceptable for any crime.

More fundamentally, such hysterical and primordial responses miss the main issues behind rape and other forms of violence against women and children. The essential questions to ask are:

- Can, or does the law protect women from rape?
- Can we realise better protection?
- What are the underpinnings of a rape sentencing policy?
- Does such a policy attack the real and ideological oppression of women?

A critique of the criminal justice process in general can expose the discriminatory application of rape laws and at the same time, point to the need for change in societal attitudes toward women in general.

Without a doubt, law and legal sanctions are part of the strategy against rape, but it will not necessarily solve the rape problem. The leniency by courts toward rapists in many countries is a source of concern. In practice, the distinction between deterrence and retribution in sentencing policy is a fine one.

Firstly, sentencing policy should embody a "denunciatory effect" as suggested by many women's organisations, rather than give in to the primordial urges

for retribution. This is the main aim behind the call for a minimum sentence for rapists. It is a demand to recognise rape as a form of VIOLENCE AGAINST WOMEN rather than a sex act. They have suggested that rape and other forms of violence against women should be seen as "gender specific". The simple logic in this is that men rape women - women do not rape men.

The denunciatory effect would at least serve to highlight the seriousness of the issue and question the position of women in society as a whole. Equally important aims of a rape sentencing policy are, of course, protection for women and children and deterrence to the would-be rapist. Beyond the minimum sentence, the degree of severity of each particular crime of rape should be taken into account, eg. those involving brutality, humiliation and mutilation.

## **The Law's Assumptions about Women**

To understand the law relating to rape and women in general, there are two basic assumptions underlying it. Firstly, the law sees as 'normal' dependency of women on men; and secondly, that female sexuality is totally passive. These assumptions are not only built into the law, they are widely entrenched in the dominant attitudes of male-dominated society. The laws perpetuate the theme of "protection" in numerous ways. From inheritance claims to hire purchase agreements, women are seen to be different and unequal in terms of rights.

But does the law protect women who have the misfortune of falling into unhappy marriages with less than sympathetic and uncaring husbands? The unfortunate evidence in many countries would seem to suggest that the 'normal', 'happy marriage' exists more on Hollywood celluloid than in the real world.

There is no concept in law of rape inside marriage. Two hundred years ago, Judge Hale said: "The husband cannot be guilty of a rape committed by himself on his lawful wife for by their mutual matrimonial consent and contract the wife hath given herself in this kind unto her husband which she cannot retract". This assumes that 'consent' once given is true for ALL time and belies the numerous lenient sentences handed out to rapists and even, murderers of estranged wives.

Violence in marriage is an increasing problem in many societies. Britain, for example, has over sixty women's refuges, established mainly by voluntary women's groups. Indeed such refuges and support networks for victims of rape are crucial requisites in the war on rape. Countries like ours should always keep in mind that besides the percentage point in GNP, other indices of development and progress should include ever-improving and reliable medical and criminal statistics and state provision of women's refuges and child-care facilities.

When the British Domestic Violence Act 1976 was in its discussion stage, "battering" was considered a mi-

nor problem indulged by husbands in the lower classes and did not warrant the expense of providing security to the women involved. Eventually the Act was passed and it enabled wives to be protected by the courts from violent men without the need for divorce proceedings. However, in practice, there continues to be judges who refuse to acknowledge that a law has been passed which gives priority to a woman's bodily security over a man's right over his "property".

The discriminatory aspect of the law can also be seen in the varying sentences given to men and women found guilty of murder within marriage. To cite some British cases, Jane Asher was strangled to death by her husband in the bathroom of a house where they had both attended a party. She was supposed to have "carried on" with other men. The husband was let out of prison after only ten weeks. The attitude of the court had indicated that Jane Asher was somehow "at fault", that somehow her behaviour precipitated her own violent death. The judge told Gordon Asher: "...having spent ten weeks in prison and had the remorse which I'm told you feel, you have suffered enough".

On the other hand, in another case, a Mrs. X had been violently beaten over eight years by her husband and father of seven when she stabbed and killed him. She was sentenced to six years in prison. The judge pronounced: "...We cannot hold that the sentence imposed was excessive, indeed it could have been higher".

The Jane Asher case and others bring out one of the most alarming assumptions made by the law about women, about female sexuality and about the behaviour of some women. It does not refer to the motivation for the rapist's behaviour. Thus, instead of the man who is in fact culpable, it becomes the woman who is seen to be culpable.

The culpability of the woman victim is often claimed when she is said to have "brought it on herself" by being out alone at night; by befriending men in shopping complexes; hitchhiking; behaving extrovertly; was "known" to have previous sexual relations with other men; etc. Judge Bertrand Richards said while fining a man for raping a 17 year old girl: "I am not saying that a girl hitching home late at night should not be protected by the law but she was guilty of a great deal of contributory negligence". Another High Court judge added: "It is the height of impudence for any girl to hitchhike at night. That is plain it isn't really worth stating. She is in the true sense asking for it".

As it turned out, the girl who was raped had no choice that night as there was no other available transport home. But whether she was sensible or not is beside the main issue, which is, that rape should be seen as a **SERIOUS OFFENCE** under **ANY** circumstances. As in domestic murder, such sentencing and its assumptions imply that any woman hitchhiking would not find redress in the law and that any man who gives her a lift could rape her with little fear of stern punishment. It

begs the question, what is a "safe" place for women when rape occurs in the home and in many "unprovocative" situations.

In such rape "scenarios", with evidence produced of the victim's "contributory negligence", the offender's action is seen as a normal reaction to the victim's behaviour, an extension of 'normal' male/female relations. This is the pronouncement by one Justice Glynn in 1977:

"It does not seem to me that the appellant is a criminal in the sense in which the word is used frequently in these courts. Clearly, he is a man who, on the night in question, allowed his enthusiasm for sex to overcome his normal behaviour "

Another alarming assumption of the law is that "victim precipitated" rape is sometimes justified by the status of the victims, such as, that they were "loose women", prostitutes, and the like. This "justification" not only places the blame on the victim, it often carries with it the claim that this type of women enjoy rape anyway. Such attitudes are often reinforced by some of the so-called fashionable writers in trendy hip society. This claim also assumes that the report by the rape victim is questionable. Judge Sutcliffe said in the Old Bailey in April 1976: "It is well-known that women in particular and small boys are liable to be untruthful and tell stories".

Those who might assume that rape victims are liable to be untruthful might want to look at the evidence by

the New York City Rape Analysis Squad which found that only 2% of cases reported were false and this figure is not out of step with false charges made for other serious crimes.

In Britain, the Sexual Offences Act 1976 was designed to protect women from unnecessary interrogation into their previous sexual history. It was established that such evidence can only be introduced by application of a judge in the absence of a jury. However, suspicion continues to fall on the victim of rape in cases. Time and again, the media-attention, the focus is on the victim.

Women are seen to be culpable if they do not belong to the "norm". Prostitutes are most often seen to be culpable. It is as if it is inconceivable that a prostitute could be raped. The corollary of this assumption usually is... "in any case, if a prostitute is raped, who cares?"

Although this may not perturb those who harbour "high morals", the implication of this assumption is actually deadly serious for it affects all women in general. This point was most clearly demonstrated in the horrific Yorkshire Ripper case only a few years ago. For it was only after "respectable" women were raped that the law began to take serious note. Lord Denning said in 1982: "Some were prostitutes, some were women of easy virtue, but the last six attacks involved victims whose reputations were totally unblemished... some were prostitutes but perhaps the saddest part of the case is that some were not".

## Popular Sexist Stereotypes

We can therefore see a set of assumptions of sexist stereotypes which is against the interest of women in general. Far from **protecting** women, these laws and their assumptions are very often used against their ultimate interest. These assumptions extend beyond the law to popular consciousness. For example, many people feel an ambiguity of response toward some sexual crimes and sexual activity. After all, it is to a large extent "socially acceptable" to enjoy violent sex films, sexually titillating advertisements, 'masculine' aggression, feminine passivity, etc. The hypocritical strong response is also seen in many men's call to "hang rapists" and the like as if to infer that rapists and other sex offenders are deviants or a species apart.

Research on criminal records of sexual offenders and rapists show that they are not necessarily "maniacs" as many moralists try to make out. The fact that many of these are "ordinary" people must raise questions about the attitudes of society as a whole. By describing rapists as deviants, some men are absolving themselves from any responsibility. Women are constantly being lectured at on a list of "right behaviour" but somehow the question of educating men is seldom raised.

The only 'safe' society where women are protected is a society of socially responsible men and women who do not condone derogatory behaviour towards women in



general; who do not find amusing films and images of women which degrade them; who do not practice double standards of being the "happy family man" who is at the same time the wandering-eyed (and even wandering-handed) flirt. As long as women are thought of and seen as under men's "protection", this power relation will always mean the subjection of women to the threat of violence. Rape and other forms of violence against women and children will only be solved when society focuses on the root causes, the perpetrators of these crimes instead of the victims.

In the short-term, women do need protection in the form of "safe" houses from violent husbands and other men; protection in the form of deterrent sentencing of rapists; an extended legal definition of rape to cover those perpetrated by boys below the age of consent as well as all forms of sexual humiliation of women. Women will only be encouraged to report all rape and other sexual attacks when the police and law enforcement officers reconsider their interpretation of rape reports and employ tact and understanding in dealing with rape victims.

In our own society, statistics should be judiciously kept so that comparisons can be made between the sentences given to men and women for the same offences and to ensure that the defence in rape cases do not rely on sexist stereotypes of women. All the other points observed in other countries should be followed up to see if the same conditions prevail here.

The point must be driven home, that whatever a women's behaviour, however a woman dresses, there is no justification for rape. To recognise this fact is to appreciate the full meaning of the CIVIL RIGHT of women to be treated as equal legal 'persons' in every aspect of life, without discrimination in law or in fact.

(8 August 1987)



## Chapter 10

# ON CORPORATE IMMORALITY

**I**n the topical discussion of our "society's sickness" one hears the ready remedy of "moral revivalism" (or "resurgence", depending on your faith), with the names of the old sages and prophets being invoked in the process. To talk about injecting 'corporate morality' into this system is, in the words of the financial fizzkids of London's City, "... a bit of a laugh" (*The Guardian*, 8-2-87).

The latest bout of scandals galore in the international corporate world is by no means a recent spate of deviance among the corporate captains of capitalism. From time to time, when such mammoth fraud and dishonest dealings have been uncovered, the attempts to pin the blame on a few culprits have followed swiftly. Thus during the 70s, the Lonrho scandal produced the conven-

ient response to hive this off as the "unacceptable face of capitalism".

Capitalism is about letting the free market rule. The difference between myth and reality is paralleled by the difference between "honest" capitalism and "dishonest" capitalism. In theory, in honest capitalism market dealings are proper and above board whereas in dishonest capitalism, the market is rigged in favour of the big fish and powerful. When times are good, wheeling and dealing can be largely undetected behind the suave veneer of the corporate world. When times are bad, such as during the desperate days of Carrian and Pan-El, the carryings-on by the erstwhile corporate darlings become too embarrassing for salvage.

In this country, the big bubble that was created about the "captains of industry" and "community heroes" burst when Tan Koon Swan was exposed for his criminal breach of trust. It is well known that if it had not been for the economic recession and the particular state of the property market, more of these "financial wizards" would have had more time to cover their tracks.

Tan Koon Swan was certainly not simply a minority who "strayed from the moral path". The cooperatives scandal which followed exposed more rotten apples in the financial barrel. Nor is this syndrome confined to any particular community. The BMF outrage and others besides have testified to the fact. But although these

scandals uncovered are merely the tip of the iceberg, it was still revealed that between 1985 to 1986, there were a total of 6,986 corporate crimes that were investigated (*Star*, 14-3-87). These involved criminal breach of trust, tax evasion, conflict of interest, unaccounted loans, fraud and mismanagement.

In the West, recent big scandals have involved insider trading at Guinness, one of Europe's 40 biggest companies, in connection with its acquisition of Distillers Co.Ltd. Insider trading is a fraud on other investors and on the community as a whole. It has the effect of pushing up a share price of a takeover target before the bid is announced. The underlying point is that inside information and insider dealing only exist because of the non-disclosure by companies and their merchant bankers. The sole purpose of the stealth of a company preparing a takeover bid is to deprive stock market investors of information which would boost the price at which they buy and sell shares in the target company.

That is the reason why there is a demand for fuller and swifter disclosure by companies. This is to make it possible for regulating authorities to be informed at an early stage that a bid is being considered. They could then decide when and in what form the information should be made public without misleading investors.

In the US, insider trading by Ivan Boesky produced a scandal recently that has rocked Wall Street ever since. In November 1986, Boesky was ordered by the Securi-

ties and Exchange Commission to pay a fine of US\$50 million and return an additional US\$50 million in profit to investors for allegedly basing his investment decisions on inside information. In February 1987, senior executives at two of Wall Street's largest and most prestigious investment banking firms were also charged with insider trading. The merchant bankers profited personally from mergers in which they acted as advisers.

If devotees of the Look East policy have illusions about the higher moral uprightness of Japanese corporate bosses, they would be disappointed. Gregory Clark in his article on 'Zen and the fine art of market manipulation' (*FEER*, 26-2-87) has revealed that:

"In Japan, they have refined the techniques of stock-market levitation (pushing up prices) into an art form that rivals 'ikebana' and 'haiku' "

How do the Japanese corporate wizards do it? One technique is to beat up the price of any and every share with even the glimmer of a rumour of higher earnings possibilities...

"This, of course, invites insider trading on a scale that would produce a thousand Ivan Boeskys if anyone were to try to clean up the situation... But there will be no clean-up; too many politicians rely on their own insider trading to get the funds to win elections ".

This probably says it all about a "sickness" that is

part of the political economic system in many countries in the world.

Others have also pointed out the fact that the villain is not only those who abuse the system:

"The present state of the share market leaves much to be desired. But while much of the blame must lie with those who abuse the system, the villain is increasingly seen as the system itself" (*Malaysian Business*, 1-6-86).

The crucial question therefore centres around whether there is a political will to tackle this problem which certainly has wide effects on ordinary investors as well as the general public. So far we have seen few prosecutions of the big culprits in the BMF and cooperatives scandals.

In our own system, the cancer has spread beyond the level of corporate management. During the Bank Rakyat scandal of 1979, the White Paper noted that external auditors had failed to comment on the bank's failure to maintain proper accounts, doubtful loans and high valuation of the bank's investments in stocks and shares. The auditors did nothing to warn the public and shareholders about the bank's accounts. The BMF scandal was a repeat of Bank Rakyat except on an even bigger scale. External auditors were well aware of BMF's massive loans without adequate documentation and security, yet they signed the 1981 accounts without qualification. This was repeated again in the coopera-



tives scandal. Furthermore, the fact that about 350 of the 900 government companies have been losing millions, has not been highlighted by their respective auditors. Bank Negara Deputy Governor, Datuk Dr. Lim See Yan has said that routine examination by Bank Negara officers on financial institutions continue to disclose serious lapses in the system of internal control.

Reforms of the system have mainly taken the form of regulation whose effectiveness is questionable. The trend in the West has been to hold external auditors responsible for their judgements of companies' accounts. The reasoning is that the accountant is accountable to the public and has to offer an opinion on the accounts. External auditors are technically responsible to shareholders but they are appointed by the management. So to whom do they owe their ultimate loyalty? Auditors have a duty to report any fraud they detect. Recent amendments to the Companies Act also allow for them to report to the Registrar of Companies.

There have been other suggestions that what is needed is something like a securities commission to oversee the stock exchange. The former Auditor-General Tan Sri Ahmad Noordin has said that some of the self-regulating mechanisms in the country and institutions and agencies responsible for enforcing the laws against fraud and dishonest practices in the commercial sector do not appear to be effective (*Business Times*, 28-8-86).

The call has been heard more than once for accounts

of government agencies to be tabled in Parliament.

When all is said and done, the arguments about self versus state regulation seems irrelevant when self-regulation in London still allowed the Guinness scandal to happen, while state-regulated New York saw the Ivan Boesky scandal. It boils down in the end to the classical economic theory that "all markets work on greed and fear - when the fear is low enough, greed will take over". Keynes' warning about enterprise becoming a bubble on the sea of speculation certainly rings true when we bear in mind that in just over a decade, the Kuala Lumpur Stock Exchange has suffered three severe crashes.

Property speculation has now affected the whole economic sector and is one of the factors accounting for the particularly bad shape of the current Malaysian economy. Throughout the capitalist world, the financial services sector is growing, accounting for an ever larger proportion of GDP. But it only serves to highlight the proportionate poverty and decline in the rest of the economy.

In Malaysia, the over-involvement by businessmen in the property sector and their obsession with listed vehicles has led to a deluge of companies seeking listing on the KLSE not for the sake of doing business but merely to get rich quick through making public issues. For some tycoons it is a way to rid themselves of projects with doubtful profitability by injecting these into their public

exchange for their projects and at the same time, distribute the risks to the other shareholders. In the last few years, there have been many such injection of development projects into public companies and some tycoons have made millions this way, partly helped by the bullish stock market then. At the same time, some of these tycoons have now got their fingers burned under the prevailing soft property market conditions.

In the last analysis, all this wheeling and dealing involves vast amounts of money which could be used for productive economic activity. The losers are not only the small investors but also millions of ordinary people for whom the Singapore and Malaysian Stock Markets crashed recently as a result of the Pan-El fiasco, millions in EPF and other public investments were wiped off from market capitalization due to the crash.

One thing is certain - the cure for this "social sickness" lies in more than either appeal to "moral rectitude" or mere tinkering with the system. The problem must be addressed to the depth of the rotten core.

(10 August 1987)

## Chapter 11

# MALAYSIA'S UNPRINCIPLED STAND ON FIJI

**T**he Malaysian Government's stand on Fiji after the recent military coup makes it imperative for Malaysian citizens to ask on what principles our foreign policy is based. Not many people appreciate the significant connection between a country's foreign policy and the respect for democracy within that country itself.

In September this year, Colonel Rabuka staged his second coup which toppled the popular coalition government of Dr. Timoci Bavadra. In flagrant disregard for Fiji's constitutional democracy, the Colonel announced the tearing up of the country's Constitution and made himself the Head of State.

Rabuka had staged the first coup in May this year

when he overturned the freely elected government of Indians in alliance with the Melanesian intelligentsia. The Colonel proclaimed Fiji a republic in which "Melanesians will be supreme", the familiar opportunist cry by elites in many countries who try to grab political and economic power by pandering to racism and chauvinism of the "indigenous" people. We shall look more closely at Fiji's background later.

The alarming feature of our Government's stand was seen when, on his return from the Commonwealth Heads of State Conference, the Prime Minister said, "I tried my best to defend Fiji" (*NST*, 22-10-87). It was even reported in one of our Malay-language newspapers that Malaysia is "ready to give aid to Fiji" (*Utusan Malaysia*, 22-10-87). The Prime Minister even expressed the hope that when Fiji decides to rejoin the Commonwealth it would be accepted without any conditions as "the country has always been a loyal member of the Commonwealth".

Such a foreign policy stand is bewildering. Does it mean that if a country has always been a loyal member of the Commonwealth, it should be supported regardless of the fact that a new anti-democratic regime has taken over in total disregard for the wishes of its people? What does "loyal member of the Commonwealth" mean anyway? Is Malaysia a loyal member after it made sarcastic remarks about the efficacy of the Commonwealth some time ago?

There are many racist regimes in the world today which may not necessarily have a system of apartheid like in South Africa. The Prime Minister himself frequently alludes to the racism prevalent in the West. However, any person with moral integrity and principles would expect that the thrust of such criticisms should be that we ourselves defend democracy and human rights all the more stringently and condemn those who violate such principles. The Government's stand on Fiji casts grave doubts on the moral basis of our country's foreign policy.

Understanding some salient features of Fiji's background may help us comprehend our Government's stand. Almost comparable to our country to the date, Fiji became a British colony in 1874. The Indians, who today comprise 49% of the population, came as plantation workers. Most stayed as legal residents "with privileges no less inferior to those of any other class of her majesty's subjects resident in the colonies". Nevertheless, restrictions were put in the way of their owning land, 83% of which have remained in the control of the Melanesian Fijians, who make up 44% of the 715,000 population. Many Indian Fijians today have ancestors of more than a century old. The other peoples in Fiji are Europeans and Chinese.

Traditionally, the "Fijians" controlled the political power, land and the army, while the "Indians" controlled the commercial sector. These racial designations, as in other countries where communalism is rife, of course

hide the reality of real power and control by the respective elites. Thus, the Fijian aristocracy's interests were represented by the Alliance Government of Ratu Sir Kamisese Mara, which had been in control since 1970. At the same time, the large and neglected poor class of Indian Fijians are glossed over.

In the April elections this year, in coalition with the Indian-based National Federation Party, the Fijian Labour Party attracted enough Fijian votes to defeat the Fijian Alliance Party. Dr. Timoci Bavadra (a Fijian) of the Labour Party became Prime Minister. Bavadra himself was a former union leader, while the National Federation Party has its base in the sugar cane workers. The Labour Party bills itself as the country's first multi-racial party. During the campaign, it promised to eliminate traditional divisions and to recognise all residents as 'Fijians'.

The '*South*' magazine reported that:

"The April elections that brought Bavadra to power was the first not to have been fought along traditional Fijian-Indian racial lines. It was a battle between the landed aristocracy and an educated elite of commoners with multiracial support from the middle class". (*South*, July 1987)

The Alliance Government that preceded had imposed a wage freeze and tried to silence the press through an Official Secrets Act. During the elections

campaign it resorted to the politics of fear as Indians were warned that "to remove the chiefs (from politics) would pave the way for instability". Fijians were told that they would be dispossessed of their lands if the coalition won.

The victory of the Labour-National Federation Coalition (which won 28 of the 52 parliamentary seats) was met with violence and fire bombs aimed at Indian property. The campaign of destabilization was launched by the oligarchy, who demanded constitutional changes that would perpetuate the rule of the Alliance. When two Alliance leaders were arrested for sedition and arson respectively, Colonel Rabuka stormed Parliament and took the Prime Minister Bavadra and his Cabinet into custody.

The Colonel has closed the country's newspapers, taken over the radio station and arrested trade unionists. More seriously, through his military coup, Rabuka and his supporters in the Fijian elite have subverted the course of Fijian democracy. Such an action is the gravest crime against the Fijian people as a whole. They also have set Fiji on a disastrous political, economic, social and cultural course.

From a healthy foreign reserves peak of US\$172 million and major expansion of gold mining, timber, construction, textiles and tourism, the economy seems to be sliding into a grave situation. In one weekend alone, 2,500 people had fled. These included some of the most



enterprising human resources. Local industries and companies have closed while the blooming tourist industry suffered the most catastrophic collapse, creating mass unemployment overnight. In May alone, unemployment doubled to 20%. Food stocks are running very low and there have been looting and rioting since the May coup.

As for Colonel Rabuka's regime itself, besides its defence of the traditional Fijian elite's interests, its pro-Western and pro-US foreign policy has cast suspicion on the possibility of Western culpability in the coup. Peter Coleman, a Liberal member of the Australian Parliament, has pointed out that:

"There is, for example, no possibility that they would bar visits by US warships" (*AWSJ*, 26-5-87).

Fiji astrides the important international sea lanes in the Pacific, which is becoming an area of Superpower rivalry. The Fijian Labour Party, on the other hand, is in favour of making Fiji a nuclear-free zone prohibiting visits by US nuclear-armed warships.

As for Col. Rabuka's regime, any country that values democracy and human rights and stands by the principles of the civilised world community should ostracise such an illegal regime. It is a poor excuse to say that we should only ostracise apartheid regimes like South Africa. That has never been the sole criterion in international relations. We are truly supporting the democratic wishes and aspirations of the peoples of

South Africa and Fiji if we demonstrate our displeasure with the oppressors and usurpers of power in those countries.

The Rabuka regime has no respect for human rights when it tries to use racist policies against non-Melanesian Fijians in an attempt to pander to the chauvinism of the "indigenous Fijians" against the "immigrant Indians". How long does it take for an immigrant citizen to "belong" when he or she has long put down roots in that country?

By resorting to military takeover, regimes like Rabuka's merely expose the racist regime for what it is. It merely demonstrates the racist character of the previous Alliance Government and the contradictions that it could no longer control. Besides the crime against the Fijian peoples as a whole, the Rabuka regime has also exposed its weakness through the resort to military coup.

Malaysians and all who cherish democracy and social justice must stand on the side of the Fijian peoples against the usurpers of their freedom and democracy. The Rabuka regime must be ostracised if we are not to stand on the side of racism, dictatorship and crude subversion of Fijian democracy. The Malaysian and ASEAN Governments must not collude with Col. Rabuka who has been reported to,

"look to Malaysia as a model for Fiji's new Constitution and is hoping to learn from the Malaysian

experience of trying to integrate bumiputras, or ethnic Malays, into the economy. He cites Singapore's passive trade unions as examples for labour in Fiji, and he sees parallels between the entrenchment of the army in Indonesia's economy and the future role of the military in Fiji ".

Our Prime Minister frequently points out the double standards of the West and condemns Britain for not endorsing sanctions against South Africa. Our Government's stand on Fiji has shown that it is not that different. The Malaysian people expect Malaysian foreign policy to be principled and consistent in its defence of democracy, human rights and the condemnation of institutionalised racism, dictatorships and foreign interference.

(26 October 1987)

## Chapter 12

# OCTOBER 1987: The Furore In The Chinese Schools

**P**ermit me to correct some rather serious and - for those who are really interested in National Unity - critically misconceived views in the story by Maria Samad, 'Why the Furore' (*NST*, 11-10-87). Dr. Ibrahim Saad's prejudiced views are sadly, further additions to national misunderstanding.

First, there is no basis for unjustified comments like,

"(The Chinese education group's) warning has created unease in the more conservative sections of the Malaysian Chinese community who now fear that the move will eventually result in these schools being turned into national schools".

Are those who fear this conservative, or are all who are determined to preserve their mother tongue education conservative? I am sure your reporter is aware that the stand of the Chinese educationists is supported not only by MCA, Gerakan, MIC, SUPP but also by the DAP, SDP and PSRM.

The second mystification (one frequently employed in issues like this) invariably sets in when the issue receives the support of the political parties. Maria Samad continued:

"The promotion of these teachers, which the Education Ministry maintains is a non-issue, has been highly politicised by the various political groups and parties..."

The justice of a cause cannot be blanketed by a simple sleight of hand such as when she mentioned the support for Merdeka University by the Chinese-based political parties - "all ready to champion the cause of their community" and "the issue of the Chinese primary schools has always been used as an ethnic issue to rally together members of the Chinese community". Would your reporter accept that the reasonableness of any issue exists regardless of whether or not the issue is supported by whichever party?

In this particular controversy, most of the non-Chinese language press have, as usual, failed to point out the non-communal aspect of it as opposed to stressing the ethnic side of things. For example, they have not

pointed out that the Chinese educationists would have no objections to accepting any Malay officer with the required qualifications. It is for this reason that the principle involved is strictly non-communal. They also seem to overlook the stark fact that - as with other controversies - it was the Education Ministry that created the furore in the first place. The justice of our case cannot be overlooked simply because the Education Ministry wants to have it all its own way. The insincerity of the Ministry is demonstrated by the continued posting of non-qualified personnel to schools in other states. These newspapers have also failed to point out that we are not against the promotions of these senior teachers affected.

Wittingly or unwittingly, Dr.Ibrahim Saad himself has provided the answer to the question posed by your reporter: "Is there really cause for concern? " and her own imputation that "the Chinese educationists themselves have only come up with vague explanations as to what is meant by 'changing the character of the Chinese schools'"

If we could start from the reported statements from Dr.Ibrahim Saad. He cannot replace the actual and concrete demands by the Chinese educationists with his own prejudices. That is not only devious for a politician, it is dishonest for an intellectual who holds a PhD. He says:

"Basically it means recognising those with Chinese education... They know what they want...but they don't

want to spell it out that clearly. They're asking for one thing knowing that the other side (the Government) knows it is another thing... Mandarin background means really teachers who are schooled in Chinese and who have a degree from Chinese universities, not necessarily in Chinese studies but in any other field. I believe they will gladly take in a headmaster who has a degree in engineering from a university where the medium of instruction is Mandarin".

Even if Dr. Ibrahim Saad is highly gifted with omniscience, he still has to provide us with the facts. The facts are that from the start, the Chinese educationists have asked for nothing more than that the teachers posted to become senior officers in the SRJK schools must at least be suitably qualified in the sense that they should be able to read, speak and write Chinese. Is this unreasonable? Some of the Malay parents who send their children to Chinese schools think not as do many reasonable people in this country. "It's like sending a duck to teach chickens", they quip.

The phantoms that are part of Dr. Ibrahim Saad's imagination should not be allowed to play mischief with the real issues. Has the Education Ministry presented any of the SRJK(C) schools with such a suitably qualified candidate which the Chinese school then refused? Of course not, for even if Dr. Ibrahim Saad's phantoms were real, the Chinese educationists would not have any justification to refuse such candidates! And even if a National-Type Chinese school wanted to employ any

teacher from a "Chinese university" this would hardly be possible since the Government does not recognise the degrees from any "Chinese university".

Dr. Ibrahim Saad lets the cat out of the bag when he says:

"You don't allow Chinese to be the medium of instruction because it will defeat the objective of national integration".

That just about answers all the questions posed by your reporter regarding why the Chinese educationists and others are reacting the way they do in this controversy. Recent trends and public statements by some UMNO leaders also do not provide cause for faith and hope. Some of these are even more alarming than those expressed by Dr. Ibrahim Saad. They reflect some of the UMNO leaders' dogged attempts to push through their assimilationist policies.

The present controversy is certainly not seen as an administrative aberration. The simple reason being that, if it were the case, the Government could have restored the status quo at the moment this was discovered. But it has not and that is why the affected community is reacting so. The controversies of recent years (sometimes more than once a year) have taught the people to be ever vigilant against any such assimilationist policies or directives.



The right to mother tongue education is an inalienable part of every ethnic community. This is not only a human right but also every Malaysian's Constitutional right, expressed by 87 per cent of Chinese Malaysian parents. International educationists and specialists similarly acknowledge the efficacy and the egalitarian aspects of mother tongue education.

Dr. Ibrahim Saad betrays his credentials as an educationist when he tries to obfuscate the issue of the mother tongue of the Chinese:

"Does it mean Hokkien, Hakka or Teochew dialect? To my knowledge mother tongue means the language a person commonly uses to communicate at home. Definitely Mandarin is not the mother tongue of the majority of the Chinese".

Dr. Ibrahim Saad may not be a Chinese Malaysian but as a social scientist, he is expected to be acquainted with basic linguistic structures of the Chinese dialects. The fact is that the ideographic script, the grammar and many other modes of expression is common for all Chinese dialects. To correct a further misconception of many, Mandarin was adopted not SOLELY for its unifying function. More importantly, there has to be a mother tongue medium in PUBLIC education and this is the function that Mandarin has played. Consequently, to a Hakka or a Hokkien child, Mandarin Chinese is still close to home and the mother tongue as contrasted with say, Malay or English.

He further betrays some of the UMNO leaders' non-commitment to mother tongue education of the non-Malays when he says:

"In Malaysia there is a policy, the National Education Policy, where one common language, Bahasa Malaysia, is used as the medium of instruction in the national education system, aimed at uniting the various races. That is the political aspect of it and the national aspect about it "

Everybody knows that is the reason the threat of closure of the Chinese primary schools exists in Section 21(2) of the 1961 Act. That is the very reason UMNO has not come out with a convincing reason for keeping this clause except its contradictory assimilationist intentions.

On the other hand, the unreasonableness of this clause 21(2) is clearly demonstrated by the fact that during the last general elections, no political party except UMNO had any objection to the abolition of this clause. This was simply because this Clause is seen as unjust and inimical to the existence of mother tongue education of the non-Malays in our country. The political parties in favour of abolishing this Clause included all opposition parties as well as BN component parties. This is an indication of the reasonableness and justice of the cause of safeguarding the human and democratic right of peoples to use and develop their respective languages and cultures.

The Government leaders often remind us that they have a mandate to rule obtained in the general elections. It is perhaps worth reminding ourselves (and Dr. Ibrahim Saad should take note) that the present Government's present mandate has been obtained at the 1986 elections at which it promised that:

"Chinese and Tamil-medium schools will continue to exist in their present character. We give an absolute guarantee that there will be no change... We will ensure that democracy in Malaysia will not mean the tyranny of the majority..."

Malaysians with a longer memory will realise that almost every attempt to change the character of the vernacular schools has followed from a sweet-sounding and generous Alliance/BN election manifesto: the 1956 Razak Report after the 1955 elections; the 1960 Rahman Talib Report after the 1959 elections; the 1972 Education Amendment Act after the 1972 elections; and now, we have the present controversy plus the threat posed by the current exercise to review the 1961 Education Act.

Dr. Ibrahim Saad is partly right on one thing however when he says:

"(the Chinese educationists) have never really accepted the reality of the National Education Policy which calls for Bahasa Malaysia as the medium of instruction in all national schools (primary and secondary national schools)"

The Government has repeatedly insisted on its own rendition of the National Education Policy, which it maintains, is clearly enunciated in the main provisions of the Abdul Razak Report 1956 and the Education Act 1961. The uninitiated will miss the conspicuous omission of the 1957 Education Ordinance, which should be the appropriate basis of the National Education Policy. The 1957 Ordinance specifically laid down the National Education Policy of the Federation at Merdeka thus:

"The education policy of the Federation is to establish a national system of education acceptable to the people as a whole which will satisfy their needs and promote their cultural, social, economic and political development as a nation, with the intention of making the Malay language the national language of the country **WHILST PRESERVING AND SUSTAINING THE GROWTH OF THE LANGUAGE AND CULTURE OF THE PEOPLES OTHER THAN MALAYS LIVING IN THE COUNTRY** (own emphasis)".

In the Education Ordinance 1957, one does not see any reference to the obnoxious "ultimate objective" of making Malay the sole medium of instruction in the National Education system and that is perhaps why UMNO leaders like Dr. Ibrahim Saad are loathe to refer to this crucial Ordinance whenever they cite the National Education Policy. An extended critique of UMNO's undemocratic education policy has been dealt with in a Joint Memorandum on the Review of the Education Act which will be submitted by various concerned organisa-

tions and associations. From this, it will be clear that our just and reasonable views on the issue of mother tongue education are by no means confined to Chinese educationists.

(13 October 1987)

## Chapter 13

# THE POLITICS OF THE EDUCATION ACT

**E**ducation is one sphere that has continued to be of great interest and concern to all ethnic communities in Malaysia. That it has been overtly politicised is a gross understatement as we examine the sorry history of the Education Act 1961.

In fact, education has been an issue in practically every general election since Independence, and it looks like the impending one will be no exception.

As the Government itself has openly admitted, and which was the main reason for the review of the 1961 Act, there are many misgivings regarding the Malaysian education system. There is the question of whether we are preparing our children for the challenges of the 21st

century since educational standards are critical to economic success. Are we doing anything about motivating our youth toward this objective?

Critics of the Government have pointed to other contradictions in the system such as moral values and the non-compatible example of political leaders. Another glaring contradiction of ends and means centres on whether we can produce critical and rational students in a political system that suppresses such positive energies and denies legitimate democratic and human rights.

But perhaps the component of the Education Act which has attracted the most controversy is Section 21(2) of the 1961 Act. This section allows the Minister to do away with the National-Type Primary Schools at any time he sees fit to do so.

We could well say that practically ALL parties in Malaysia feel that Section 21(2) is unjust since even the Barisan Nasional as a whole is now committed to its removal.

In actual fact, the BN had known all along that Section 21(2) is unreasonable and that the coalition would suffer if it did not declare its intention to repeal the Section. And that is why even before the 1986 general elections, it was committed to abolishing this Section at the first convenient Parliamentary session.

But four years and ten Parliamentary sessions later,

this Section remains in the statute books and the new Education Bill is hidden from view while a general election looms. The BN political leaders pathetically cite the Official Secrets Act for the reason why they cannot disclose the new Bill for public scrutiny, as if that was a good reason. They should in fact condemn themselves for supporting the legislation of the loathsome OSA in the first place.

### **Our Children's Future in the Hands of Political Horse-Traders**

This is the shocking fact that has dawned on Malaysians as they see the politicking around the new Education Bill: A Bill which will have such vast and profound consequence for our children's education is being bantered about by political horse-traders! This fact is clear when we look back at the public promises by the BN political leaders and their breakage of these promises.

One could say the present Government got its mandate to rule from promises made in the 1986 BN election manifesto. Among other things, it promised that:

"Chinese and Tamil-medium schools will continue to exist in their present character. We give an absolute guarantee that there will be no change... We will ensure that democracy in Malaysia will not mean the tyranny of the majority..."



The BN promised that Section 21(2) would be repealed in the first meeting of Parliament after the 1986 general elections.

Soon after the elections on 1 November 1986, at a seminar sponsored by the Ministry of Education, speakers at this said seminar spoke emphatically, among other things, that Chinese and Tamil primary schools are the source of racial polarisation, and that the objective in the education policy of the country is the consummation of the "ultimate objective" of the Razak Report. This "ultimate objective" is for the conversion of all language streams in schools into only one main Malay-language medium. How does this gel with the BN's promise to preserve the character of the National-Type Primary schools?

On 27 November 1986, the Education Minister stated that:

"All Malaysians, irrespective of their ethnic origin, should regard the National Language, Bahasa Malaysia, as their mother tongue."

Then on 26 May 1987, the Director of the Education Planning and Research Unit of the Ministry replied to a memorandum by the United Chinese School Teachers' Association thus:

"The 1961 Education Act Section 21(2) is in full accord with the spirit of the Federal Constitution - the

reason being the conversion of Chinese primary schools into National Primary schools is not, in the least, inimical to the rights of the Chinese and Tamil children to learn their own mother-tongue..."

From the above statements emanating from the Education Ministry, it is clear that there is no sincerity in the BN claims to guarantee the right of the Chinese and Tamil Malaysians to their mother tongue education systems. It is transparent that this issue had been and continues to be used in the political horse-trading, cynically jeopardising our children's education and future.

On 12 September 1989, the Deputy Education Minister, Datuk Woon See Chin, announced that the Ministry would be tabling the amendments to the Education Act in October 1989.

On 27 November, Anwar Ibrahim said that a draft of the amendments had been sent to leaders of the BN component parties and that he was waiting for their responses.

Meanwhile, the issue has dragged on into 1990. The Government announced the establishment of a Cabinet Committee to study and reach consensus on the final draft of amendments to the Education Act on 19 April. He expected the committee to report back to the Cabinet in two weeks "as the Government was pressed for time" and added that the Cabinet would decide on the final draft and hoped to table the amendments during the June

meeting of Parliament.

On 28 May, the Education Minister said that he had directed all state education directors to head state-level information committees to rebut accusations by Opposition parties regarding the Education Bill 1990. This was not only uncalled-for politicising of the education issue, it was an unethical attempt to involve civil servants in party politics. Furthermore, it implied that such officers had been or were to be given access to the new Education Bill, denied to the public because of the OSA!

The Deputy Prime Minister said the Cabinet Committee was formed at this late stage because some of the proposed amendments "may be sensitive". It is difficult not to surmise that the BN leaders are once more treating this serious issue like a political football for why should there still be anything "sensitive" if, as all the BN leaders claim, the character of the Chinese and Tamil schools will be preserved?

It all reeks of the same delaying tactic as that during the 1986 general elections when the BN mandate was won on empty promises, for the Minister of Education has just announced in Parliament on 20 June 1990 that the Education Bill will not be tabled during the present session!

In the last few weeks, the Government has created another controversy by the deliberately controlled leakage of the proposal that the Government is likely to

abolish Boards of management for fully-aided SRJK schools.

The manner in which this furore was created is indicative of two things. Firstly, it shows the cynical way in which the OSA is used and abused. Secondly, it is a bad sign of further political horse-trading going on behind the scenes. Clearly, the BN power brokers are exhibiting a contempt for democracy, a contempt for Malaysians, and gambling with the future of our children.

### **Towards a Democratic Education System**

It has taken the Education Ministry at least five years to prepare the Education Bill 1990 but if it is to be tabled in the October session of Parliament, the Malaysian people will be given not more than four months to scrutinise and discuss it.

That is assuming the Bill is released to the public very soon. If it is a repeat of 1986, when the BN won its mandate on false promises to repeal Section 21(2), it will be a further instance of breach of trust and ethics.

If the Education Ministry places such a low priority on democracy, it is difficult to be optimistic about the new Education Act.

For an education system to be able to achieve the

objective of unity, which is so vital to national development, there must not only be cultural democracy but also social democracy. To be more specific, the right and opportunity for mother tongue education and at the same time, equal (if not better) opportunities for the poorer classes of Malaysians must be adequately provided for.

The lack of democracy in schools, universities and in Malaysian society in general has led to the negative and adverse aspects often bemoaned by observers: Students are not trained to think critically and rationally; they are not taught to be independent-minded and problem solvers nor encouraged to freely express themselves. The Universities and University Colleges Act, for one, prohibits students from taking an active part in real political and social issues.

Instead of implementing divisive policies on the basis of "race", there should be more social democracy to ensure that disprivileged Malaysians of all ethnic groups benefit.

Because primary education is a prerequisite for every pupil to be equipped with the basic skills to cope with the literate world, more education expenditure should be spent on providing quality primary education. It follows that next in line of priority must be secondary schools. However, the overall education expenditure allocation should be increased especially in relation to such expenditure as defence.

Besides the teaching of the basic skills to cope with working life, schools should inculcate a sense of social responsibility, morality, compassion, respect for justice, democracy and human rights. These are rightly the "common values" that can unite Malaysians.

(26 June 1990)



## Chapter 14

# HUMAN RIGHTS AND JUSTICE

*(A book review of 'May Day For Justice'  
by Tun Salleh Abas & K.Das.)*

**M**ay Day For Justice, is perhaps one of the most devastating exposes of the nature of the Malaysian Judiciary during this particular juncture of our history.

"The panic removal of the head of the judiciary in Malaysia", as the sub-title of the book puts it, happened at a time when the head of the ruling party and government faced a crisis of major proportions in mid-1988. The fate of UMNO and the fate of the Prime Minister rested on the highest body of the Malaysian Judiciary. To ensure the greatest measure of justice, the Lord president at the time, Tun Salleh Abas had arranged for the maximum quorum of the Supreme Court to sit at this case, namely, 9 Supreme Court judges. This was un-



precedented. The subsequent sacking of the Lord President was just as unprecedented.

'*May Day For Justice*' is Tun Salleh Abas' long-awaited version of that "most shocking story in modern legal and judicial history", as Tunku Abdul Rahman, Malaysia's first Prime Minister puts it in the Foreword to the book. The Tunku further adds:

"I do not know how any honourable government can stay in office after this book has been published. It constitutes a denunciation which cannot be answered without confessing to the most dishonourable conduct in public life."

The former Lord President gives us a blow-by-blow account of those heady days, events which the public up until now have not been told the full and accurate account. Through this narrative,

"The alacrity and thoroughness with which these actions were carried out, then, left no room for doubt that the UMNO cases were indeed all the reason and rationale for the high drama in which I had been cast as the central figure". (p.90)

However independent the Malaysian judiciary might have been, and this is open to varying opinions, the effect of the shameful affair has been to demoralise lawyers and ordinary Malaysians even more regarding what they expect of "Malaysian justice". As the then

Lord President found to his chagrin:

"But the whole meeting of the judges (convened after Tun Salleh Abas had been informed of his fate), I must confess, was in the end, very disheartening. I did expect them, especially the senior Justices, to be more imaginative and far more courageous in the face of what was not just my personal crisis but a dangerous crisis in our Judicial system itself.

"In retrospect, I suppose I should not have been too surprised. How often in his life does a judge suddenly come face to face with the fact that his much touted "independence" was only a myth? or worse, a farce?..." (*May Day*, p.93)

Ultimately, the defence of our human rights rests upon the principle of judicial independence. Human rights are the birthright of every human being in this world and these rights can only be defended if we have confidence in the judicial system to treat every citizen fairly and justly.

And it is the former Lord President, Tun Salleh Abas' contention, forcefully put forward in over 300 pages of his testimony, that there was not only one doubt but literally, a hundred and one doubts relating to his dismissal. Some of these doubts concern simple but all-too-important facts like: Was 1 May 1988 a Wednesday or a Sunday?

For the unsuspecting person this may seem a moot point. But if we bear in mind that the source of the controversy, the snowball that started the avalanche so to speak, was the audience that the Prime Minister purportedly had with the King, then that date is crucial and should have been at least enquired upon by the subsequent Tribunal. It was that audience with the King - if it happened at all! - which led to the Royal command for Tun Salleh Abas to be investigated for "misbehaviour". The Government, through its Attorney-General, is quite insistent that 1 May 1988 was a Wednesday, since Wednesday is normally the day the Prime Minister meets the King after the Cabinet session. But 1 May 1988 was not only a Sunday, it was also a public holiday being Labour Day as well as the fifteenth day of Ramadan, an important day for Muslims.

Such an indiscretion by the Government through its Attorney-General, if it had happened in any of the Western countries or Japan no doubt would have created a major scandal on the scale of a Watergate. But it has not produced this effect in this country, which reflects strongly upon the democratic institutions in this country as well as other watch-dog functions like the press and media. Tun Salleh Abas points out that it was not coincidental that this affront to the Malaysian Judiciary happened after the most articulate critics of the Government had been locked up under "Operation Lalang" and the more vociferous newspapers had been closed down.

But this was not the only question posed by the for-

mer Lord President. Another doubt he casts on the Government's case against him is: What has happened to the original of his letter of 26 March 1988, addressed to the King? It was not submitted before the Tribunal when it should have been the most important piece of evidence.

And there are at least 99 more of such shocking questions posed by Tun Salleh Abas. There are questions involving the conduct of some of the judges who today sit at the top of the Malaysian judicial system; the suitability of the members of the Tribunal appointed and the procedures at the Tribunal sessions; the continued unresolved "important" case of 'Teoh Eng Huat v. Kadhi, Pasir Mas, Kelantan and Another', which the Attorney-General claimed Tun Salleh Abas' postponing it 'sine die' was "irresponsible". From the public utterances by the Prime Minister, Tun Salleh Abas wonders if Dr. Mahathir as the head of the Malaysian Government knows the meaning of the terms "separation of powers", "rule of law", "natural justice" or "unwritten laws".

But the first and last question remains: Who lied about UMNO? Was it the former Lord President or was it the Prime Minister? Did Tun Salleh Abas lie when he said Dr. Mahathir had accused him of being biased in cases involving UMNO on that fateful day on 27 May 1988 when the former was informed of the termination of his distinguished career? '*May Day For Justice*' begins with this oath by Tun Salleh Abas:

"In the name of Almighty Allah, the Beneficent, the

Compassionate, the Merciful:

I did not lie about UMNO..."

'May Day For Justice' has to be read by every Malaysian for this major scandal to be believed. It is a racy story told by the highest judge in the land occupying the most important office in our judicial system who was removed more easily than a humble clerk can be removed! It is written by one of Malaysia's most capable and exciting English-language writers, K.Das, the former Bureau-Chief of the Far Eastern Economic Review in Kuala Lumpur for 18 years and author of the best-selling "Musa Dilemma" a few years ago.

It is a personal saga of the former Lord President, involving intrigue, treachery and deceit among the highest echelons of the judiciary, civil service and the Executive but there were also exceptions among the judges who displayed exemplary principled conduct.

And how does all this affect the human rights of all Malaysians? Tun Salleh Abas provides the answer at the start of his story:

"This book was written because judges in Malaysia have been deprived of their independence. And without an independent Judiciary in place, all our freedoms are in jeopardy."

Many will ask no doubt if the Malaysian Judiciary

was "independent" in the first place. After all, the UEM case, the various applications for the Writ of Habeas Corpus by ISA detainees and many other cases showed that our judges tended to favour the Executive when any case was in doubt. The appointment of judges in our system and their rise from the civil service, they would also point out, makes them more Executive-minded rather than independent and "class-free".

In the last analysis, judges are as human as the rest of us, susceptible to error, prone to take class positions. Like the myth of "value-free social science", the judiciary is not neutral as J.A.G.Griffith has shown in his thesis, 'The Politics of the Judiciary'.

The Salleh Abas Affair has shown that among the judges in the Malaysian Judiciary up until mid-1988, there were those who stood up firmly to the defence of the principle of the Independence of the Judiciary. Alas, it was to the cost of their distinguished careers in the highest Court of the land.

The aftermath has brought shame to the country in the eyes of democrats and justice-loving people the world over. More seriously, the further dent to the principle of Judicial Independence can only affect adversely the pursuit of human rights in Malaysia, which still has a long way to go to meet international standards.

To make matters worse, human rights and Judicial Independence continue to be bandied around by top

Government leaders in emotional and political terms as "Western" products and "not suitable for Malaysia". Any change to our judicial system or even our system of democracy must be for the better, i.e. greater justice and greater democracy. Human rights, like Judicial Independence, are universal concepts and Malaysians must be wary of the demagogues who try to justify their undemocratic actions through compromising on our human rights and other such obscurantist arguments.

Human rights are nothing until they are incorporated into the Constitution of each member country of the United Nations, and judiciously protected by judges. And for all the magnificent posturing by the Malaysian representative at the recent Commonwealth Conference, it did not escape the attention of human rights observers that Malaysia has not yet ratified the two International Covenants on Civil/Political Rights and Economic/Social/Cultural Rights. These two Covenants are more concrete in terms of implementing the Universal Declaration of Human Rights and one would expect any government which is sincere about upholding human rights to ratify these two Covenants as a minimum requirement. The next step would then be to incorporate these basic human rights into the Constitution of each member nation state or regional grouping like the European Parliament.

Ultimately, this sordid affair is a lesson for all Malaysians. It is about freedom and how easy it is to be deprived of our hard fought freedoms if we are not vigi-

lant. Its occurrence only so very recently should be fresh in the mind of those who suffer from short memories and who hope others have the same problem of short memories.

The "Rule of Law" may not be an eternal truth but it is a historical accomplishment which must be defended against those who would outrage it in order to monopolise power. The principle of the "Independence" of our far from ideal form of judicial system, which ultimately reflects the political-economic system, must be defended against all encroachments by the Executive.

The realisation of our human rights must mean the pursuit of democracy and civil liberties which continue to be inhibited by all manner of undemocratic laws. One of the most loathsome of these is the Internal Security Act which allows "escape clauses" for the Government to deny the freedom of expression like "preservation of national security", to be interpreted solely by the Minister himself.

In the end, defence of the rule of law requires the democratisation of the courts, the judiciary, the legal profession, police and such public institutions.

(4 March 1990 - This review was published in the *Nanyang Siang Pau* as well as *The Rocket*)





## Chapter 15

# JUDICIOUSLY MISSING THE POINT

*(Book Review of 'Judicial Misconduct'  
by Peter Alderidge Williams, QC)*

**W**hen the bleary-eyed tourist disembarks on to Malaysian soil for the first time to be feted by the cloying indulgences of the Ministry of Tourism, his superficial impressions can be forgiven. But when such tourists begin to propound on vital political issues affecting the Malaysian nation which they fail to fathom, it is difficult to be more generous.

The introduction to 'Judicial Misconduct' is not far from the daily diet we get from the Barisan Nasional media filled with tourist impressions about how they had prior misconceptions of Malaysia as just another banana republic:

"It is fair to say that prior to arriving in Malaysia, I

shared many of the misconceptions that some New Zealanders have about that country. I was indeed warned that this was a country dangerous to visit because of a proclivity in the Malaysian police to fabricate evidence against foreigners by tampering with their luggage, and on my first trip because of this admonition I took with me only hand luggage."

The author goes on to describe his awesome wonder on seeing the physical aspect of the Supreme Court of Malaysia and its proceedings presided by Tun Salleh Abas' former subordinate, Tan Sri Abdul Hamid Omar. He observes that "Malaysia is today a very successfully governed country...generally speaking the peoples of Malaysia are content and happy with their lifestyles. Much of the credit for the success of balancing the sensitive issues involving race and wealth distribution must be attributed to the Prime Minister." (pp.31-32)

It must be noted that such superficial observations by foreign visitors to this country were quite common even on the eve of the catastrophic 1969 general elections when the Opposition made its biggest gains. For that matter, the rave reviews lavished on the Shah of Iran could be seen even on the very eve of his overthrow!

But if we are to judge the book using the yardstick of intellectual honesty and rigour, then Mr. Peter Alderidge Williams fails miserably to legitimise the Mahathir Administration's indiscretion in sacking the Lord Presi-

dent and two other Supreme Court judges in 1988.

The "one hundred and one" crucial questions posed by Tun Salleh Abas to the Mahathir Government in 'May Day For Justice' remain unanswered or unconvincingly glossed over. The crucial date of the audience that Dr. Mahathir purportedly had with the King and which was not enquired upon by the Tribunal is dismissed in a chapter rather schoolboyishly headed "The Drowning Man Clutches At A Straw":

"All this amazing froth and spurious verbal ravings resulting from one innocent error in a date!"

In another chapter ("The Cold Facts That Led To The Dismissal of Tun Salleh Abas From His Position Of Lord President Of Malaysia"), Williams does no more than fill this chapter with the two supposedly offending speeches by Tun Salleh Abas submitted as Allegations to the Tribunal and then adds a brief commentary thus:

"The reader can ascertain for himself whether or not this speech in part enters into public controversy, but perhaps the portion of the speech that requires most careful examination is that regarding the Islamic legal system."

The Tribunal had taken the view that certain extracts from Tun Salleh's speech made it "manifestly clear" that he was seeking to advocate "the acceptance of the principle of Islamic Law as propounded by the

muftis' and to assert that such rulings bind not only the judiciary but also the Parliament and executive of the country." (See Tun Salleh Tribunal Report, Vol.I, p.38)

Regarding this allegation, the renowned Professor of Law at Monash University (editor of "*The Constitution of Malaysia - Its Development: 1957-1977*"; and "*The Constitution of Malaysia - Further Perspectives and Developments*") , Prof. F.A. Trindade has concluded:

"Those who take the trouble to read the whole speech and not just the extracts in the allegations must reasonably come to the conclusion that what Tun Salleh was saying in that speech (in response to statements by the Prime Minister questioning the role of judges as interpreters of the law) was that 'no legal system can ever escape from the need for interpretation, be it a divine legal system or a secular system', and that he was not advocating the acceptance of the Islamic legal system as applying generally in Malaysia. So the first two allegations against Tun Salleh do not appear to stand up to scrutiny."

(Trindade, F.A., '*The Removal of the Malaysian Judges*', *The Law Quarterly Review*, January 1990)

On this point it is not irrelevant to note that Mr. Peter Alderidge Williams is merely a criminal lawyer and is by no means an authority on Constitutional Law. Almost all the international and regional organisations of jurists and lawyers (including The International Commis-

sion of Jurists, Lawasia, the Lawyer Committee for Human Rights) have condemned the assault on the Malaysian Judiciary through the sacking of Tun Salleh Abas and the other two Supreme Court judges.

Geoffrey Robertson, QC, has correctly pointed out the need for stringent standards of proof in a case of such immense consequence:

"In a matter of such gravity, to acknowledge that the man found guilty of misbehaviour may well be innocent is an approach which exhibits a deplorable disregard for proper legal standards of proof."

(*Justice Hangs in the Balance*, London Observer, 28 August 1988)

Williams, on the other hand, accepts the Attorney-General Tan Sri Abu Talib Othman's view unquestioningly that,

"It is not the onus of proof rule that a person must be acquitted because there may be a doubt or a plausible explanation for his or her actions. It is only when the doubt is a reasonable doubt or the plausible explanation is a reasonable plausible explanation, that an acquittal must be entered." (p. 83)

Thus, quite apart from the questionable choice and composition of the tribunal, Professor Trindade has pointed out:

"Another lacuna was that there appears to be no procedure provided for a tribunal appointed under Article 125(3) of the Federal Constitution. A very sketchy set of rules was drawn up by the Tribunal itself and sent to Tun Salleh."

The Tribunal did not apply the strict rules of evidence as contained in the Evidence Ordinance (Tun Salleh Tribunal Report, Annexure 19, Rule 7.) It decided that "as regards any matter not covered by the Rules formulated by the Tribunal, the procedure shall be decided by the Tribunal in the course of the proceedings." (ibid, p.17)

Tun Salleh's main grievances against the procedure followed by the Tribunal were that it professed to hold an enquiry, but unwittingly and deliberately changed the inquiry into a trial; that the standard of proof in relation to judicial misconduct which the Tribunal should have applied should have been proof beyond reasonable doubt instead of proof on the balance of probabilities; and that the proceedings of the Tribunal should have been held in public rather than in camera.

There were many inconsistencies regarding the Tribunal proceedings which have never been convincingly explained. For example, the Second Tribunal that inquired into the five judges did decide that "proof beyond reasonable doubt is required to establish the allegations made in the representation against the five judges." (Second Tribunal Report, p.29) As for the justification

against holding the Tribunal in public based on the supposed fact that several of the allegations involved issues of a sensitive nature, it must be explained then why were the transcripts of the proceedings and all the documents allowed to be published a few weeks after Tun Salleh's removal!

Malaysians are by now used to the fact that the Barisan Nasional Government does not value truth and rationality much. But for such inconsistencies and credibility gaps similarly to have slipped the attention of a supposed "internationally renowned Queen's Counsel" (so claims the blurb on the back cover) is truly remarkable. It begs questions surrounding this QC's questionable conduct.

Williams accepts as gospel the feeble justification by Tan Sri Abdul Hamid Omar that he was not at liberty to disobey the royal command of His Majesty the King to chair the Tribunal. Can a jurist fail to see where the correct choice lies in a matter of conflict between a royal command and the duty to fairness and justice? How then did Tan Sri Hashim Sani "disobey" the same "royal command" with no difficulty when he was asked to chair the Second Tribunal? Clearly, such common knowledge regarding the ceremonial function of the King in our Constitutional Democracy is lost on Mr. Williams.

The ordinary person unversed in the law could see that Tan Sri Abdul Hamid Omar had to be disqualified from chairing the Tribunal since he stood to gain from



Tun Salleh's removal. Besides, he had participated in the decision by the judges to send the letter to the King. But apart from him, it was difficult also to justify the choice of Tan Sri Mohd. Zahir bin Ismail (the Speaker of the Dewan Rakyat) and Tan Sri Abdul Aziz bin Zain (a businessman and practising lawyer) as Tribunal members when there were at least ten other better qualified and senior retired judges, including three former Lord Presidents available to serve on the Tribunal.

An authority on the Malaysian Constitution, Professor Trindade has pointed out that "the whole thrust of the constitutional provisions concerning the dismissal of public servants indicates that their removal can only be made by persons who are their superiors, or at the very minimum, persons of equivalent standing." (*The Law Quarterly Review*, Vol.106, Jan.1990, p.58)

Williams has not bothered to be acquainted with the Malaysian Constitution, but prefers the charlatan's analogy:

"Judgement by one's peers is an expression that is not generally understood and has its origins in the old class system that once pertained in England but now, fortunately, is mainly anachronistic. Under the jury system a person of high status such as say an eminent politician or Cabinet Minister, could be tried by housewives or labourers."

When all the cards have been counted, except for

the Mahathir hacks and the few gullible tourists like Williams, most honest observers and jurist bodies have concluded like Professor Trindade that:

"The removal of the Lord President (Tun Salleh) and the two other judges of the Supreme Court of Malaysia is a matter of grave concern for all those who believe in the independence of the judiciary...

"This conclusion also implies that the findings of the two Tribunals, appointed to enquire into that conduct, were not justified by the facts and that the behaviour of Tun Salleh and the two Supreme Court judges should never have been regarded as judicial misbehaviour or misconduct which rendered them unfit to hold judicial office." (ibid, p.85)

No doubt fully aware of their flimsy case, Mr. Williams (with the help of the Attorney-General) has tried to paint the ludicrous picture of an ambitious Tun Salleh:

"When interviewed, the Attorney-General spoke highly of Tun Salleh Abas as a scholar and legal researcher, but said that he believes that Tun Salleh Abas' downfall was brought about by an unquenchable thirst for power.

"Tun Salleh Abas was extremely ambitious and rose up quickly through the ranks becoming more and more confident of his own abilities, and indeed in his latter years as Lord President appearing at least to some as

having become arrogant, and not content with performing a mere judicial role in the community, albeit as the Lord president.

"The Attorney-General says that he does not find Tun Salleh Abas' books surprising, as he has always believed that Tun Salleh Abas has lusted for political power and popular support..."(p.75)

Malaysians and observers who have bothered to follow the politics of this country know that this is unadulterated hogwash.

Williams is a self-proclaimed "liberal thinker" but his apology for the Internal Security Act (on p.82) reads like a self-parody!

And then how do you rate a writer who fills his book with wholesale transcripts of documents which belong to the Appendices? Extract these chunks from the book, it will be as limpid as the Mahathir Administration's futile attempts to justify its indiscretions over the Salleh Abas Affair.

(5 April 1990-This review appeared in *The Rocket*)

## Chapter 16

# EASTERN EUROPE, CHINA & USSR: A Triumph For Capitalism?

**T**he recent cataclysmic changes in Eastern Europe, Soviet Union as well as China have evoked the expected jubilant responses from the Western-oriented "free enterprise" bloc. It has also produced the opposite disappointed reaction of those who had placed their faith in the Eastern Bloc as "beacons of Socialism". It would be wiser to see beyond the rhetoric and the ideologues.

Such a project invariably has to recognise history as a process and the historical significance of economic and social transformations at the given time.

The overtly capitalist press has not tried to hide its glee over the recent events, extolling the virtues of "private enterprise" over "central planning". There have

even been articles about how all this reflects on the "original nature of man" as a freely competing animal, etc. More alarmingly, many countries including Malaysia are using this as a *carte blanche* for privatisation policies without proper accountability.

This sort of simplistic ahistorical non-analysis of the Eastern Bloc countries clearly only serves particular interests. It does not provide enlightenment nor serve the people's interests.

The reality shows that the contradictions in capitalist societies - both in the big centres like the US and in the periphery of Africa, Asia and Latin America - are becoming ever more strained. Inter-capitalist competition has resulted in the US becoming the biggest debtor in the world today. Western capitalism has also led to ever greater wealth polarisation in countries like the US and UK where social welfare services are systematically slashed. This has prompted the distinguished economist, JK Galbraith to note:

"An explosion may be waiting to happen. And, in any case, it is a disgrace, which, when the history for the decade is written, may well obtrude on the free enterprise ideology..."

The pressures for change are thus also present in the Western capitalist societies and unfettered capitalism is not the ultimate answer to today's challenges.

Coming to the recent events in Eastern Europe, China and the Soviet Union, it is first important to see the nature in which these societies have developed since their respective revolutions. Can they still be seen as socialist or have they transformed beyond recognition?

In the first place, the historic significance of the Russian and Chinese Revolutions cannot be denied. All liberal historians would agree to that fact. However, it is an error to think that socialist countries already existed after the respective revolutions, for these societies developed along paths which made their later claims to socialism rather questionable.

The recent protests in Eastern Europe, China and the Soviet Union were over such issues as the lack of democracy; the privileges and corruption of the bureaucracy; and the like. Socialism is supposed to provide greater rather than less democracy, which is one reason why some analysts prefer to call these societies "state capitalist" instead.

Many of these so-called "socialist" countries reproduced the same evils of capitalist society they were supposed to replace. There were economic crises, sacking of workers, corruption, accumulation of wealth and privileges by an elite, violations of human rights, even the use of tanks to put down public protest, eg. Hungary in 1956; Czechoslovakia in 1968; Tiananmen in 1989.

The capitalist nature of these societies is revealed in

the ceaseless accumulation in which workers are mere sources of labour power, contradictory with the operation of an industrial enterprise under socialism which involves major changes in social and organisational relations in accordance with clearly stated social and economic objectives. The Soviet expansion into Eastern Europe after the War further intensified accumulation.

After World War II, the Allied forces and Stalin carved up Eastern Europe without taking into account the wishes of the people of Europe, all part of the Superpowers' spheres of domination. The communist parties of the respective East European countries gradually took over the pre-existing state structures.

The Soviet Union extracted post-war reparations and East European goods were bought at below world market prices. Unequal trade was transacted in other forms. Furthermore, "nationalization" was from above by the bureaucracy and not by workers at the grassroots while the Cold War made further demands on resources.

Last year's events were certainly not the first time there were revolts. There was the German Workers Revolt in 1953. The workers also struck in Poland in 1956; Hungary in 1956; Czechoslovakia in 1968. There was of course the Gdansk Shipyard strike in Poland in 1980-81.

The calls for reform have been heard over the last four decades every time an economic impasse has led to political and social agitation.

In China, the transition toward capitalist agriculture and the "open door" to foreign capital was evident from the late seventies. There was a major reversal of policies of socialist construction of the 1950s and 60s which had been exemplified by collective agriculture, self-reliance and the mass movement as an instrument of socialist construction. In fact, what was adopted in the name of socialism was reversed and undone in the name of socialism.

In the rural areas, the communes were dismantled alongside privatisation of the means of production and restoration of the rich peasant economy. In the State industrial sector, democratic management was undone as factories were reorganised toward individualised work. Economic planning was undermined in favour of profit maximisation, liberalization of commodity prices and free interplay of market forces. Leaders of China's "modernization" became an entrepreneurial elite class rather than the workers and peasants as the "agents of socialist construction". In health, education and social services, privilege was restored.

China's foreign policy also saw a distinct shift, exemplified in the Beijing-Washington strategic and military relations and the joint ventures in defence production from the late seventies.

As in Eastern Europe, the formal taking over of the old regime-run enterprises had not in themselves created the necessary conditions for a fundamental change in so-



cial relations at factory level.

The fundamental question is one of correctly representing these historical processes rather than talking of "choices" or "models" that the Chinese Government is faced with. Those who justify the Chinese Government's policies of recent years seem to avoid seeing the historical significance of the economic and social transformations after the Revolution.

The "modernization" policies in effect reversed a fundamental process which was geared towards providing basic human needs (food, housing, essential services). The result will almost surely be the familiar Third World syndrome of poverty and underdevelopment in the midst of localised affluence, social privilege and consumerism.

The economic problems in China, Soviet Union and Eastern Europe cannot be seen in economic terms like those who point to errors of management, lack of material incentives, excessive centralisation, and the like. The analysis of social classes and the way in which this affects such processes as collectivisation, dislocations in production and distribution is essential.

Above all, the events of the late eighties have demonstrated the fact that peoples all over the world are prepared to defend their democratic and human rights against all odds. They showed that they are not prepared to accept dictatorship, corruption, exploitation and non-

accountability by a privileged class. The peoples' revolts in these countries have also exploded once and for all the myth that the so-called "Eastern Bloc" is made up of cowed or brainwashed masses.

The question of the choice between a one-party system and a multi-party system is secondary to the issue of a meaningful choice before the people and the availability of freedom to make that choice. Plainly the availability of a multi-party system means little if the powerful interests in the ruling party dominate the media, the state apparatuses, rig the rules and strangle the Opposition.

In the countries under the sway of Western capitalism, the democratic movements have also made progress in recent years. Several dictators were deposed, eg. Marcos of the Philippines, Baby Doc Duvalier of Haiti, General Zia of Pakistan. In many other countries, opposition parties championing democracy made advances against the entrenched dominance of the ruling parties. This was seen in Japan, Taiwan, South Korea as well as in many Latin American countries.

In the many capitalist countries linked to the West, human rights and democracy continue to be denied by the power holders to the masses in those countries, such as detention without trial; curtailment of the freedom of expression, association, assembly and other civil liberties.

Democracy is particularly precious to workers who would like to have a greater say in the running of their working lives and conditions. The manner in which the economy is run becomes pertinent since in so many sectors, workers are told their wages must be kept down in order that the industry can be competitive. The current wage dispute in the Malaysian plantation sector is instructive in this respect. Estate workers there have seen years of working for a pittance while the plantation companies continue to reap profits in a booming economy. The lives of plantation and other workers cannot be left to the mercy of the "free market" and unaccountable corporations.

It is clear society needs to be rationally and democratically organised. The scandal over the politically embroiled timber concessions in Malaysia, to point out another sector of the economy, is one reason for urgent public control over such precious natural heritage. There is need for maintenance of public transport, infrastructure, housing, health and environmental protection. There must also be full accountability to force incumbents to justify their record.

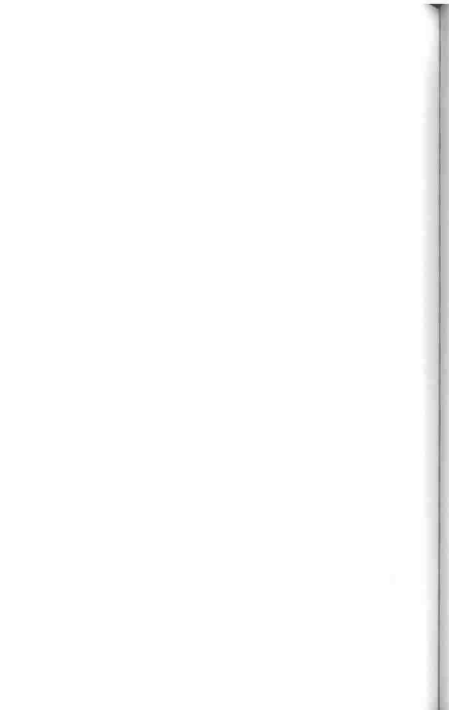
The ethnic problems in Eastern Europe and other republics in the Soviet Union have demonstrated the fact that the national question remains a burning issue which is not easily subordinated to the question of class.

Seen in a different angle, the revolts in these nations are symptomatic of the decline of the superpowers. In

Nicaragua and in Afghanistan, the US and USSR were forced to retreat. During the eighties, the national liberation forces in Kampuchea, Namibia, South Africa, Eritrea and Tigray made strong progress.

This should not, however, lull us into complacency. The recent US armed intervention in Panama and the Philippines is evidence that the imperialist powers have still no regard for the principles of national sovereignty and non-alignment and will continue to flout these to ensure their own strategic interests.

(19 February 1990)



## Chapter 17

# DEMOCRACY AND HUMAN RIGHTS: Hope For The 1990s

**T**he events of the eighties, climaxing in 1989, have given us fresh hopes for the nineties. The peoples in different parts of the world have demonstrated their readiness to defend their democratic and human rights against all odds.

The breath-taking events in Eastern Europe during the last few months are but the latest in a series of democratic movements by ordinary peoples all over the world who had had enough of dictatorship by the privileged class, corruption, exploitation, non-accountability and denial of peoples' democratic and human rights. In some cases like East Germany and the end of the Berlin Wall, reforms were won peacefully. But in China and even more recently in Rumania, the demands for democratic

change have been met by repression from the respective authorities.

In the so-called Western Bloc, the democratic movements have also made progress. Several dictators close to this bloc, Marcos of the Philippines, Baby Doc Duvalier of Haiti and General Zia of Pakistan were deposed. In many other countries, the opposition parties championing democracy made advances against the entrenched dominance by the ruling parties. This was seen in Japan, Taiwan, South Korea as well as in many Latin American countries.

These developments have shattered once and for all the mystifications of the 'capitalist/communist', 'democratic/totalitarian' labels of the Cold War era. The fact is that in many of the communist countries, capitalist practices had been restored for some years now although those countries were ruled by the respective monolithic parties; while in the so-called 'democratic' capitalist bloc, human rights and real democracy continued to be denied by the power holders to the masses in those countries.

In many countries East and West, the freedom of expression was denied or else constrained by the power-holders. The other demands for freedom of religion and cultural democracy likewise saw a resurgence in many multi-ethnic societies all over the world.

These world-wide demands showed beyond any

doubt that human rights are inalienable, international and basic to every human being on this earth. Human rights are not a Western preserve and cannot be compromised as some Third World despots have tried in vain to argue in order to justify their repressive actions.

The eighties have also seen successes by the national liberation forces in Afghanistan, Kampuchea, Namibia, Zimbabwe, South Africa and elsewhere. In Eritrea and Tigray, the liberation forces are fighting against an Ethiopian regime that receives arms from both super powers. The result is that 4 million people are starving and there is no political will for aid to get through to them. The struggle against apartheid in South Africa has seen greater successes and exposed further the hypocrisy of the big powers and corporations which continue to invest in South Africa.

The collapse of the Eastern Bloc regimes should not lead to complacency by the democratic forces toward the Western Bloc. The latest US armed intervention in Panama is but another example of the brazen disregard for the principles of national sovereignty intrinsic to the non-aligned movement. The big powers, East and West, have shown time and again that they have no qualms about trading with or selling arms to regimes which violate human rights. At the same time, the power holders in many countries are using the opportunity of the collapse of the Eastern Bloc countries to privatise national assets which in fact belong to all the people.



There continue to be human rights violations in many countries as well as abuses of power by the police in countries aligned to the West. In some countries, the democratic demands have likewise been met by renewed repression.

In our own country, Malaysia, the last few years have witnessed further constraints on our democratic and human rights under the present Barisan Nasional government. The Internal Security Act was conveniently used to stifle dissent when more than a hundred social activists, academicians, opposition leaders were detained in 1987. Following this, other laws and amendments were introduced by the Barisan Nasional government to curb basic freedoms.

The ISA, which provides for indefinite detention without trial, remains the most obnoxious law that is an affront to basic human rights. Recent amendments to this law have effectively removed any chance of judicial review for ISA detainees. Several detainees have alleged that they were tortured during the recent detentions but no action has been taken or full public enquiry instituted.

Freedom of expression has been effectively curtailed by the Printing Presses and Publications Act, while the Official Secrets Act has put obstacles to the free access of information for the public good. One of its effects is to cover up corruption.

The democratic right to freedom of association has

been infringed by the Societies Act which ensures that societies remain firmly under the control of the Registrar of Societies. Similarly the Trades Union Act empowers the Registrar of Trade Unions to deregister unions.

The Police Act and its latest amendments have further curtailed the right to freedom of assembly. The Universities and University Colleges Act has served to muzzle students and academicians.

More alarming than these breaches of basic freedoms, the judiciary suffered grave incursions on its independence when the Government amended the Constitution in March 1988 to provide that Parliament would define the boundaries of judicial power. Worse still, Tun Salleh Abas, the then Lord President was sacked in May 1988. This was followed by the suspension of five Supreme Court judges, out of whom two were subsequently dismissed.

In East Malaysia, the search for quick profits in the guise of "development" has witnessed the sorry plight of our native peoples, especially the Penans. The indiscriminate logging in Sarawak has affected not only their human right to their ancestral lands and rivers but their livelihood and cultures are also at stake, not to mention the untold damage to our tropical rain forest and the environment. To date, more than a hundred Penans have been arrested for blockading logging roads as a desperate move to safeguard their livelihood and their lands.

The political agenda for the 1990s is clear. Our democratic institutions must be rescued from further erosion by the Barisan Nasional Government. Only when the democratic and human rights of all Malaysians have been restored will there be genuine National Unity and racial polarisation be effectively checked.

The independence of the judiciary must be restored and real separation of powers must be seen to be established in order to curtail further encroachments by the Executive. The Government and government officials must be made to abide by the principle of accountability at all levels.

The scandals involving Government officials which have been uncovered during the eighties have not only brought untold shame to the nation but they have involved the squandering of billions of ringgits which belong to ordinary Malaysians. The most scandalous of these were BMF, the cooperatives' crisis and many others which have still not been accounted for nor have the culprits been brought to book.

Experience has shown that we cannot count on the Barisan Nasional itself to rescind all the undemocratic laws and policies which they have introduced. It is essential, therefore, that we deny the BN coalition the two-thirds majority in Parliament. There is the growing reality of an effective Opposition Front which will provide Malaysians at least with an alternative government. Conditions are in fact better today for the realisation of a

"two-front system" advocated by the Civil Rights Committee in 1986.

We need warn all prospective parties in the Opposition, however, that they deserve support only if they incorporate progressive commitment to democracy and human rights in their political platforms. All political parties which resort to communalism - whether they pander to the Malays or Chinese or Indians or whichever community - will be spurned with all the contempt they deserve. And those parties which renege on their pre-election promises will forfeit any future support from the people.

The range of problems confronting us should be sufficient to show us that the token democracy seen in periodic general elections are insufficient to guarantee the safeguarding of our democratic and human rights. These vital issues should alert us into constant vigilance in the defence of our democratic institutions.

The problems of poverty and economic backwardness in the country; the subordinate status of our womenfolk; the plight of our workers, farmers, squatters and other less fortunate artisans and traders; the conditions that prevent them from exercising their democratic rights, these involve the reinstatement of genuine democracy for their solution. Together, we will build a better and brighter tomorrow.

(1 January 1990)



## Chapter 18

# MY DECISION TO ENTER POLITICS

*(An interview with Nanyang Siang Pau)*

**A**t the outset, I must point out that I never ruled out the possibility that I would one day take an active part in politics. If you refer to some writings of mine in the mid-80s, you will discover that I have made this clear.

Since my return to Malaysia from my studies abroad, I have been keeping a keen eye on Malaysian politics. When an issue has arisen involving injustice, irrationality, untruth or inhumanity, I have not been afraid to speak out in the press. If you refer to my collection in *Malaysian Political Myths*, you will see that I am a fervent opponent of racism and communalism and defender of democracy and human rights.

Through the years of working in the Chinese Associations, I have been acquainted at first hand, the strategy of the Barisan Nasional in using communalism to split the people. There have been so many issues that I can remember involving the New Economic Policy, National Culture Policy, Education Policy plus other unreasonable directives to create dissension in the National-Type Primary Schools.

But I have also been active in human rights campaigns such as the Papan and Bukit Merah Anti-radioactive campaigns; the anti-ISA, OSA campaigns; support for squatters, minorities like the Penans as well as workers and the women's movement.

Prior to the 1986 general elections, I played a part in drafting the Joint Declaration and during the campaign I joined in the work of the Civil Rights Committee which pushed for the "Two Front System".

My incarceration under Operation Lalang strengthened my resolve to see the Barisan Nasional removed from the Government. If you study the charges in our detention orders, any moral person will realise what a dishonest, deceitful, power-hungry Government the BN is. If you followed the way the BN MPs - MCA and Gerakan included - amended the ISA to frustrate our habeas corpus applications, you will realise that the MCA, Gerakan, MIC politicians are no different from their UMNO big brother.

My association with the DAP leaders at Kamunting made me realise that all the gossip by anti-DAP people all these years about Kit Siang being a dictator, etc. was sectarian rubbish. I was also impressed by the humility of Kit Siang and Karpal, who were in strong contrast to the loud-mouth detainees who seemed desperate to be heroes at Kamunting. The DAP was also the political party which did the most work for the ISA detainees.

At Kamunting, the DAP leaders already encouraged me to join them. I certainly was touched by their open and liberal attitude towards me. We were already comrades-in-arms at Kamunting and especially our common struggle during the first anniversary hunger strike struck a strong lasting bond between us.

Then as now, I believe that a Two-Front System is the best system to counter the arrogance and lack of accountability of the BN. Only a viable alternative like the present 46-DAP and other democratic forces can improve the democratic and human rights situation in this country.

The efficacy of this Two-Front system is already clear now. The sweets and other compromises by the BN to the Chinese schools and Associations are mainly due to 46 - certainly not because of anything MCA or Gerakan has won. Let no one have any illusions about this!

Anyway, a few months ago the group of us dis-



cussed how best to strengthen the Opposition Front. There was unanimous opinion that the most effective way is to take a direct part in the elections fielding candidates from the Chinese Associations.

However, when it came to who would be prepared to come out, there was no one. Everyone was not prepared to come out, citing personal problems, etc. As for me, I wanted to spend more time with my writing and my family.

As a result, since no one was prepared to be a candidate, the movement to strengthen the Opposition Front died momentarily.

As time passed and the general elections grew nearer, we all felt that it was ridiculously selfish of us to consider our personal problems to be more important than the greater importance of restoring democracy and human rights in our country by strengthening the Opposition Front.

Finally, only a few weeks ago, the few of us decided that we would be prepared to stand as candidates if so required. When that understanding was agreed upon, the movement just snowballed like magic. Our young activists did not need much convincing since they had all along been active in the democratic and human rights movement. Their young ideals are not so easily obstructed by so many family and age-concerns like us older activists!

Choosing the DAP was a natural choice since all of us felt that in the last few years, the DAP has been the most effective opposition party in the country. They are also more consistent on democratic and human rights issues.

We traveled to other parts of the country to seek the views of other friends. Most shared our analysis of the situation in the country and the need to strengthen the Opposition Front. So here we are today in the Opposition Front! The rest is history...

In 1982, when a few people from the Chinese Education Movement went into Gerakan, they went in as individuals. Dong Jiao Zong has consistently denied that AS AN ORGANISATION they had backed these individuals.

The reasons they gave for joining the Barisan Nasional struck me as either sheer opportunism or political naivete. For you don't have to be even a social scientist to be able to analyse the nature of the Barisan Nasional State. To tell people that you are going in to "reform the BN" is to believe in fairies as is very clear to all today - these "Gerakan-entrists" have themselves been "reformed by the BN"!

The "3-in-1" slogan that they used has been proven to be a naive and empty slogan because it pretends to ignore such an important ingredient called SELF INTEREST, ie. political and economic interest. Any-

body who pretends to be able to analyse scientifically the social situation and does not consider the political economic interests of elites in the community is not much of a thinker.

For the Chinese community, like the other communities, is made up of some elites who would support the Government for their own economic interests, who are prepared to support the Government's anti-democratic and anti-human rights policies.

Whether we are talking of "Chinese unity" or "Malaysian peoples' unity", that unity can only be based on the defence of democracy and human rights. Only the opposition parties have been consistent in this. The BN parties are directly responsible for denying the people democracy and human rights. Any other call based on the hollow exhortation of "Chinese Big Unity" and the like is opportunistic and chauvinistic.

The so-called "3-in-1" slogan has, in hindsight, been shown to be hollow. The "Gerakan entrists" have since shown their true colours for they now seem to believe in "2-in-1": they don't think the opposition has any effective role. I would even say they now believe in "1-in-1" since they recently said pressure groups have a negligible role to play in society. A Gerakan leader is also on record as saying the Chinese Associations were "reckless" during October 1987 over the Chinese primary school issue.

These "BN entrists" have since 1982 helped the Government to pass innumerable unjust laws and amended the Constitution. Would they have the nerve to tell the people today they are in the BN to fight for democracy and human rights? Of course not, and that is why we don't hear them daring to talk about democracy and human rights these days.

They only talk about how effective they are in the Government even when Musa Hitam quit saying he was ineffective as Deputy PM! They talk about how "their Government" mends our drains. But they don't talk about "their Government" helping to detain innocent democratic dissidents during Operation Lalang. They talk about how they were responsible for getting the detainees released (which we detainees never asked for) but they don't tell the people that they helped to amend the ISA to frustrate us from winning our freedom through the courts!

For those who couldn't see this in 1982, very soon after, the folly of the move was quickly realised in the way the BN Government continued in its old arrogant way.

Meanwhile, after the National Culture Congress in 1983, the "15 Major Associations" came into being. Thus we now had 13 major Associations plus Dong Jiao Zong which began to play their historic role in demanding democracy and human rights. This crystallised in the Joint Declaration 1985 and soon after, the Civil Rights

Committee was set up to see that these demands were carried out.

By 1986, the Chinese Association leaders began to see the need for a "Two Front System" and how it would be an effective way to help the democratic system in this country and provide a check to the arrogant ways of the BN Government. Although the time was very short, at least the idea was already planted in many people's minds. The Opposition Front failed in 1986 principally because the DAP was not in it. PAS had overestimated itself.

In 1990, the conditions for an Opposition Front are even more ideal with the emergence of Semangat 46. Here we have a viable Alternative Government, with a possible Prime Minister that is acceptable to all: Tengku Razaleigh. Formerly, the BN used to say that the DAP only opposes - today, they have no more to say. Among the 46 leaders are former Ministers with experience.

Even the formerly "unsplittable" MIC is today split! The splitting of the BN is the best thing that has happened to Malaysian politics since Independence. There are real opportunities for defeating the politics of race and the politics of fear, the BN trademark.

But most important of all, the 46 leaders are raising democratic and human rights issues in stark contrast to the UMNO leaders who continue to raise racialist issues. Just compare the statements by the respective leaders in

response to our joining the DAP for instance. What do the MCA and Gerakan leaders have to say about the lies by Mahathir and the racist comments by Ghafar Baba, Najib Razak and Mohamad Rahmat about Chinese educationists? What do the MCA and Gerakan leaders have to say about Tengku Razaleigh's suggestion of Deputy Prime Ministers of various ethnic groups?

(2 September 1990)



## Chapter 19

# MASS HYSTERIA IN BN LEADERSHIP

**O**n 24 August, The Star carried another of those very familiar pre-election gimmicks of the BN: "6,500 PAS MEMBERS IN SUNGEI PETANI TO JOIN UMNO" it proudly emblazoned across the page. Whether this is true or not is a different matter, for people have become immuned to BN propaganda. Anyway, PAS subsequently released a statement to say that their Alor Setar HQ was not aware of this and in any case, they don't have that many members in Sungei Petani in the first place!

Practically every other day, the BN press carry headlines of tens of hundreds of PAS and 46 members and leaders joining UMNO, I'm surprised there's any member left in these two parties!



Now when just 27 civil rights activists from the Chinese associations joined the DAP on 18 August 1990, it made the whole BN leadership go berserk. Mass hysteria broke out. It started with the MCA and Gerakan leaders even before we joined the DAP! It made the UMNO Baru president, Dr. Mahathir tell a lie that he had recently received a letter from the Chinese educationists asking for Mandarin to be considered an official language.

That lie was instantly nailed by the new DAP adviser, Mr. Lim Fong Seng, who challenged Dr. Mahathir to produce the letter, if ever there was one. WATAN carried it in its front page: "BAHASA CINA: DR M DIKECAM" and in sub-headlines: "SENGAJA BANGKITKAN ISU YANG TELAH LAPOK".

I commend Watan for the straight and accurate reporting. All these years, the BN-dominated press have been wilfully twisting the very reasonable demands of the Chinese and Tamil educationists, namely, to honour our human and constitutional right to promote mother tongue education.

This very simple demand has been wilfully twisted by the BN propaganda machine into the lie that we are challenging the status of Bahasa Malaysia as the national language and official language.

Whether one agrees with the question of Mandarin or Tamil or Kadazan being official languages, the fact

remains that this is today no longer the issue. Simply because nobody can raise these issues anymore after the Seditious Act was passed in 1971. We would have been foolhardy to risk arrest and punishment by raising such an issue.

But Dr. Mahathir says that he recently received such a letter from the Chinese educationists asking for Mandarin to be considered an official language! So the entry of merely 27 of us could cause such an upset to the BN to make their Great Leader tell lies!

The other UMNO leaders - Ghafar Baba, Najib Razak, Mohamad Rahmat, Anwar Ibrahim - have all got in on the act.

The Deputy Prime Minister raised the terrifying spectre of Malay teachers being recruited into UMNO Baru to level with these 27 people who have decided to join the DAP to bring about a "Two Front System". In actual fact, there is not a single teacher amongst this group of 27! In any case, if there were still Malay teachers wanting to join UMNO Baru, Encik Ghafar Baba would have quickly signed them on with great fanfare, the SEMARAK fanfare we saw so much of during the desperate days of 1988.

The Education Minister, Anwar Ibrahim has continued to peddle the big lie of his Great leader. On 26 August, he was quoted by the NST as saying that the Chinese educationists "still refuse to acknowledge Ba-

hasa Malaysia as the official language" in a misleading headline "GROUP UNDER FIRE FOR REJECTING BAHASA". He said he had received a letter from a Chinese educationist group stating that they did not want the proceedings at the meeting to be conducted in Bahasa Malaysia.

If Dr. Mahathir and Encik Anwar Ibrahim have any moral fibre left in their body, they should do the decent thing and let the public see the contents of these phantom letters. If they fail to do so, they should publicly apologise to the Chinese education movement as a whole. So far they haven't got any moral fibre in their body to take up this challenge to let the public see the contents of this letter.

Today, it is the responsibility of Dong Jiao Zong to reply to such "*fitnah*". It is deliberate and unadulterated "*fitnah*". And since the BN-dominated press continue to black out and to twist the views of the Opposition and the NGOs, Dong Jiao Zong should consider taking legal action against these BN leaders for libel to make them face up to their moral responsibilities.

Telling the truth is a basic moral responsibility of every parent, never mind a Minister of Education or a Prime Minister. "Fitnah" is reprehensible in every major religion of this world. When the supposed "Peoples' Representatives" start telling untruths, all in the name of "politics", it is time for the rakyat to change their representatives.

It is also the responsibility of the MCA and Gerakan to explain why they have failed to enlighten these UMNO Baru leaders regarding the reasonable conditions raised by Dong Jiao Zong.

The BN's top leaders have deliberately twisted the reasons given by the DAP and the Chinese educationists for their reservations in taking part in the proposed Consultative Council on the Education Bill:

- 1) "There should not be any imposition of the OSA on the proceedings."

This is a perfectly reasonable condition since it makes nonsense of the supposed democratic consultation if our representatives cannot report back to us regarding the Education Bill. It is simultaneously a strong argument against the existence of this piece of undemocratic legislation, the OSA.

- 2) "There should not be any a priori conditions imposed on participants in the Council regarding the terms of reference of the Education Bill."

This is again perfectly reasonable. It is exactly questioning the sincerity of the BN in establishing a Consultative Council on the Education Bill at this late stage, some 4 to 5 years after drafting it and after a Cabinet Committee had been set up to finalise all details of the Bill,

which was intended to be presented in the Dewan rakyat last June! Is this why there are a priori conditions imposed on the Council's brief?

- 3) "Minority views must be minuted in the Council meetings."

One of the reasons why the Chinese educationists left the NECC was precisely because their views were either ignored or bypassed in the summarised views of the Sub-committees.

- 4) "Ample time must be given to representatives to study the many memoranda and submissions."

If the NECC has taken nearly two years to do its report, what sort of time frame does the BN have in mind for the Council on the Education Bill? It is very clear that the BN intends to go through the next general elections without making good its promises of the last general elections - to amend the 1961 Education Act to the satisfaction of all the rakyat. When we bear in mind that the general elections have to be called by next year, the attempt by the BN to renege on its election promises of 1986 is only too clear.

Any rational-thinking Malaysia can see that these are commonsensical considerations to test the sincerity

of the BN Administration, and if the BN leaders have any integrity at all they should not be afraid to give us a good clarification.

It is precisely because the BN leaders have been caught with their trousers down that one after another are resorting to blatant lies and communalism. We saw the way they tried to communalise the decision by various groups to pull out of the NECC by saying it was only the DAP and the Chinese educationists who had pulled out.

In fact, one of the first to pull out of the NECC was Rev. Paul Tan of the Catholic Seminary. No BN leader made a fuss over it because there was no political capital they could make out of it. In fact, PAS also made a decision to quit the NECC after Dr.M made his big gaffe about how PAS should follow the example of the CPM and disband. But the BN leaders have also chosen to ignore this fact because they can't play up communalist feelings.

We therefore see that they have deliberately and wilfully played up the fact that it is only "DAP and the Chinese educationists" who have stayed out of the NECC. The latest news about five more NECC members pulling out - among them Tan Sri Ahmad Noordin and Dr.Sanusi Osman - has completely foiled the BN leaders' latest trick and shown that our decision was correct all along. In their letter, these five academics have said:

"The speech by Dr.M (that the Government was not bound to accept all the proposals of the NECC ) is an embarrassing insult to all NECC members and also shows that the Government has not been sincere to the NECC," they said. (*The Star*, 29-8-90)

In fact, as early as late 1988, just after the NECC was announced, the PM had said in a speech in Singapore that the NECC would fail and the Government itself would prepare the national economic policy after 1990. (ibid)

Within the NECC itself, the plenary sessions were dominated by communalist harangues, hardly the forum for rational discussion of our country's post-1990 economic policy. It is pertinent to ask why UMNO Baru chose not to send its top leaders if this was supposed to be such an important Council. Besides, there were procedural inconsistencies, members' views not being included in the Sub-Committees' reports and such other examples of insincerity. These were some of the concrete instances raised by us for withdrawing from the NECC.

From the very start of the NECC, the Government insincerity was shown by its continued detention of innocent democrats under the ISA. As we pointed out at the time, the unconditional release of all the ISA detainees under Operation Lalang should have been the absolute condition for participation in the NECC in the first place. Every democrat should have laid this down as the

minimum condition for participation in the NECC.

The communalist intent of these top UMNO Baru leaders is therefore very clear. In fact we are all very familiar with the lies of the BN leaders for the White Paper on the October 1987 detentions was one of the biggest lies committed by the Mahathir Administration in recent Malaysian history. Not to mention the Whitewash on the 1988 assault on the Judiciary. As Bapa Malaysia has commented plainly on the Affair:

"I do not know how any honourable government can stay in office after this book (May Day For Justice) has been published. It constitutes a denunciation which cannot be answered without confessing to the most dishonourable conduct in public life."

## **Political Schizophrenia**

But what of those MCA and Gerakan top leaders, those leaders who can never be sure whether they love or hate the UMNO Baru leaders - they love their UMNO Baru big brother for the Cabinet posts and other perks and economic interests, but they hate them for their policies which are totally unpopular with the people and cost them votes.

This is a common psychiatric syndrome familiar among the MCA, Gerakan and MIC leaders. It is called POLITICAL SCHIZOPHRENIA. You know how it



goes: When the Government repairs your drains - only at election time - they go round yelling, "It is our BN government which has repaired your drains." But when their BN Government arrests and detains under the ISA democratic leaders of the community, they dare not trumpet the fact that it is their government which has arrested innocent people.

Then they put on the other hat - that of the Trojan Horse within the BN helping to get ISA detainees free. In fact, in the Chinese press these BN leaders claim credit for getting Mr.Lim Fong Seng, Mr.Lim Kit Siang and myself out of Kamunting!

They don't tell the people the disgraceful way in which they helped the BN amend the ISA twice, in 1988 and in 1989 to frustrate our attempts to apply for habeas corpus. Getting redress through the courts should be the preoccupation of democrats and not having to win hard-earned favours from the Emperor like in the feudal days.

The mental insecurity of these MCA, Gerakan and MIC leaders within the BN is also clear from the way they pretend to run down the UMNO Baru leaders when they are with their respective communities. Thus when we announced our entry into the DAP, Dr.Ling Liong Sik tried to communalise it in the Chinese press as a plot by 46 and PAS to "let the Chinese control the Chinese".

All these BN leaders pretended to ignore our joint statement (issued by the 27 at the press conference on 18

August) in which we unequivocally stated that our main aim was to strengthen the Opposition Front in order to restore democracy and human rights which have been eroded by the BN Government.

When former PAS or 46 members turn coat and defect to UMNO Baru, you don't hear anybody say that this is a Chinese plot to "let the Malays control the Malays".

The simple rebuttal and challenge to chauvinists and communalists like the MCA President is: Come join us in urging the Chinese voters to vote for Semangat 46 and defeat UMNO Baru. Of course, the MCA and Gerakan leaders would never do that for all their posturing in the Chinese community.

It is merely empty communalistic posturing for after Dr. Mahathir told his big lie about receiving a letter from the Chinese educationists, Ling Liong Sik in true BN spirit repeated the lie about their asking for Mandarin to be made an official language. This is an absolute disgrace for a leader who claims to represent "the Chinese community" for he has misrepresented their reasonable cause of merely defending their right to mother tongue education. Without doubt, this is another nail to the MCA's political career after the devastating charges of misdemeanor by the Lee Kim Sai faction recently.

The Gerakan leaders have joined in as the BN chorus boys to accuse us of being opportunists. As Sdr. Kit

Siang has said many times, if we were opportunists we would have joined the BN long ago to clamber for the Ministerial posts and perks and to apologise for the Mahathir Administration's butchering of our democratic institutions and our human rights. If we had done that, the foolish doctor president of Gerakan, the buffoons in the MCA leadership would have fewer opportunities to hang on so desperately to their ministerial and deputy ministerial posts.

We must be mentally deranged (if we were opportunists, as the Gerakan leaders claim) to choose to fight in the Opposition for truth, justice, rationality, democracy and human rights of all the Malaysian rakyat, to risk arrest, detention and other forms of persecution which the BN has perfected to a fine art.

(30 August 1990)

## Chapter 20

# THE 1990 GENERAL ELECTIONS: A Post Mortem

**T**he results of the 1990 Malaysian General Elections were a disappointment to all Malaysians who had hoped for a meaningful change to the long years of BN abuse of power, democracy and human rights.

The biggest letdown was no doubt the fact that the bulk of the Malay voters were swung against Semangat 46 during the last days of the election campaign by the most unprincipled and dishonourable methods yet exhibited by the BN machinery. The BN-controlled mass media did their worst.

This single factor led to the failure of the Opposition Front to capture the initiative and at least to reduce the

two-thirds majority of the BN in Parliament.

Besides the dirty tactics of the mass media, the conduct of the polling by the Election Commission in stations up and down the country certainly left much to be desired. Apart from the inconsistencies in the electoral rolls, the chaos in many polling stations drove many frustrated voters away. Numerous Opposition supporters could not cast their votes because they could not find their names in the rolls. For this, the SPR must bear total responsibility.

Despite the failure by Gagasan Rakyat to reduce the BN's two-thirds majority in Parliament, the Opposition can claim satisfaction from the fact that two states, Kelantan and Sabah are now in the hands of the Opposition.

The overall results certainly show an improvement on the previous elections: The BN's percentage of total votes has dropped from 57% in 1986 to 53% in 1990, while that of the Opposition's has increased from 43% to 47%. The BN only just managed to secure the two-thirds majority, securing 127 Parliamentary seats as compared to 148 in the 1986 elections. It won by slim majorities (less than 2000 votes) in at least 7 constituencies, which would have cost them the two-thirds majority if they had lost these.

As for the DAP, although the number of Parliamentary seats held by the party has dropped from 24 to 20, we can gain consolation from the fact that the 4 seats

lost in Sabah went not to the BN but to PBS. The loss of the four Sabah seats can be attributed to the unique political situation in Sabah, involving a "siege mentality" of the Sabahans vis-a-vis the parties from Semenanjung.

The DAP's failure in Sabah is also attributable to the sudden transformation at the eleventh hour when PBS pulled out of the BN. As such, there was scarcely time for the two parties to reach a satisfactory arrangement since nomination day had passed and the contest could not be averted.

But on the whole, the DAP made significant gains in many areas:

- 1/ We succeeded in winning the largest number of seats in the Penang State Assembly, from 10 to 14 seats. This is more than the MCA's and Gerakan's seats put together. The BN's two-thirds majority in the Penang State Assembly has therefore been successfully slashed.
- 2/ In Selangor, the DAP increased its State representation from 5 to 6, and in Johore, from 1 to 3.
- 3/ The DAP managed to garner nearly a million votes - about the same as in 1986 - although it contested about 15 Parliamentary seats less in Peninsula Malaysia than it did in 1986 because of the new political alliance in Gagasan Rakyat.

- 4/ The election results showed decisively that the MCA and Gerakan seats were propped up only by UMNO votes. This has at last forced the MCA and Gerakan leaders to cease their long pretence of representing the Chinese in this country. Since the elections, they have not stopped scolding the Chinese voters and threatening them with curtailing all assistance.
  
- 5/ The success of Gagasan Rakyat in forming a political alliance to contest against the BN on a one-to-one basis in most constituencies was an important step in the struggle for a democratic alternative to the BN. The 1990 elections was an important beginning and an invaluable experience for the challenges ahead. Despite losing the elections, at least we take pride in the fact that we lost honourably. We did not resort to racialism or religious incitement or the politics of fear, as typified the BN campaign but based our electoral appeal on justice, democracy, political, economic, social and cultural rights of the Malaysian people.

Among the Chinese voters, there was no doubt a strong "wind of change" which helped the Opposition. This swing toward the Opposition is particularly significant at a time when the Malaysian economy is doing well. It goes to show the strength of feeling in the community towards the inequality and injustice of the BN. Most constituency reports generally estimate that 85% of

the total Chinese voters voted for the Opposition.

Let us look at the various factors involved in the 1990 general elections:

### **BN Dirty Tricks**

The exact effect of the BN-controlled mass media is difficult to gauge. But practically all media watchers agree that their appeal to the politics of fear and religious incitement of the Malays certainly swung the crucial Malay voters against Semangat 46 during the last few days of the campaign. We had hoped for a mere 10% swing which would have reduced the two-thirds majority of the BN but the vicious and crude tactics of the BN were instrumental in turning the tide which had been in the Opposition's favour right through the campaign.

From the election results, it is clear that the earlier attempts by the media to raise the spectre of the Islamic State failed to produce any effects on the non-Muslim voters. This strategy by the BN was successfully combated by the DAP which showed the people the impossibility of such a situation arising from the number of candidates put up by PAS in the 1990 general elections.

By the time the elections arrived, the BN themselves realised that their Islamic State strategy was not working and they abandoned it for their other "spectre of May



13". This threat of racial violence had been harped upon right through the months preceding the elections but when the campaign began in earnest, the BN and its mass media used all their channels to create a climate of fear if the status quo should be threatened.

From the first day of the campaign, RTM started to broadcast an "Election Special", a documentary with grim reminders of racial violence erupting after the Opposition victory in 1969. The NST started a similar series in its columns by Kadir Jasin, harping on the same message of fear but even more directly and deviously putting the blame for the racial riots on the DAP.

The obnoxious cartoons used so flagrantly by the BN ridiculing the Opposition in 1986 were repeated in 1990 but this time they fell flat. The BN were fully aware of this for these cartoons soon dwindled and abandoned for the photographs and images of violence and the blatant portrayal of the Opposition as "extremists". These BN advertisements in the mass media became even more desperate after PBS pulled out of the BN to join Gagasan Rakyat.

The two starkest examples of the BN adverts were one calling on the people to be wary of "extremists" in huge letters and an accompanying photograph of racial incidents; another full-page advert depicting a painting of a bloody heroic defence of the Malacca Sultanate by the Malays with an appeal "not to forget this lesson of history", an outright appeal to racial incitement. Besides

these full-page adverts in all the different language newspapers, the Malay-language newspapers had constant appeals by Umno leaders and columnists to protect "ketuanan Melayu" (Malay Dominance).

This was clearly a call to arms to the Malays to reject Semangat 46 and its allies in Gagasan Rakyat, with the imputation that a vote for the Opposition was a vote against "Malay interests".

The withdrawal of PBS in the middle of the campaign made the desperate BN to throw all ethics and propriety to the wind. They resorted to the by now infamous dirty trick of portraying Tengku Razaleigh wearing the Kadazan "tengkolok" as having made a pact with Christians who were out to demolish Islam. All the dishonest means used to pass on this dirty trick - drawing a cross on the purely ethnic tengkolok, the fake directive from the Pope to Pairin, etc.- are now part of the shameful baggage of the BN. The BN-controlled newspapers, radio and TV must bear this dishonourable taint besides all their record of unethical practices.

But there is a point worthy of note. The BN will have to dream up new propaganda strategies at each general elections. This time, their obnoxious cartoons failed and they resorted to what could be considered the ultimate weapon - crude threats and dirty tricks. As Malaysians get wiser - and there is every indication of this trend - time will be running out for the BN.

Apart from these atrocious examples of the BN mass media at their worst, the daily broadcasts were of unashamed blanket coverage of the BN leaders and total obliteration of the Opposition leaders. The only time Opposition leaders managed to appear on the screen was of carefully edited footage to present them in a bad light.

## **Influence of the Economy**

The surge in foreign investments and the development in various urban centres no doubt served to account for the BN's victories in several towns on the West coast. Those who were taken in by the BN's politics of fear and intimidation or who cared more for money than conscience most likely voted BN.

The better showing by the Opposition in this election is certainly sobering though. The landslide for the Opposition in Kelantan is an indication that the fruits of the economic growth are not equitably distributed. On another level, economic growth need not necessarily mean that people will vote BN. As people become more educated and informed, there is also what is sometimes referred to as the "revolution of rising expectations". This factor will become more and more significant in the future.

## **Questionable Conduct of the Election Commission**

At most polling stations, Opposition supporters complained of various aspects which frustrated voters. Protests must be lodged against the Election Commission's conduct of the elections and to ensure that these features are not repeated at the next elections.

### **(i) Lack of Basic Organisation and Information for Voters:**

Many stations had no desks provided for the SPR officers with the electoral rolls outside the polling centres. They were simply huddled by the roadside or using the boot of cars for checking the electoral rolls, swamped by voters. There were no notices to tell voters exactly which stream to go to. They would queue for ages only to be told that they were in the wrong stream. Many frustrated voters went away in disgust.

### **(ii) Inconsistencies in the Electoral Rolls:**

Many voters complained that their names were not in the electoral rolls even though they had been voting in the particular centre for years. Others complained that their spouses or family members with whom they had been voting to-

gether for years could not find their names in the rolls. There also appeared to be three different versions of electoral rolls - the SPR's; the BN's and the Opposition's. In some cases, although there were assurances from the Election Commission's 'Hotline' that they were on the electoral roll, they still could not find their names.

There were other complaints of more than one name appearing with the same i/c number; phantom voters who were non-existent voters at specified addresses; etc.

The issuing of voting cards should be done only by the Election Commission, giving each voter specific information about the particular voting centre and stream to go to. Voting cards produced by political parties tended to be susceptible to discrimination, for example, a voter turning up with an Opposition card would likely be told his name could not be found in the electoral rolls. There were also many complaints about BN voting cards, with pictures of the BN candidate, lying around in the polling booth.

### (iii) Shifting Polling Stations:

As was also seen in some complaints by 46 candidates, some polling stations were suddenly shifted, eg. from Ampangan to Rahang New

Village in the Constituency of Sungei Ujong. This obviously led to great confusion.

**(iv) The Voting System as a Deterrent:**

The new voting system of counting at the respective centres with a maximum of 700 voters per stream is intimidating to squatter colonies or kampongs or other communities which are very vulnerable. The authorities can see their voting behaviour very clearly from the tally sheets. Middle class residential areas can be said to be less likely to be deterred from voting Opposition.

Many voters were also apprehensive of the practice of writing voters' registration numbers on the counter-foil of ballot papers.

The manner in which postal ballots are made - especially in the Police and Armed Forces - is questionable unless these are properly supervised by the SPR.

(8 November 1990)

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